

STATE OF NEW YORK
COUNTY OF WARREN
TOWN OF BOLTON

Present: Supervisor Alexander G. Gabriels III, Councilmen Scott Andersen, Jason Saris, Edward White, Town Counsel Michael Muller, Town Clerk Kathleen Simmes

Absent: Robert MacEwan

PUBLIC HEARING: None

REGULAR MEETING:

Supervisor Gabriels called the regular meeting to order at 7:00 pm.

Pledge of Allegiance – Councilman Andersen

Announcements:

- It has been brought to Supervisor Gabriels' attention by Town Board meeting attendees that they can't always hear the Town Board members while sitting in the audience. The room has had an acoustical problem since it was built and if at any time public in attendance cannot hear the Town Board members; they should raise their hand and let the Town Board members know, so everyone can participate in the meeting.
- Councilman MacEwan will not be in attendance this evening due to a previous engagement.
- The 1st application to FEMA has been denied – Supervisor Gabriels called Warren County and they spoke with SEMO to appeal the decision. The Town won't get word for this year's or next year's budget, the cost to Bolton is \$750K (approximately \$130K for a waterline, \$150-175K for road repairs and \$420K for the culvert and the streambed stabilization on New Vermont Road) to date. The Town of Bolton paid for the waterline and the road repairs out of unappropriated surplus and the Town Board is hoping to authorize a statutory bond to cover the culvert replacement. If FEMA comes through in the future, the Town Board will reimburse the accounts for the funds that have been established--if not, there will be a need to look at legal aspects regarding the general fund loaning the water district money to repair the waterline.
- Commemorative bike ride in honor of Steve Chapman beginning at Veterans Park on Sunday September 11, 2005.
- Bolton United/Bolton Cares have scheduled a Second Bolton Pride Day for Sunday, October 2, 2005 in Veterans Park.
- The sign on Trout Lake Road created by Barry Kincaid and his girlfriend has been vandalized with paint.
- The September Meal Site Menu will be available shortly in the Town Hall.
- There are now 2 Town of Bolton website addresses: [.town.bolton.ny.us](http://town.bolton.ny.us) and [.townofboltonlanding.com](http://townofboltonlanding.com)

Public in Attendance:

- Regarding the Zoning Office and the Town parks and other Town offices/procedures, **Tenee Casaccio** said there are general management issues and questions on the organizational structure of the Town of Bolton that have gone unanswered including who Town employees report to and if Town employees are held accountable for performing their duties and the

tracking of Town employee vacation and sick time; there have been and will continue to be some serious issues with the Zoning Office including inconsistencies (deadlines, fees, technical requirements, etc. that vary from applicant to applicant), unprofessional behavior, unhelpfulness and rudeness; Mel Quigan is the only bright star in the Zoning Office, which will suffer without her; there is a general lack of knowledge with the Zoning Office staff and she thinks the Town has put people in positions that are clearly over their head--stormwater management is probably the most important issue facing this Town and the quality of the lake, yet the Town has entrusted stormwater in the hands of people, that no matter how well intentioned they are, they don't understand the issues because they are beyond their technical ability; the park conditions are deplorable; Tim Coon should be honored for his years of service with the Highway Department, but something needs to be done about the couple of bad apples in that department and illegal and immoral things that have been going on by that department that something needs to be done about and she requested the following: an organizational chart be provided showing Town employee relationships including who reports to who and hold people accountable, an audit be conducted of the Zoning Office and to clean up the parks.

Supervisor Gabriels said these are all good points and he thinks the Town Board can understand them.

From the public, Jim Casaccio presented 12 pictures of the Town parks, with the most recent being taken today, showing the conditions and asked if there is a list of daily items the Parks Department employees are responsible for.

Supervisor Gabriels said he is not aware that type of list exists and his understanding is that the Parks Department employees are supposed to get the garbage each day. Jim Casaccio said they do a good job getting rid of the trash in the trash bins, but not in picking up uncontained trash on park grounds.

- Regarding the Highway Department and Tim Coon, Kathy Huck asked the Town Board for its definition of official misconduct and said she is very hurt and saddened to have seen Tim Coon's name in The Post Star headlines and asked why his name was the only one in the paper, as she feels there was no official misconduct according to her definition; Tim Coon is a team player; the situation could have been dealt with at the Town level; some error was made and she didn't see any professional courtesy on part of the Town Board in this situation.

Councilman White responded by saying that when an agency is advised that an investigation is going on, from that particular point on, it's not the Town Board's responsibility to make decisions as to how it proceeds; when a complaint is filed or someone advises the Town Board of a potential violation that's turned over to another agency, which was done in this case; in this case it was the district attorney's and sheriff's office determination as to how this ended up; this situation was referred to the proper agencies—the Town Board had no choice but to report the situation to the proper agencies and the Town Board could not wash this situation internally—it had to go to the proper agencies.

- Regarding the Rogers Park health concern, Kathy Huck asked if it is true that Roger's Park was closed one day this summer due to high coliform, if the problem was fixed the day it was discovered and why the public wasn't notified.

Supervisor Gabriels said no, what we had was some sort of public health problem at Rogers Beach at the beginning of August; there was one day where the Fund for Lake George contracts with the Darren Freshwater Institute to do beach sampling throughout and the Fund for Lake George has their standards of reportable incidence, which are below Department of Health

standards and there was one day when the coliform levels were higher than the Fund for Lake George standards—not higher than the DOH standards; by protocol, the Fund for Lake George went back the next day to test and found the coliform levels were back within their standards; he doesn't know if the problem was fixed the day it was discovered; subsequent to that day, there was a different public health problem where there was an allegation made and reported to the Town Clerk that a group of young adults from Clifton Park came down with a gastro-intestinal illness of some sort and then there were additional reports of that coming in—throughout that period of time, the Town Board were in discussions with the DOH and had the Darren Freshwater Institute coming back on a very frequent basis; the DOH was asked if the public should be notified and the DOH did not indicate the Town needed to proceed with that at this point because the DOH could not identify the type of the problem or cause of the problem; the DOH and Warren County undertook a survey of local doctors to see if they could come up with an epidemiological survey in which they had them report any similar instances of gastro-intestinal problems and the information is being compiled by Glens Falls DOH and the DOH report was still unavailable last week and the DOH ruled out the particular type of illness found in Geneva.

- Regarding a potential accident site, Kathy Huck said the flowers on the corner property of Brook Street and Horicon Avenue obstruct drivers' views; she has almost been hit twice and has almost hit someone else twice at this location due to blocked vision; the flowers are beautiful, but when they cause a danger like that, they need to be clipped back and that location is looking for an accident.

Supervisor Gabriels said that property has had similar problems in the prior years and the property owners have been asked to cut the flowers back, which they did and the Town Board will have Officer Howse go and talk the property owners to take care of the public vision problem.

- Regarding Norowal Marina, Kathy Huck asked if the Norowal Acquisition is a done deal and Supervisor Gabriels replied by saying that it is not a done deal yet, but it is moving along; the BLDC has secured a commitment from Glens Falls National Bank for \$2.5 million; the BLDC anticipates the debt service and expenses will be re-paid solely by the revenues generated by Norowal; the BLDC is still looking for a contribution in the magnitude of \$2 million from the State of New York; the State of New York has had one appraiser on-site last Thursday looking at the purported value of a Conservation Easement and will have another appraiser come in at some time unscheduled at this point; Glens Falls National Bank had an appraiser come on-site today to appraise the property and assure the bank that the value of the property is worth the loans they are going to cover and unless and until the state makes an indication with a value of that property, it is not a done deal.

Kathy Huck asked what would happen if the state says no and Supervisor Gabriels answered by saying that there are two bottom lines if the state says no; (1) that's the end of story or (2) the BLDC could ask the public if they wish to finance the deal out of their tax dollars, which is an option he does not find palatable; the discussions that any Board member has had with any DEC or state government representative is that they really want to make this work; he thinks they understand the nature of the public access to the lake and the nature of the public access to the campers, fishermen and day-users of the islands and the state doesn't have a launch facility in the southern basin and the economy has changed.

From the public, Alice Coon asked if the tax payers will get to vote on the Norowal Acquisition by the BLDC and Supervisor Gabriels answered by saying that if the state comes through, no; if the

state does not come through, then yes either that or the BLDC would have to make the decision not to put it to the tax payers and the property would be on the market again for private sale; there are laws about putting issues to public vote; if tax payer dollars are not used, the BLDC don't have the authority to go out for permissive referendum on this and if tax payer dollars are to be used for a long-term debt like this, then yes, the BLDC needs to ask the tax payers for that option. Alice Coon said she feels the tax payers should be allowed to vote on this.

