

TOWN OF BOLTON

Town Board Meeting

September 2, 2008- Minutes

PRESENT: Supervisor Kathleen Simmes, Councilmen Robert MacEwan, Jason Saris, Owen Maranville, Councilmember Deanne Rehm, Town Counsel Michael Muller, Town Clerk Patricia Steele and Zoning Code Enforcement Officer Mitzi Nittmann.

ABSENT: None

Meeting Called to order 6:37 p.m.

Pledge: Councilman Saris

Welcome everyone to our September meeting:

Announcements:

The Bolton Landing Hamlet Sustainability Plan will have a meeting on September 10, 2008 at 4:00 p.m.

A public workshop will also be held on September 24, 2008 6:30-8:45 p.m.

Public hearing

This public hearing was duly noticed in the paper.

The hearing is to consider a Resolution declaring certain real properties of the Town of Bolton Water District as surplus and available for sale.

One parcel of land situate on Finkle Road and Water Plant Road in the Town of Bolton (Tax Map Parcel #156-00-1-33 reputedly 60.02 acres

A portion of a parcel of land situate on the east side of Edgecomb Pond Road (easterly portion of Tax Map Parcel #155-1-44)

Supervisor Simmes described the areas of discussion on the map. She stated that the parcels are in LC25 and RL3 zones and she provided information as to what uses are allowed in those zones. Supervisor Simmes stated that she believes that this is land that the water district has no use for and they could use a financial boost.

Supervisor Simmes opened the hearing to the public for comments

Ron Conover suggested that the Town move slowly on this issue. He stated that once this land is sold it is gone. Although raising money for the water district users is a good thing but it should be balanced against the market that we are in now. He questioned whether or not this is a good time to sell, or are there other public purposes. He suggested that the Town could purchase the property from the water district which would 1) buy them more time to sell in a better market and 2) deliver important revenue to

the water district. He stated that the water district could even hold a mortgage and it could be an annual payment over 20-30 years so it wouldn't have a direct effect on the tax rate for the Town.

Meredith McComb asked how much total land the water district owns. Councilmember Rehm replied a little less than 100 acres. Meredith McComb asked if any of these lands were serving the purpose of buffering the existing drinking water source. Councilmember Rehm replied no. Meredith McComb stated that there is a lot of siltation and build-up of deltas that is happening downstream and asked if these lands served a purpose of buffering the surrounding wetlands for filtering stormwater and asked if there could be a conservation easement put on these lands especially if houses will be built upon them. She also asked if the houses would be using the water district. Councilmember Rehm replied yes. Meredith McComb asked how many houses could be built on these lands. Councilmember Rehm replied 17 houses total between the 2 parcels. Meredith McComb stated that Ron Conover makes a good point that this is a poor market to raise revenue in. She stated that she hears that there is a lot of excess capacity on the water treatment plant, but asked if the amount of money raised from selling this land would be a drop in the bucket compared to trying to expand the current facility without land. Supervisor Simmes stated that they have adequate land remaining if the Town needs to expand the water treatment facility. Meredith McComb stated that although it seems that this has been thought about thoroughly she hopes that it does not go too quickly and unforeseen consequences are visited on the Town for disposing of what may be a very valuable resource. Supervisor Simmes stated that they have had the parcel appraised by Dave Rosebrook and he appraised the lot by David Rehm at \$300,000 and the opposite piece by the landfill at \$200,000. Meredith McComb stated again that she feels that it is an odd market to be selling in if this land is a valuable resource. She stated that one parcel looks like it is quite constrained with wetlands, which seem to be valuable to the watershed and the Town is losing a lot of money to repairing the road along Finkle Brook and to the degradation of the lake.

Isabel McConnell stated that she is concerned about the potential development on these lands and the effect that it will have on Finkle Brook.

Councilmember Rehm stated that she has thought that in both cases, if in fact the decision is that they are truly surplus properties, in light of what Ron Conover and Meredith McComb have stated, she would like to see the Town impose some limitations on their use and to establish a larger buffer zone along the brook so they protect it. With regard to the property along Edgecomb Pond Road, she suggested that they not allow full development of the land to protect the wetlands by only allowing 6-8 homes instead of the 15 based on the zoning. Councilman Saris stated that he feels that the current zoning does a really good job of protecting wetlands and the stormwater regulations are addressing protecting the wetlands. He stated that he appreciates the concern of disposing of the property and not getting it back for future use but they have to balance that with the water district and the small amount of people it serves and the continual financial need for updating the facility to meet the NYS regulations. He stated that if they cannot provide a financial boost now, then the burden to update and keep up with regulations falls on the members of the water district only and cannot be taken from the Town's general fund.

George Guercio asked if they have thought to expand the water district to provide more customers of a paying base for the product they make. Councilman Saris replied that it has been proposed and looked at in some areas but it is very difficult to do. He stated that over time the pay back would be good but the initial costs would be very high. Councilmember Rehm stated that normally the request comes from a group of people who want service and the cost to bring the water line to them is their burden to bear.

Meredith McComb asked where the water district stands in terms of capacity. Supervisor Simmes replied that full capability is 1,000,000 gallons per day and even in the busiest months they are well below capacity. She stated that in August they used approximately 322,049 gallons.