Jim Casaccio asked where the down payment money for the Norowal Acquisition came from and Supervisor Gabriels answered by saying that the down payment was loaned from the General Fund to the BLDC in anticipation of the Bed Tax money being turned over to the BLDC and then repaid to the General Fund and with the same respect, the General Fund just loaned \$130K to the water district. Counsel said that it is a loan but it was not done on loan documents and it was clearly understood by terms of the resolution, which he thinks is a public record, where it is a very formal agreement that was earmarked specifically where the deposit comes back to the Town of Bolton.

Jim Casaccio asked if the Town Board can loan money to whoever they want and Counsel answered by saying no, but they can loan money out for an entity such as the BLDC, which is incorporated under not-for-profit corporation law (Section 14-11); the BLDC does do what is considered quasi-governmental functions, so that the Town Board can also make a loan to a local development corporation; the Town Board can also make a contribution towards a local development corporation, which is not what was done, where there would be no obligation to pay back funding and no, the Town Board cannot make loans to just anybody.

Tenee Casaccio asked if the BLDC was formed for the purposes of accepting a loan from the Town of Bolton to avoid a public referendum and if there is a fear to put the Norowal Acquisition decision out for referendum. Supervisor Gabriels replied by saying no, absolutely not, the BLDC was formed so that it is the only legal entity that could enter into the acquisition of the Norowal stock, which the Town of Bolton doesn't have the authority to do and unless the BLDC would want to use tax payer dollars, the Town Board doesn't have the authority to put the Norowal Acquisition out there for public referendum.

Councilman Saris said that this whole thing initiated by the Town Board when the Town Board found out that Norowal Marina was for sale; the Town Board considered the potential impact of that sale if it was to become something other than a public access site; the Town Board contracted ELAN (an organization familiar with the Town's comprehensive plan, having worked on it) and asked them to see if the aforementioned impacts were based in reality or just something the Town Board was getting scared over nothing; ELAN reported back that there was a lot of validity to the Town Board's fears of the site being something other than a public access site, the site is an important part of the Town's economy and they also indicated that it could potentially be possible to have an operation there that would pay for itself; when the Town entered into it, they looked into the Town buying it, but found out that the non-negotiable way that Mr. Lamb wants to sell the property is through a stock acquisition, which means you have to buy the business to get the real estate; Counsel informed the Town Board that by law the Town of Bolton cannot buy Norowal that way—if the Town of Bolton cannot buy the real estate, it cannot touch it; the form that is used very often for these types of situations is that a local development corporation (LDC) is formed; the BLDC was formed to make the Norowal Acquisition possible; it was always the Town Board's intent, then later by the BLDC who took over the quest in purchasing the property, to do it at no cost to the tax payers—it was never done with the intent of keeping the tax payers out of the decision making process, it was done with the intent to not have it cost the tax payers anything; the idea is that the Town could benefit by having this asset at no burden to the people and he is not unsympathetic to people who would like more of a

say in this, but on the other hand, to burden ourselves with a debt just to have that opportunity doesn't make sense—it makes a lot more sense to have the marina pay for itself then not burden the tax payers.

Tenee Casaccio said that assuming the vote was favorable and Councilman Saris responded by saying certainly, if the vote is not favorable then it doesn't happen and if you are looking at it as a favorable vote that would cost the tax payer versus the tax payers get the value of the marina's asset and it doesn't cost the tax payer anything. Tenee Casaccio said her concern is that the Town of Bolton is not doing a great job taking care of the assets it has now, so the question is how in the world will the Town of Bolton take care of a marina. Councilman Saris said it's a legitimate concern and question and the other side is that if the Town of Bolton didn't have that lake access in this town it could potentially devastate the Town's economy. Jim Casaccio said he doesn't think you will find anyone in the Town of Bolton that wants to see Norowal go away, but everybody he has spoken to from the Town of Bolton doesn't want to see the Town of Bolton running it and asked about the option of leasing the marina out. Councilman Saris said those aren't necessarily the options the Town has; in the best case scenario, Mr. Lamb would run it forever and it would be done with and concessioning is a BLDC decision at this point. Supervisor Gabriels said the Town of Bolton is not going to run this, the BLDC is.

Jim Casaccio asked if the BLDC meetings could be at a time when people can attend, since most people are working at 4:30 pm on Thursdays and Councilman Saris said he would ask the BLDC members at the next BLDC meeting. Supervisor Gabriels asked what a suggested convenient alternative time would be and Jim Casaccio answered by saying 7:00 pm.

- From the public, Ted Rehm said he is a resident who was born here; there is an undercurrent in this Town, especially where zoning is concerned; 20 years ago he took 100 acres then subsequently 90 acres and made it into two developments that put millions of dollars on these tax rolls; he has had a rapport with the PB and the ZBA, but has never had a rapport with the Zoning Office, which began when the Town Board hired somebody who wasn't qualified; the lack of common sense in the Zoning Office has been going on for over 20 years; he has been involved in question and answer periods with the Zoning Office and the Zoning Office has been rude to him, so he brought his concerns to Members of the PB and the Chairman of the PB, who he presumed took that complaint back, because he heard people were reprimanded, but this is still going on and there is still a problem; there is a current lawsuit that is going on that could have been avoided by the Zoning Office and/or the Town Board, but it wasn't and it could have been taken care of very easily if there was communication between the Zoning Office and the Town Board and the Town Attorney; the main reason there is a lawsuit is because of the Zoning Office, because the head of the Zoning Office has known its been going on for over two or three years and did nothing about it, which should result in that person being fired; it's not just about Town equipment—Tim Coon is a great guy who has helped many people in this Town, who realized nothing; he doesn't understand why someone on the Town Board doesn't have the power and the ability to document things that go wrong, bring somebody up on charges and fire them—it has never happened; the Town hired a Zoning Officer who should be trained prior to having that job—it is not fair to that person to be given the job and told to go out and do that job without being given proper training and somebody needs to take the bull by the horns, look into some of these things and straighten them out.

Supervisor Gabriels said there are two ways to straighten someone out; (1) call them to the carpet, have a chat and hope the light comes through and (2) fire them and find somebody else new and he asked if Mr. Rehm sees any other options open. Ted Rehm answered by saying no, he doesn't, but these people are representative of this Town and he certainly doesn't want them

representing him. Supervisor Gabriels said that he doesn't believe that there is all that much public apathy—certainly people are reluctant to express their sentiments as Mr. Rehm did in a public forum and that Mr. Rehm is not the only person who has brought that suggestion to mind. Ted Rehm asked why something isn't done about it, because if the Town Board fixes these problems one by one, then the Town doesn't have to deal with these problems next year and Supervisor Gabriels said he thinks it is a degree of optimism that is fading that sometimes you can have some discussions that don't come through and probably there are just some personalities that are not going to change, which is a difficult realization to make and also in this Town there are very few firings that have occurred, because people try to work together—it may be the Town is not capable of doing that in such a position that has grown in such importance and with the multiplicity of rules and regulations that have come down, maybe, but that is not an easy decision to make.

Kathy Huck said we are all accountable for our jobs, our work and our mistakes; Bolton was, is and hopefully will always be a small town; we have to help each other and confront each other; this was a beautiful town; we have to work together, stick together and try to help each other—there are some people who can't do anything different and they need help improving their skills; give people the chance by giving them skills and guidance to succeed and let's keep our families together—Bolton is changing and not always for the better.

- Regarding the parks and the geese, Alice Coon said she went to the park and there was 15-20 feet of geese and seagull feces, which was sickening; the Town needs to come up with a solution—there used to be a rope with ribbons to keep the birds away; she has heard remarks that people won't let their family members swim at the parks and she won't either and the Town Board members are the Town Fathers and they should go around and see that things are done.

Supervisor Gabriels said Mrs. Coon is quite right in that there are some days you can't walk there and he doesn't know how to keep Canadian geese away. Jim Casaccio said there are two ways to take care of the geese; (1) with dogs or (2) with a spray. Supervisor Gabriels said the Town has not tried the spray, but it will try it.

- Regarding the Scenic Overlay District, John Gaddy, Planning Board Member, said that he would like to request a motion to initiate the adoption of a scenic overlay district that is recommended in the comprehensive plan that was adopted in 2003 and also recommended in the findings of the comprehensive plan implementation survey; times have change in the Town and the Town needs to adjust its outlooks to protect the economic base in this Town, which is the environment; the Town is losing the battle of saving the forest and hillsides, that made Bolton such the beautiful place it is, through the loss of trees and the unshielded lights that are developing as the popularity of Bolton increases; the pace of hillside development has accelerated despite the existing laws and now an Enforcement Officer is still mired down in keeping the trees on the hillsides to at least minimize the negative aspects of development; he is pleading for this motion tonight because the reactive forces in protecting Bolton are inadequately slow—the master plan was initiated in 1999, adopted in 2003, in Sept. 2003 he was asking to minimize hillside development, in Nov. 2004 he was asking for a stricter interpretation of the Zoning Laws and then got appointed to a committee for the implementation plan; a lot of time and effort has been put into making this plan and he'd like to bring this plan to do what it was supposed to do—protect the long-term economic viability of the Town of Bolton; the committee summary asked for the creation of a scenic overlay district; in spite of all the efforts (subdivision and stormwater regulations) of everyone trying to protect this stuff, individuals are going out and cutting down trees in spite of all the current laws; he is not asking for any new laws to be put on the books,

but is asking for the scenic overlay district as recommended in the Comprehensive Plan, because it lets the Town look at vegetative clearing policies as they are, then try to take a look at how to improve these things and he would like to have a motion to have the scenic overlay district enacted in three months time, so it can be used as a tool that the PB can have to bring to the public's view when they apply for certain types of development. John Gaddy then gave details to the recreational fee as an example.

Supervisor Gabriels asked if other PB members agree and John Gaddy answered by saying that he doesn't know, but he'd imagine so, given the names on the Comprehensive Plan; he referenced a comment in the Comprehensive Plan regarding attractive qualities; he said 20 years ago, it wasn't a big deal to put a house on a hillside, but as more and more houses are added, something that wasn't considered a big deal in terms of cumulative effect is now becoming something very significant and this is something that has been approved already, but it is a useful tool when it is verbalized and reaffirmed.

Councilman Saris asked what would be necessary for this and Counsel answered by saying somebody would have to give him the instructions as to what constitutes the verbiage in what they hope to accomplish to get it into a proposed body for legislative consideration; once drafted, then it goes to the Town Board for review, back to Counsel for any revisions, then the Town Board has something it is prepared to offer to the Town in a public hearing—at the same time, he provides it to the WCPB because it is required by general municipal law and the APA because the Town of Bolton is an approved local land use code; after the public hearing, the County's comment and the APA's comment, then the Town Board has something it can either enact or bring back to the drawing board for changes.

John Gaddy said Bolton has been pro-active so that the plans for development in Bolton have been approved by the APA and he thinks the Town of Bolton can come up with something acceptable to the APA.

Supervisor Gabriels asked how broad John Gaddy's proposed district is and John Gaddy referenced his visual aids and said he is looking for areas visible from the lake; it is a process that will take a long time; we are currently watching visual degradation of our hillsides; he thinks there are ways the Town of Bolton is going to make sure this lake and the surrounding properties will still increase in value; if the lake is trashed, the people that can afford to be here can afford to and will go somewhere else; in Woodland Ridge, contractors and developers put in what they thought considered pretty strong restrictions to make sure that as you look out to Lake George you have a shielded view, but as ownership transfers people coming from different perspectives feel the only way they can enjoy the lake is to have an unobstructed view of that lake, which is not necessarily what anyone intended with the kind of time that's been put in working on this Town; the Town has a certain decrease of trees in the area that he feels will only get worse as time goes on and he would like to get Town Board support to get moving on the scenic overlay district plan.

Supervisor Gabriels asked if any of the 15 towns with APA approved zoning regulations have a scenic overlay district in existence. From the public, Deanne Rehm said the Town of Day just adopted a scenic overlay plan and she can make the information on that plan available. John Gaddy said the Town has had enforcement issues (example: Apple Hill) where the Town has spent a lot of time trying to rectify a violation that really went against what people in the Town of Bolton wanted; in spite of the fact the Town tried to get trees planted up again, the Town is left with this original scar that has been put in 8-10 years ago and there is no correction for that and he thinks the Town needs to start thinking about this a little more.

Councilman Saris said that John Gaddy is right in that it is in and recommended by the Town of Bolton's comprehensive plan; he thinks when the Town gets involved with these things, the Town would benefit tremendously with some professional help in doing it right the first time; these things have been done in other places and there are professionals that know what has and hasn't worked and he suggests the Town Board should move along with all of the things in the comprehensive plan. Supervisor Gabriels said the Town Board will either need to find professional planning to help or use the Town of Day's recently adopted scenic overlay language as a model and this may be able to be in conjunction with the proposal later on regarding the implementation of the comprehensive plan with revision of the Zoning Ordinance. Councilman Saris said he believes the two items correlate.

John Gaddy said regarding summary of the implementation plan, the following are recommended to have commenced in 1-2 years from the time of publication: (1) enacting conservation subdivision, (2) establish a scenic overlay district, (3) develop and adopt district specific architectural site design guidelines, (4) review and amend the current vegetative clearing vegetation; he has appeared before the Town Board and is looking for Town Board support to get moving on this and there has been a lot of excellent work done on this comprehensive plan and he doesn't want public effort and expense wasted, because there has been a lot of good thought in there.

Councilman White requested that John Gaddy get the Town Board members a copy of the Town of Day's Scenic Overlay District plan and Supervisor Gabriels said he would also like to see if the PB and ZBA agree with John Gaddy's conclusions that this is something they want to adopt, as a representative example of people who deal with this on a monthly basis, because this has a broad impact. John Gaddy said he doesn't want to move backwards, they have done this and it's time to move forward.

Ted Rehm said that if 90% of people in the Town of Bolton felt that this is such a good idea and that hillside development is a terrible thing to look at, then there wouldn't be any trees cut; he would love to see a visual aid of how Bolton looked 100 years ago with the clear cut areas shaded and compare it to John Gaddy's visual aid; there are Town, County and APA restrictions in place; he doesn't understand what is so offensive of seeing a couple of houses from the lake; what he finds offensive is when he stands on his deck and looks out to Cotton Point with the antiquated sewer systems and other items; he doesn't understand why and feels that lakeshore building isn't the first priority, as there is a lot of building down on the lakeshore; to have a scar on a mountainside, like Up Yonda Farm or Bixby's, they have been here for years and years; suddenly someone wants to put up a house overlooking the lake, they have a view and they sure get taxed for it; while he agrees with John Gaddy regarding that one should build with a filtered view, which he personally did, but doesn't understand how the Town can balance a plan with a person's individual property rights and there are many more trees here now than there were 100 years ago.

Supervisor Gabriels said that much of the pasture land Mr. Rehm referenced can be identified in pictures at the Hyde Museum; he received a call today from Bruce Young, Chairman of the LGPC, who said the LGPC is beginning the process of looking at rules and regulations to do upland development and Mr. Young told him that the LGPC rules and regulations are not necessarily going to be in accordance with the Fund of Lake George's recent press releases regarding their desire to push for even stronger upland development rules and regulations.

J. Gaddy said if the Town was looking back 100 years, the Town would be looking the wrong way; they are trying to do everything they can to keep this Town economically strong; the population increase is undeniable; in looking at the bills being paid now for the kind of erosion

from the June storms, he still believes there might be some connection to the degree of deforestation on the Thomas Mountain/Cat Mountain area and the volume of run-off that went through there; after the storms in area of the proposed Saddlebrook subdivision, there wasn't any erosion inside the area where the trees hadn't been cut; although everybody had different viewpoints on how to deal with their property, he feels the lake and the Town are suffering from 1,000 cuts; of course there were no trees here 100 years ago—it's not 100 years ago and he thinks the people are spending the kind of money they do to buy the houses that Mr. Rehm has developed because this does have a natural attraction to it and when this doesn't have that, they will go somewhere else.

- ❑ From the public, Deanne Rehm said that she suggests the following for the Norowal Marina project to help the public perception be improved: (1) reconstitute the BLDC Board to have one Town Board Member and 4 people from the public, which reduces the visibility of the Town Board on the group and the perception that it is being a Town project, (2) retain outside Counsel for the BLDC, because while Mr. Muller does a wonderful job, when the public attends they are not sure if he represents the Town or the BLDC and they need to be kept separate in everybody's mind, (3) change the BLDC meeting times to evening hours to accommodate the majority of the public that cannot attend 4:30 pm meetings and (4) the BLDC should schedule and hold public informational meetings, as has been urged for weeks by a private BLDC Member, so the public can get answers; the reason the Town has a comprehensive plan to organize activities and put a direction to where it is going with its \$1 billion business, which is the what the assets and the real property in the Town of Bolton are worth more than (\$1 billion) and it is vital that everybody involved with the administration of the Zoning Ordinance, including the PB and ZBA, need to remember before every decision they make; the Town of Queensbury, which is the only other town in Warren County that is worth more than the Town of Bolton, mad a decision years ago to run their planning department with a professional director of community of development on staff and when your assets are worth over \$1 billion it is time the Town of Bolton gets professional—a professional planner can do a lot for the Town of Bolton including the overlay district, affordable housing, changing the Zoning Ordinance, etc.; in 2004, the median house in Bolton sold for \$325K and the median household income in Bolton is \$58K, which means that the median home in this Town—the wage earners here—can't afford to live here; the Town of Bolton is at a critical crossroads and needs planning implemented—not in a book—as well as 5-year and 10-year build-outs by not putting out a fire, but by being pro-active and bringing people on board that can help the Town of Bolton with this; she believes in the past year the Town of Bolton has lost three resorts and the Town should consider the trend and start an outreach program with each Town Board Member visiting 5-15 community business owners to see what is important to the tourism economy to this Town; Green Island Associates are about to go into a phase of selling more units privately, so this may be an opportune time for us to participate in those sales and establish the revolving loan fund that has been long sought; in a newsletter sent out a couple of weeks ago, Senator Little made a great point about cooperative organizations, cooperative communities and cooperative municipalities, where New York State is offering \$100K grants where there is cooperative work; she believes right here in Bolton cooperative work possibilities exist that might be eligible for state funding, for example, replacement of the school bus garage, sharing the services of a mechanic, etc. and when it is the Town's budget time the Town Board members need to think that the Town needs a good plan and a big plan, they need to always think about what is out there and what can be done differently—it is the Town Board Members' job and she expects them to do it.

- ❑ From the public, Patrick Versace, Bolton resident, said he moved here last year from Lake George; while running in the mornings in June and July, he would see garbage in the streets and

at the parks at 5:30-6:00 am; he also witnessed vandalism at the parks and on many occasions, including on Saturday, Sunday and Monday mornings, had to go into the water to retrieve the garbage cans to set them back where they belong; one of his concerns is that he doesn't know if the Town Employees work on the weekends, but he feels they should be there; while he doesn't like to compare the Town of Bolton to the Village of Lake George, the Village of Lake George is very clean in the early morning. He has and is currently dealing with the ZBA for Deer Creek Association and for his own house, and the dealings have not been the best so far, so he is hoping for improvement; he was pretty distraught on the whole Highway Department issue, this is not the first time this has happened and if this issue was there, it should have never been raised to that point that it was; he likes the Town websites where he gets to read the meeting minutes, because he has become very informed on many things going on in the Town; he drives around Town in the mornings to see what's going on and can see lots of things just by observation; the Town Board Members have to be in touch with what they are elected to do and if the Town Board needs more assistance he would be happy to help.

Correspondence:

- Memo from the Planning Office regarding returning \$50.00 to Bruce Cerosky.
- Memo from Mitzi Nittmann for a clarification of type 2 uses permitted by special use permits.
- E-mail from Office of Real Property Services New York State regarding availability of grants to get assessment data up on websites and more available to the public.
- Proposal from ELAN implementing the Comprehensive Master Plan.
- Thank You note from Don and Brenda Pratt to Tim Coon and the Bolton Highway Department regarding the June 13, 2005 storm, read into record.
- Correspondence from Agnes Nolan on Lake George Camping Equipment and the docks abutting and adjacent to Town of Bolton property.
- Oral indication from Bob Lashway, contractor on the new sewer pump station, that he has made an oral understanding of agreement on the outstanding easement with the Brickners.
- Overtime Report from Donna Boggs on overtime work associated with the storm damage which currently amounts to over \$19K in the four departments.
- Letter from Glens Falls National Bank that they propose to the BLDC to extend the terms of the June 8, 2005 agreement to November 1, 2005.
- Note from John Perry that his vacation time will run from October 10-18, 2005.
- Noise Amplification Permit for June 17, 2006.
- Letter from Melanie Quigan dated September 7, 2005 as her official two-week notice of resignation, meaning her last day would be Friday, September 16, 2005.
- Letter from Kate Persons requesting to help in the Zoning Office when it becomes understaffed on September 16, 2005, with the interest of filling the position held by Melanie Quigan.
- Memo from Pam Kenyon to the Town Board regarding the anticipated Zoning Office vacancy requesting interviews be held after she returns from her vacation in the beginning of October.
- Correspondence from Warren County Soil and Conservation District on the Veteran's Park Drainage ditch, they have come up with a proposal for consideration.
- Information off the web regarding the FOIL requests.
- Letter from Jim Harrison of the Darren Freshwater Institute inquiring the proper procedure for a variance to use a boat on Trout Lake for research efforts.
- Letter from Woodshire Estates regarding the suggested master meter pit to their water system and their alternative proposal.
- Request from Matt Coon to take two weeks of vacation time he has accumulated.
- Correspondence from James and Mary Ann Urch regarding the justification of the church sign that has recently appeared on the Episcopal Church steps.
- Correspondence from Lori Jordan on the little league field, encouraging the Town to put in concession stands and bathrooms.
- Correspondence addressed to Town Counsel Michael Muller, from Attorney Cathi Radner regarding the order incorporating stipulation of settlement in the Bolton vs. Greenmeier matter.

- ❑ Note from Mike Elliot, who had water problems earlier this year, expressing his appreciation to John Perry and Tom Torebka in helping him get his waterline back together again.
- ❑ Letter from Kathy Spahn on behalf of the Birthday Party Committee for Fr. Young thanking the Town for delivering the proclamation in person and for hanging the banner on the Town Hall.
- ❑ Indication from Jim Harrison of the Darren Freshwater Institute that he was on Edgcomb Pond in the middle of August completing a survey.
- ❑ Letter from Fr. Peter Young regarding one tree in need of being taken down and the Town's responsibility for the trees between the rectory and the Town Hall, read into record.
- ❑ Indication from the APA that they have conditionally approved the Diamond Ridge subdivision.
- ❑ Correspondence from Eugene St. John of Time Warner Cable regarding a drive around survey they did on North Bolton Road which are unserved at this point by cable TV.
- ❑ Letter from Time Warner Cable that on June 8, 2008 the franchise expires and they wish to commence it proceeding to the new indicated television franchise, they propose to submit something to the Town of Bolton and open negotiations and discussions.
- ❑ Duplicates of letters submitted to the Planning Board on the proposed Saddlebrook subdivision, the Mayfair Resort subdivision, John Painter on Lake Shore Drive, and on Kenis and Vicki Sweet on Coolidge Hill Road.
- ❑ Copy of correspondence back and forth between Counsel Michael Muller on the Urtz ditch.
- ❑ Indication that the Warren-Washington County Homeless Youth Coalition is having their Fourth Annual Sunrise Cruise and Silent Auction on the Lac du Saint Sacrament on Sunday, September 18, 2005 and ticket prices are \$55/per person or \$100/per couple.
- ❑ Letter from ELAN indicating transmittal of the final report of the Phase II Norowal Marina Feasibility Analysis.
- ❑ Proposal of response to certain questions addressed to the Town Board and other forms of media on the proposed Norowal Acquisition on behalf of the BLDC.
- ❑ Letter from Mayor Blais of the Village of Lake George in support of the BLDC Norowal Acquisition.
- ❑ Copy of the bulk mailing that went out from the BLDC to all Bolton and Diamond Point residents regarding the Norowal Marina Acquisition.
- ❑ Two letters from Attorney John Lapper, of Bartlett, Pontiff, Stewart and Rhodes, on behalf of his clients Frank Parillo and Dan Behan proposing to buy Norowal Marina, both letters.
- ❑ E-mail from Bill Gates regarding the trash on Huddle Beach on the weekends and dogs on the beach.
- ❑ Notification from Verizon that they have filed a claim against the Town for damage to lines on New Vermont Road and Federal Hill Road while the Bolton Highway Department was doing some culvert replacement in that area.
- ❑ Letter from Mike Calautti in praise of the Town and the work the Town board does.
- ❑ Petition from the children of Bolton Landing and visitors wanting the Summer Day Camp extended for an additional week to August 19, 2005.
- ❑ E-mail from Charlie Klass, dated Monday, August 1, 2005 regarding Veterans Park and their disappointment in the grounds, read into record and will be distributed to the Parks Department.
- ❑ Correspondence from State Board Real Property Services that the final equalization rate for the coming year is going to be 89%.
- ❑ Letter from Marshall & Sterling **regarding** interest in working with the Town if it is going out for an insurance bid this year.
- ❑ Indication that there is a Zoning and Planning Breakfast Briefing on Building Moratoria being held September 30, 2005.
- ❑ Letter from George Pataki on his recent decision to not run for re-election again, but indicating he is going to continue his remaining hours in office supporting his direction for the state of New York.
- ❑ Correspondence from Senator Betty Little regarding shared services programs in New York State.
- ❑ Minutes of the recent meeting of the Region 5 Fish and Wildlife Management Board.

- Press release from the LGPC regarding funding received to develop a tree clearing and stream corridor preservation fund.
- Correspondence from the USDA on free workshops with potential individual project consultations dealing with water and sewer projects.
- Indication Biking in the Adirondack information has been put out there.
- 2005 Events from the Warren County Tourism Department.
- 2004 Adirondack Park Agency Annual Report.
- Information from the Southern Adirondack Tobacco-Free Coalition, an order form and a brochure for distribution to the general public.
- Planning news form the New York Planning Association.
- Syracuse University is holding a Panel on Wastewater for local representatives on September 8, 2005 in Lake Placid from 8:00am-12:30pm.
- Correspondence from NYSDEC regarding its review of the files on the dam at Edgecomb Pond, read into record.

Reports:

Councilman White:

WATER DEPT:

- Water made: 11,202,242 gals Daily average: 361,362 gals.

Currently, the pond level is approximately 3" below the spillway.

The project that the DOH requested has been completed—he put an air gap line between 12" low waterline and finished the clear water line. The waterline was put in when the plant was first built so it could bypass the filter of the pump on a daily basis, but now it has been remedied with this new system.

JUSTICE COURT:

- A/R: Total: \$9,425.00. There is an itemized list located in the court breaking down the amounts.

POLICE DEPT:

- Hours officers worked: White – 194.5, Howse – 171.5, Schroeder – 77.5. Miles patrolled: 1,966 miles. Fuel used: 227.8 gals. Officers investigated 10 criminal reports, 1 assist to motorist, 1 assist to other agencies, 5 security alarms, 3 uniform traffic summonses, 26 parking tickets, 1 auto accidents investigated, 1 boating accident, 4 court securities, 2 arrests, 2 criminal summonses, 14 emergency medical assists, 5 fire department assists, 37 misc. complaints.

ASSESSOR:

- The daily maintenance of deeds transferred was kept up-to-date. Sales seem to have slowed, but the real estate values continue to climb.
On-going litigation with Rainbow Beach and Martinese continues. Settlements have been made with Killeen and Mancini.

Councilman Saris:

TOWN CLERK'S OFFICE:

- ❑ Total Local Shares Remitted: \$30,381.01. Non-local Revenues: \$993.52. Total State, Local and County Revenues: \$31,374.60.

SEWER DEPT:

- ❑ The Plant took in 8,306,440 gals of wastewater for a daily average of 267,949.7 gals.

All monthly samples are complete, the reports have been mailed and there have been no violations. Tom French took his ABC exam and it will take 40 days to get the results. There is an on-going problem with grease in the system. The Sewer Dept. received four complaints about odor in the past two weeks and has suggested looking into automated foggers to spray at night. They had 70,000 gals. of liquid sludge hauled.

- HIGHWAY DEPARTMENT:

- ❑ No report.

- Councilman Andersen:

PLANNING OFFICE:

- ❑ Permits applied for: 16 certificates of compliance / 7 wastewater systems / 8 variances / 4 site plan reviews / 4 subdivisions / 6 stormwater permits. A/R: \$2,112.60.

CODE ENFORCEMENT:

- ❑ 66 site visits / 4 visits for 911 site inspections / 18 septic inspections / numerous letters regarding notice of violation, stormwater non-compliance, septic failures, erosion required, etc.

Councilman Andersen said the Code Enforcement Officer's Report consisted of 24 pages including eight pages of field notes and Mrs. Nittmann requests the Town Board look at her mileage rate with the current price of fuel.

RECREATION DEPT:

Steve Pruess reports that the summer went very well, the Summer Day Camp was a tremendous success in its first year, parents have requested the swimming and arts & crafts programs be expanded and extended, and it was great to have the International Students who were able to fill-in when the local college kids had to go back to school.

Councilman Andersen read a parent comment in praise of the Summer Day Camp, its—programs and its staff, with recommendations the program continue next year, into the record and said he thinks its nice to hear, especially since it is a relatively inexpensive program.

PARKS DEPARTMENT:

- ❑ Councilman Andersen said that some of the globes and poles on the street lights are being replaced and the fact of the matter is that there are only one or two vendors the parts come from and they are still waiting on parts—it is a tedious process.

Councilman MacEwan: absent

Supervisor Gabriels:

- SUPERVISOR:

- ❑ Total receipts: \$416,254.56. Total disbursements: \$1,015,094.15. (includes storm damage)

- Nothing on stormwater.
- Warren County: undergoing its budget analysis.

Regarding NYSDEC's review of the files on the dam at Edgecomb Pond, Supervisor Gabriels read from the NYSDEC correspondence which said that the spillway configuration that was last approved in 1977 did not include the placement of stop logs in the spillway; since 1977 stop logs have been placed approximately 2.5' above the approved spillway crest without application nor authorization from the NYSDEC; in 1991 unauthorized work was conducted to repair the concrete located on the right side of the spillway; in 1991 the NYSDEC requested a submitted report and record drawings for that work, that have not been received to date; the Edgecomb Pond Dam has been assigned a B Hazard Class because the location of the stop logs reduce the capacity of the spillway and can result in the dam being overtopped by flood waters and subsequently fail; the level of the water must be reduced to or below the level crest of the spillway and the stop logs must be removed; to reinstall the stop logs, the Town must submit calculations demonstrating that the capacity of the spillway with the stop logs in place reach the guidelines for the design of dams and a dam safety permit is required prior to the installation of the stop logs and the NYSDEC requests the Town of Bolton respond within 30 days of receipt of this letter with a proposed plan and schedule addressing these issues and concerns.

Supervisor Gabriels said the stop logs have been there since the improvements which occurred on or about 1977; this is the first time the NYSDEC in its inspections has indicated their on-site inspections don't appear to correspond with the design plans; the stop logs in place are not simple and are integral to the crest of the dam itself; he doesn't know what it will take to get the stop logs out; he doesn't understand why this particular program is only now, after 30 years, being addressed to the Town Board; his guess would be pursuant to the June 13th events where the level of Edgecomb Pond rose from just at the spillway to about 14" over the top of the spillway with about 9" of remaining capacity on that flow, which did not wash out Edgecomb Pond Road; he doesn't understand why the NYSDEC dam safety didn't look at the dam when Edgecomb Pond Road did get washed out 9 years prior when the Town had a January 19th event and he doesn't think the Water Department has very much money to accomplish these particular goals at this point and asked the Town Board Members if they had any thoughts on what they wanted to do.

There was further no comment or discussion on this topic.

Unfinished Business:

Regarding Michel DeLarm, J. Saris said he didn't get any information on the cost of construction of the sewer line; he related to Mr. DeLarm the recommendations in the sizing of the line from Chet Dagles; Mr. DeLarm has hired a contractor to make renovations to his place in the hopes that contractor could install the line after the season; Mr. DeLarm said he would get a price and report back to the Town Board and he has not heard from Mr. DeLarm to date. Supervisor Gabriels said the Town Board is considering this cost-sharing of private and public financing.

Regarding the storm event, Supervisor Gabriels said he recalled from memory that there was a contract between the Town and Green Island Associates regarding the emergency water system on Green Island; the file dated November 16, 1995 and signed by Tom Conerty, Deputy Supervisor at that time, was found and provided by Counsel and it had a 10-year term on it so the renewal due date is coming up soon if the Town Board wishes to consider negotiating with Green Island Associates.

Supervisor Gabriels asked if a resolution is needed to proceed with negotiations and Counsel answered by saying that the Town Board doesn't need a resolution at this juncture and the attorneys can draft an agreement if there are willing participants. Councilman Saris said the Town was very fortunate to be able to restore temporary water; if the circumstances were slightly different, the Town wouldn't have

been able to and it is important to leave all of these options open for the Town. Councilman Andersen agreed.

Supervisor Gabriels said in looking over the original agreement he doesn't see any significant provisions that he thinks the Town Board should suggest changes to and Counsel replied by saying no, it looks like a great agreement that could be renewed with willing partners for another 10 years. There was concurrence on the Town Board to have Counsel proceed. Counsel said he will speak with Ben Pratt and report back to the Town Board with a draft contract.

Pending Items:

Counsel said he was instructed last month to send out two letters from the Town Board sitting as the Board of Health with respect to two premises and two different owners that were in apparent violation; the letters included a deadline date of September 6, 2005 and an invitation for each owner to attend this evening's Town Board meeting to speak if they wished to be heard.

Regarding Mr. DeVito's situation, Counsel said today, Mr. DeVito called him and expressed some intention to rectify his situation and also indicated he would be in attendance at this evening's meeting to speak at the public forum; he explained to him what his rights were and encouraged Mr. DeVito to take a position and send a letter to the Town Board, but Mr. DeVito expressed the intention that he was going to keep them and fix them, so they are at an impasse and Mr. DeVito said he would be in attendance at this evening's meeting.

Regarding Janet Lehman, Counsel said today Ms. Lehman called him and said (1) she understands the situation, (2) she would undertake cleaning the brush and try to resurrect those buildings, (3) indicated it was a financial burden for her at this time, (4) she was going to write a letter to the Town Board directed to Supervisor Gabriels with a plan on how she is going to get this straightened out and Ms. Lehman said she would be hand-delivering a letter to Supervisor Gabriels.

Counsel said the Town Board is left with two people who did respond to the letter correspondence, but they are no closer to compliance in his opinion. Supervisor Gabriels said he has not seen either of those individuals nor received any communications in any form at this point. Counsel said if the Town Board's intention is to move forward, his feeling is that there needs to be something more about what the Town Board expects to be done; he feels the Town Board should have an expert, perhaps the Town Engineer review the situations and report back to the Town Board.

RESOLUTION #197

Councilman Andersen moved, seconded by Councilman White for the Town Board to authorize Town Engineer Tom Nace to review Mr. DeVito's property and Ms. Lehman's property and report back to the Town Board with his findings. All favorable. Motion carried.

Board of Health/Water Commissioners:

Regarding the Town Board sitting as the Board of Health, Supervisor Gabriels said that last month they looked at the septic variance request from Owen Roberts, who wanted to put a holding tank down on the Loomis subdivision and that Counsel provided the Town Board with a copy of the definitive statement from the NYSDOH that holding tanks are unacceptable for new buildings. Counsel said it is a provision of regulation that is not waivable by a local Board of Health or in its jurisdiction, so the Town Board does not have to keep revisiting this issue. Supervisor Gabriels said that copies of that correspondence were sent to the applicant and his engineers and he indicated to a neighboring property owner the NYSDOH statement and that the public notice will be done again if there is a new variance request.

Regarding the pending septic variance request on Lichenstein, Supervisor Gabriels said Town Engineer Tom Nace has reviewed the request and indicated that he needs complete design plans including the site survey, soil testing and system designs, which was in a letter dated July 27, 2005.

Referrals from Code Enforcement Officer / ZBA / BPB: NONE

New Business:

Regarding the C&D Ramp at the Transfer Station, Supervisor Gabriels said Mr. Schoder promised the Town Board he is going to have the proper bid designs for the C&D Ramp at the Transfer Station ready shortly; but we do not have them yet. The Town Board will lose this construction season if we don't act soon. The Town Board accepted a design from Mr. Schoder in the spring and thought Town forces would be able to do the work, but that is not the case.

Counsel said he thinks the Town Board can proceed to go out to bid if Carl Schoder has followed the board's instructions on how it wants the C&D Ramp to be built and ultimately, it is coming back to the Town Board for consideration of bid proposals. Councilman Andersen asked if the Town Board can leave it that if Supervisor Gabriels is satisfied then Carl Schoder can proceed and Counsel answered by saying that if Supervisor Gabriels is satisfied that Carl Schoder has met the Town Board expectations as to what it had designed; he doesn't think the event occurring this evening is the important event in that the Town Board is basically just directing Carl Schoder to get the package together and distributed and suggested the Town Board put on a date when the bids are to be returned. Councilman Andersen said he thinks the Town Board should by next month if not before.

RESOLUTION #198

Councilman Andersen moved, seconded by Councilman Saris for the Town Board to authorize Carl Schoder to produce an acceptable bid package consistent with what the Town Board members already designed for the Town's C&D Retaining Structure. Bids will be accepted until 3:00 p.m. on September 29th, at which time they will be opened all favorable. Motion carried.

Regarding Matt Coon, Supervisor Gabriels said Matt Coon put in a request to be paid for two weeks vacation that he has accumulated.

RESOLUTION #199

Councilman Saris moved, seconded by Councilman Andersen to authorize payment of two weeks vacation, which has been accumulated, to Matt Coon. All favorable. Motion carried.

Regarding matching funds, Supervisor Gabriels said he needs a resolution to accept \$1,600.00 in matching funds for the Recreation Commission form the State of NY through Warren County Youth Bureau.

RESOLUTION #200

Councilman Andersen moved, seconded by Councilman White to accept \$1,600.00 in matching funds for the Recreation Commission form the State of NY through Warren County Youth Bureau. All favorable. Motion carried.

Regarding Sally Swetland, Supervisor Gabriels said Sally Swetland's term on the Board of Assessment Review is coming up at the end of this month and he has called her and she is willing to serve another term of five years.

RESOLUTION #201

Councilman White moved seconded by Councilman Andersen to re-appoint Sally Swetland to the Board of Assessment for a term of five years. All favorable. Motion carried.

Regarding the statutory bond for New Vermont culvert replacement, Supervisor Gabriels said that Donna Boggs did the research and it is a statutory bond with Glens Falls National Bank for \$450K at 3.89% over five years to finance the New Vermont Road culvert replacement and stream corridor embankment and the other local bank's interest rate was significantly higher for the same five year term. Councilman Andersen the Town Board should go with the bond, because the work obviously needs to be done and the Town did compare the rates.

RESOLUTION #202

Councilman Andersen moved, seconded by Councilman White to authorize the Statutory Bond with Glens Falls National Bank for \$450,000 @ 3.89% for five years to finance the New Vermont Road culvert replacement and stream corridor embankment. All favorable. Motion carried.

Regarding a noise permit request, Supervisor Gabriels said Emily Bailey submitted a noise permit request for Saturday, June 17, 2006 at The Moorings for a wedding from 7:30 pm to 12:30 am and there are other pieces of property within 500' of the request location. Councilman Andersen said the Town seems to stretch to 10:00 pm and has gone to 11:00 pm, but 12:30 am seems to broach an area he is not so sure he wants to broach. Councilman White agreed and said he would like to see how this would affect the neighbors and since there is so much time involved between now and then, he thinks it would be worth giving the neighbors the opportunity to be fully aware of this. This item was tabled.

Regarding formally accepting Melanie Quigan's letter of resignation submitted on September 7, 2005 and effective September 16, 2005, Councilman Andersen said this situation is unfortunate; he thinks Mel Quigan was an asset to the Zoning Office and he thinks it will be tough to find someone who actually really cared about what she did as much as Mel Quigan. All Town Board Members echoed the same sentiments.

Supervisor Gabriels asked if the Town Board accepts and passes the resolution if there is no going back and Counsel answered by saying that is not true, you can always unaccept it. Supervisor Gabriels said he wanted it to be clear that the Town Board has the authority or ability to reverse its decision on this motion if it is passed.

RESOLUTION #203

Councilman Andersen moved, seconded by Councilman Saris to unfortunately and regretfully formally accept Melanie Quigan's letter of resignation submitted on September 7, 2005 and effective September 16, 2005. All favorable. Motion carried.

Regarding Kate Persons, Supervisor Gabriels said Kate Persons had expressed her interest in helping out in the Zoning Office when the aforementioned position becomes vacant and she expressed her interest in filling the position on a full-time basis; he called Warren County Human Resources Personnel Office and asked about requirements for filling the position and he was told that there are 17 people—not Bolton residents—who have passed the Civil Service Exam and that the Town of Bolton is compelled to hire or begin the hiring process with that list; he thinks this is the first time the Town of Bolton has tried to avail itself of the laws of the Civil Service and he asked if the Town has any other options. Counsel said he will study it, speak to the Warren County Human Resources Personnel Office and report back to the Town Board with his findings. Supervisor Gabriels said the Town Board has an extremely strong preference and the Town of Bolton has hired other people who have not had Bolton residences.

Regarding ELAN, Supervisor Gabriels said ELAN has made a proposal to assist the Town with the Implementation of its Comprehensive Management Plan. Councilman Saris said ELAN just went through

this with the Village of Lake George; what Lisa Nagle, of ELAN, is proposing is a three phase operation: (1) Phase I = basic assessment of the Town of Bolton Zoning Ordinance in keeping with the Town's Comprehensive Plan, which requires the review of the ordinance, the comprehensive plan and citizen committee input, (2) Phase II = drafting changes and guidelines for the changes and (3) Phase III = final editing phase and it is more than a two-year plan, but it pretty much has to be done and in those types of stages. Supervisor Gabriels said the Town of Bolton only solicited this type of proposal from ELAN and he is sure there are other planning firms in the area and inquired if the Town Board is comfortable with ELAN.

Councilman Andersen said that he is comfortable with ELAN; the same players that worked with the Comprehensive Plan are there; without professional help it doesn't get done; Lisa Nagle seems very motivated and wants to get it done; Bolton is one of the few communities whose plan is endorsed by the APA; the person who knows the Town of Bolton's assets is Lisa Nagle, because she has been involved in all of it and she is the likely candidate to continue that process and she is a well-versed professional who enjoys working in this Town. Councilman White said based on Lisa Nagle's familiarity with the community, it would be more cost efficient then bringing a new player in and her knowledge will be a lot more efficient way of speeding up the process. Supervisor Gabriels asked if this type of service is professional and Counsel answered by saying yes, absolutely. Supervisor Gabriels said he believes the Town got a grant for exactly this step in the Comprehensive Plan to assist the Town in financing this project in 2.5-3 years.

From the public, Tenee Casaccio asked if the Town Board could give the specifications and Councilman Andersen read the specifications of each Phase into the record including pricing estimates totaling \$61K-\$72K. Councilman Andersen said he knows that sounds like a lot of money, but seeing what goes on with these and the amount of leg work that is required, he thinks it is very good money spent. Tenee Casaccio asked if the Town Board will allow for adjustments and Councilman Andersen said there is a footnote that says these are a range of costs that may vary, so there is a little bit of an unknown, but historically in any other business the Town has had with her, she has really been on board within her range. Councilman Saris said Lisa Nagle is probably the best qualified of anybody to make a qualified assessment because she is one of the few planners around who is actually familiar with the Town of Bolton's Zoning Ordinance and Comprehensive Plan and the function of the Town, so if anyone can make a reasonable guesstimate, it is probably her. Tenee Casaccio agreed and said she thinks it is a bargain.

Councilman White asked about the time frame involved and Councilman Andersen answered by saying the project will go for over a 2.5-3 year period; he thinks the first phase will go rather quickly, but the other two phases will be lengthy and time consuming; Lisa Nagle will get significant public input, look at past things and take references from the PB and the ZBA, which will create debate and debate takes time and he thinks it is a necessary process, but it will take time. Councilman Saris said that a certain amount of legal work will need to be done and reviewed by other agencies before things are adopted and nobody can really say how long the process will be and how many times things will go back and forth between the Town and other agencies before everybody is happy with it. Councilman Andersen said he thinks it is fair to state that the Town will also run up a tab with Counsel for this project and the fact is that the Town spent a lot of money in the last five or six years to get somewhere and it is obvious the Town needs to make a commitment and get it done.

RESOLUTION #204

Councilman Saris moved, seconded by Councilman Andersen to accept ELAN's proposal to assist the Town with the Implementation of its Comprehensive Management Plan with the total estimated price of \$61,000-\$72,000 (Phase I - \$4,800, Phase II - \$47,000-\$55 and Phase III - \$9,000-\$12,000). All favorable. Motion carried.

Regarding ELAN, Supervisor Gabriels said that months ago the Town Board passed a resolution to hire ELAN to help the PB with architectural review issues; ELAN has never provided a bid or any information on that and asked if that item would be exclusive of the above package. Councilman Saris answered by saying that he doesn't think from the context of helping the PB with the present ordinance it is part of this proposal. Supervisor Gabriels asked if it is the Town Board Members' wishes to pursue this item independently of the aforementioned ELAN proposal and all Town Board Members agreed.

Supervisor Gabriels asked if the Town Board wishes to entertain having ELAN look at scenic overlays independent of the ELAN contract or have scenic overlays be part in parcel of the above contract. Councilman Saris said that he thinks because it is a comprehensive plan, the scenic overlays will be part of the contract and if the Town Board starts to do this separately, it would be doing her job for her. Supervisor Gabriels said based on the recommendations that would come out from any committees in the future, if they suggest ELAN proceed on one or two issues faster than the whole plan, the Town Board will entertain that.

Regarding Mitzi Nittmann's memo regarding gas price reimbursement given the recent gas price hikes, Councilman Saris asked if the County has made any adjustments yet and Supervisor Gabriels replied by saying not that he his aware of.

From the public, Jim Casaccio said the mileage rate is determined each year and if the Town Board were to increase it now, it would be increased again next year. Counsel asked what the current mileage reimbursement rate is and Town Clerk Kathy Simmes said \$.405/mile. Supervisor Gabriels said the mileage reimbursement rate gets established in January and the Town Board has not revisited that and Counsel said that those calculations then become the allowance for the year for the IRS as well.

Supervisor Gabriels said for the moment, no, the mileage reimbursement won't be changed, but it will be revisited in January. Councilman White said that all current expenses related to fuel, oil and sources of energy are being passed along to the consumer right now and he thinks it would be fair for the Town Board to look at this further because this isn't just a little bit of an increase, but a major increase at an expense he is sure no one anticipated.

Councilman Andersen asked if the County is in the process of reviewing that or planning to in the near future and Supervisor Gabriels said that he is not sure what is happening at the County level and he can assure that the County has the same concerns as Mitzi Nittmann along with other people who use their private cars for reimbursable Town expenses. Councilman Andersen said if the Town Board puts a hold on it, he would like to review it on a monthly basis to see if the County, State or IRS has taken a position. This item was tabled to next month based on receipt of further information.

Regarding Mitzi Nittmann's second memo, Supervisor Gabriels said that Mitzi Nittmann is requesting an interpretation of Ordinance and Enforcement actions on RM 1.3 and RCM 1.3 (removal of natural vegetation greater than 2,400 square feet); this seems to be an ongoing source of different interpretations and it would be nice if the Town would have a clear understanding on this matter.

Counsel said that procedurally, interpretations of the Town's Zoning Code come from the ZBA and that they are in power to do it; he admits this is a circumstance that is uniquely a matter that only finds itself before the PB; the Town really needs to pay somebody to rewrite its Ordinance because it is not clear; he would urge the Town Board to take the position that where it is not clear and requires an interpretation, that it is best done at the ZBA; he stands by the advice and interpretation that he gave Mitzi Nittmann; he thinks Mitzi Nittmann is in a tough situation because he thinks she would like to proceed as the Code Enforcement Officer and do something about what she perceives are violations of such requirement, if indeed it is required, but the Zoning Administrator indicated that she has never applied it before, so Mitzi Nittmann is left in the tough circumstance of needing to have that interpretation, which the Town Code

permits her to ask for; the ZBA is the proper place to ask for the interpretation and the Town Board should direct Mitzi Nittmann to the right place.

RESOLUTION #205

Councilman Saris moved, seconded by Councilman White to refer Mitzi Nittmann's request for an interpretation of Ordinance and Enforcement actions on RM 1.3 and RCM 1.3 (removal of natural vegetation greater than 2,400 square feet) to the ZBA for interpretation. All favorable. Motion carried.

Regarding Bruce Cerosky, Supervisor Gabriels said the Town Board needs to authorize a refund of \$50.00 for a minor stormwater filing fee to Bruce Cerosky because the permit was not required, per a memo from the Zoning Office.

RESOLUTION #205

Councilman White moved, seconded by Councilman Saris to authorize the return of \$50.00 for a minor stormwater filing fee to Bruce Cerosky. All favorable. Motion carried.

Regarding the 2006 Budget, Supervisor Gabriels said that the 2006 Tentative Budget must be presented to the Town Clerk by the Budget Officer by September 30, 2005 for presentation to the Town Board on October 4, 2005 for Town Board review and as a Preliminary Budget for a Public Hearing in November and the Departmental Budget request is due to the Supervisor's Office by September 16, 2005.

Regarding APA's recent affirmative decision regarding cell towers in Adirondack Park, Supervisor Gabriels asked if the Town Board would like to do anything about this decision and specifically the Nextel tower in Fort Ann and said this topic was suggested to him for the Town Board's consideration by a state-elected official who was concerned the APA may be sued by other parties, so they are looking for some support. No Town Board Members replied.

Regarding NYSDEC and the Edgecomb Pond Dam Supervisor Gabriels asked what the Town Board would like to do and said that what DEC is demanding should have been done 30 years ago, 20 years ago and 10 years ago and the Town does not have any money to do. Councilman White asked if this would be a Town Water District expense and Supervisor Gabriels said he believes so. Councilman Andersen said that he thinks the Town Board should write the NYSDEC a letter telling them that it seems in the past the Town of Bolton has done everything that it should do and the NYSDEC never seems to come up with any state or federal money and the Town of Bolton has always taken the lead and have found the Towns that haven't taken the lead seem to get more money than the Town of Bolton. Show them the Town Water District Budget and tell them the Town would be more than happy to comply with them as soon as they give the Town money to help do that and he doesn't know if that is technically legal, but he would like to respond to them in that manner.

From the public, Deanne Rehm said that she believes the Town called the DEC in to look at the dam after the 01/19/96 storm event when Edgecomb Pond road did wash out; she thinks there should have been a letter in the file showing the DEC inspected it and she agrees that this DEC request is way too late. Supervisor Gabriels said that there is some letter to that fact; the DEC did come and look at it in 1996 and made no comment about the dam at that time and the Town of Bolton's problem is an outgrowth of Hadlock Pond.

Councilman Saris asked if it would be beneficial for Town Engineer Tom Nace to look at what exists there and report back to the Town Board with an engineer's decision and Councilman Andersen said that would put the Town in the position of liability with Mr. Nace and he would rather leave New York State in a position of liability. Councilman Saris said the Town can't get out of that position because it is the Town's dam. Supervisor Gabriels said the DEC is running scared because the Town of Bolton jumped from 0" over the spillway to 14" over the spillway and also called for an evacuation on June 13th.

Counsel said that there is a statute of limitations; there is a principle of laches where the DEC was out there in 1996, saw what was out there, had the opportunity to raise the objection then and there and they did not, leaving the inference that it is fine; it is possible that if the Town does nothing and something bad does happen, then the Town would be added to the list of people who did a bad thing and share responsibility, and it is entirely possible that the Town might also find an expert that could say if it is possible that if the engineer came out and said to tamper with the dam as it is presently situated would be more of a problem than to leave it alone because of its carrying capacity and the well documented history that it could take a larger load, the engineer's recommendation could be to leave it alone.

Councilman Andersen asked what the likelihood is that an engineer would be putting his license and reputation on the line by making a statement to that effect and Counsel answered by saying that for an engineer to say that the dam presently has integrity and to disturb that dam will diminish its integrity, he thinks that is an easy call for an engineer as opposed to give it a guarantee that this is a great dam as it was built beyond its original design; the Town might make a FOIL request to see what the DEC has on that dam, as the DEC might have the tools the Town needs to establish that the dam should be left alone and in the meantime, the Town might find the engineer would be comfortable in saying this is a dam that should be left alone.

Supervisor Gabriels said that the Town has what is known as a Finkle Brook grant from the state; he thinks one or two elements still haven't been done; the Town might have to give back some money on this since it came in under budget; the Finkle Grant Project is geared toward implementation projects rather than study projects, but given this situation, he thinks he could get a consensus from the Town Board to ask somebody to spend some of this money from the Finkle Grant towards looking at this question and he needs the support of the Town Board to see if the Town could spend some of the state's money to solve our problem so the Town doesn't need to use water taxpayer dollars to get there. Councilman Andersen said if the Town can get some grant money to do some good for the Town then he is all for that and asked if there are any downsides to doing that. Supervisor Gabriels said he thinks it is an uphill stretch to get the grant money to begin with, but if you don't try, you won't get it. Deanne Rehm said that she believes CT Male worked on the dam in 1991 and if the Town is going to go with an engineer, CT Male has experience with that specific dam.

RESOLUTION #206

Councilman Andersen moved, seconded by Councilman White to authorize the Town Supervisor and Town Counsel to draft a letter to the appropriate state official encouraging the use of the Finkle Brook Grant Program surplus funds to be extended towards these studies requested by the DEC Dam Safety Unit and potentially for corrective action if determined to be required. All favorable. Motion carried.

Regarding a Local Law 1-05, Supervisor Gabriels said that he received the draft document from Counsel titled "Authorizing Contributions and Contracts with the Local Development Corporation" concerning Local Law 1-05 and Town Board members received copies of the draft language and he read the draft document into the record. Counsel gave a summary by saying that at the document comes from the discussion at a recent BLDC meeting where the topic of the Town Board making resolutions and providing funding for the BLDC; the Town Board and the BLDC are separate entities; the most specific and largest money that came from the Town to the BLDC was done specifically and precisely by resolution and is limited restricted funds, which was the Occupancy Tax distribution from the Town to the BLDC; the BLDC received the Occupancy Tax distribution limited and restricted to its use essentially for acquisition of a public marina; he recommends the Town of Bolton has a Local Law like this particular one and if this draft is to the Town Board's liking, then it would still procedurally have to be given consideration at a public hearing; if the law is enacted, the BLDC, which is a separate entity, would have to abide by the limits of the provisions in this law of using funds only as expressly identified; in this embodied local law, it

does permit as the statute does permit, that the Town Board would be permitted to make loans to the BLDC which would need to be paid back and also be permitted to make contributions that would not have to be paid back and the powers and purposes of the BLDC as identified by statute and as permitted by local development corporation law would be for the promotion of development of commerce, improvement of business and commercial enterprises in the Town's chosen municipality.

Supervisor Gabriels said this provision provides no limitations as to who the Town Board can make provisions to, it indicates the Town Board can only do it if it is running in the black and asked if there could be a minimum or maximum limitation enacted. Counsel said this provision is not to be enacted tonight, but he highly recommends the Town Board have this local law. Councilman Saris said the Town Board should work toward a final draft that could be presented to the public at a public hearing and it should be deferred until that is accomplished.

From the public, Deanne Rehm asked if this funding could become a line item in the budget and Supervisor Gabriels said yes, it could. Counsel said it is a line item and it is budgeted, but that would not preclude additional contributions coming out of surplus funds—the Town Board can do both and the law is enacted to have some rules for the Town Board to go by.

Supervisor Gabriels said under this law the Town Board could have a line item and drift into surplus under the same law and he is not comfortable with this situation for future boards. Counsel said that there needs to be some roadmap on the way to having a relationship between two separate entities—the Town Board and the BLDC—and if the Town Board is going to make funds available from Town treasury, it should be from surplus funds, in accordance with the local rule and by contract, so the BLDC would then as the recipient sign a note if it was intended as a loan and limit its expenditure of the purposes of the BLDC; if it is a grant and so declared as a grant and again it is limited restricted funds, so if it is not spent for the intended purpose it must be refunded and there is a time when the BLDC runs a revenue stream in the red and that revenue would go back into local development.

The Town Board tabled this item for further review.

Regarding budget transfers, Donna Boggs presented the following budget transfers to the Town Board for authorization.

TRANSFERS FOR SEPTEMBER 2005

FROM	TO	AMOUNT
GENERAL FUND		
19904 Contingency	12202 Supervisor Equipment	\$600.00
13552 Assessor Equipment	13554 Assessor Contractual	400.00
19904 Contingency	16202 Bldgs & Grds. Equip	1800.00
10104 Town Board	42154 Alcohol & Drug testing	50.00
51322 Garage Equipment	51324 Garage Contractual	1,020.00
71104 Parks Contractual	71102 Parks Equipment	30,545.00
19904 Contingency	80304 Research	6,900.00
Surplus	71102 Basketball court	21,365.00
Water District		
83304 Purification	83404 Transmission	1,000.00

71401 Recreation 7,500 from resolution in February
 71401 Recreation 2,100 from Revenues for Camp

RESOLUTION #207

Councilman Saris moved, seconded by Councilman Andersen, to authorize the Budget Transfers provided by Donna Boggs as presented. All favorable. Motion carried.

Public in Attendance:

- Jim Casaccio asked if Town employees are entitled to payment for vacation time in lieu of taking the time and Supervisor Gabriels replied by saying that Town employees get a certain number of weeks vacation per year and if they don't take vacation they build up the time and rather than take that time off, they get a check instead. Jim Casaccio said the purpose of employee vacations is so they get rested and revitalized so they can productively return to their jobs and he feels this should be reviewed.

Councilman White said one of the advantages of this procedure is that if Town employees decided to take vacation at certain times of the year, the Town would be limited on man power, so the Town Board appreciates the work the Town employees do when it is needed in lieu of taking vacation time at busy parts of the year; the Town Board is trying to keep an encouraging factor—especially in plowing season.

Councilman Saris said it is a difficult thing, because some positions aren't seasonal; the problem you run into is the contract allots for a certain amount of vacation time based on longevity and if all vacations were taken during certain times of the year, then man power would be diminished and there would be a problem in getting the work done that needs to get done. Tenee Casaccio said she thinks other Towns and the County also deal with this situation and the Town has started to set a precedent where it may lead to non-seasonal employees requesting the same.

Councilman White said when things like the June storm happen, where the Town employees were needed and worked hard, this is one way that helps promote morale. Further discussion ensued on this topic.

- Jim Casaccio said he thinks someone from the Town should do an in-depth exit interview with Mel Quigan to find out why she is leaving the Town of Bolton after being here so long and going to a similar paying job somewhere else, because he feels the Town is losing a good employee that held that department together. Supervisor Gabriels said that is a good point.

Other Business:

Regarding the Steve Chapman Memorial ride this coming Sunday, Councilman White said that while it is a motorcycle ride, they are also encouraging people to come by car and in addition, to participate in the celebration of Steve's life at 4:00 pm at Frederick's and it is a \$20.00 donation that will go to the Bolton Scholarship Fund in Steve Chapman's name.

Regarding the Padanarum Walk, Kathy Simmes said the six-mile walk on Padanarum Road, which benefits the Bolton Rescue Squad, will take place this Saturday.

RESOLUTION #208

Councilman Andersen moved, seconded by Councilman White, to pay the Town bills. All favorable. Motion carried.

Executive Session:

Councilman White moved, seconded by Councilman Andersen, to adjourn the regular meeting and enter executive session at 10:41 pm to discuss sewer issues and possible litigation. All favorable. Motion carried.

Councilman White moved seconded by Councilman Andersen, to adjourn executive session and reconvene the regular meeting and adjourn at 11:02 pm. All favorable. Motion carried.

Minutes transcribed by:
Jennifer Torebka
Recording Secretary
09/16/2005

Respectfully submitted by:
Kathleen Simmes
Town Clerk