Councilman Maranville stated that he liked Ron Conover's suggestion about the Town looking to buy the land. He stated that the Town could buy one or both parcels. Councilman Saris stated that they would still have to declare the lands surplus. Councilmember Rehm asked Counsel if the Town could be the preferred buyer. Counsel replied yes and that type of land transfer is not subject to a permissive referendum. Councilman Saris stated that it would still need to be declared surplus. Counsel replied yes and that it should be sold at fair market value.

Supervisor Simmes asked Counsel to explain the process if the TB chooses to approve this. Counsel stated that if their decision is to declare the land surplus and offer it up for sale it would be subject to a permissive referendum, in which any citizen from the Town of Bolton could circulate a petition challenging the resolution. If the petition is signed by 5% of those who voted in the last general election for governor and the petition is satisfactory in every other way, then that resolution cannot be in effect and is subject to a referendum or general vote. He stated that this is critical timing because of the upcoming general election in November and he does not feel that they have enough time even if they were to decide tonight. Counsel stated that if the recipient of the land were to be a municipal government such as the Town or a not-for-profit organization, this resolution to approve the sale is not subject to a permissive referendum. He stated that the type of sale has to be commercially reasonable, so if they offer it to public auction or to list with a realtor, the market forces will drive the price, but he recommended that they have a reserve so that they are not required to sell the land if the offers come in too low.

Councilmember Rehm stated that she would like to encourage the community to spread the word that the Town is looking to sell these lands because some good points were raised tonight and maybe there are other good ideas out there. She stated that they are entering the budget cycle and they can look at potential for purchase and suggested leaving the public hearing open until at least October.

RESOLUTION #158:

Councilmember Rehm moved, seconded by Councilman MacEwan to table the Water District lands public hearing until the October 7, 2008 Town Board meeting. All in Favor. Motion Carried.

Second Public Hearing 6:45 p.m

Ordinance #40 amendment to an Ordinance regulating Parking within the Town of Bolton

Supervisor Simmes explained that in order to regulate parking there has to be an ordinance in order for the police to enforce parking. Supervisor Simmes read the current ordinance with the addition of 2 new areas. 1) On Cotton Point Road from the intersection of State Route 9N and Cotton Point Road and easterly from said point for a distance of 650 feet, then southeasterly for a distance of 1,080 feet as Cotton Point Road travels approximate to the shoreline of Lake George, then south for a distance of 200 feet to the Hemlock Point intersection with Cotton Point Road and 2) At the Town Library along an area beginning at the edge of the sidewalk on the north side of Rogers Memorial Park Road and for a distance measured from the point of beginning in an easterly direction there from a distance of 65 feet. Supervisor Simmes stated that both of these areas were brought to the Town's attention and that is why the public hearing is being held. She stated that she received one email from someone that was upset that they were doing this on Cotton Point Road because they use this for lake access for ice fishing.

Supervisor Simmes opened the hearing to the public for comments.

Hal Heusner, Library Trustee, stated that they have created 12 parking spots around the Library which takes a lot of the pressure off of the parking that was done on this roadway. He stated that he would like to have the indicated area posted because this is a very congested area and people end up parking

partially on the roadway and partially on the lawn it makes it difficult for those who are trying to exit the park to enter Route 9N. He stated that he and all of the Trustees of the Library are advocates of this resolution.

Ed Hodgkinson, President of the Cotton Point HOA, stated that they have 17 families on Cotton Point and 105 members. He stated that they had a Board meeting on 8/23/08 and this issue was raised. He stated that from what they understand previously there was not to be any parking from the beginning of Nate's Cabins to the beginning of Provost's property which is the basically the wetlands on the west side of the road. He stated that he has heard that the signs had been removed and thrown into the wetlands. He stated that their HOA would like the ordinance to enforce what was there before from Nate's Bayshore down to Provost's because they have no problem with the parking from Route 9N to Nate's Bayshore and no problem with parking from Hemlock down to their entrance because it is wide enough. He stated that he noticed that one of the reasons for the Town to do this was to be able to bring emergency vehicles through and wonders why they are so concerned about this area when they should be concerning themselves with what is happening right in downtown. He stated that they would like some attention in Cotton Point and they would like someone to pave their road but he does not feel that the parking necessarily needs to be changed. He stated that if the Town could implement what was once there it would prevent the ice fisherman from parking there or driving onto the lake and eroding the road that is there. He stated that the road really needs a lot of attention and they have brought it to the Town's attention for the last 8 years but have been told that there are no funds available. He provided a letter expressing the HOA's stance on the parking issue and voices their concerns.

John Tabner, attorney for Joan McKeag, proprietor and owner of Nate's Bayshore, provided a survey done by Dennis Dickinson for the Finley estate of Cotton Point Road. He stated that the deed on record calls this a 3 rod road or 49.5 feet and the road metal is about 20 feet. He stated that there is plenty of room to park on either side of the road metal. He stated his client would have no objection to the Cotton Point HOA position for this resolution. He stated that his client objects to the restriction on parking along her property line because although she has adequate parking for her guests she needs that area for deliveries, drop-off/pick-up of guests or visitors of guests staying at her motel. He stated that the motel has been there since 1960 and he doesn't know how many people have made complaints since that time. He asked if the police department has made any request to have this restriction there. Officer Neumann stated that he had not requested the parking restriction and has only responded to complaints from homeowners on Cotton and Hemlock Point regarding parking along Cotton Point Road mainly along the section along the lake. Their complaint has been the concern that emergency services would not be able to get into their homes. He stated that he brought it to the Town because the State Vehicle and Traffic Law does very little for their enforcement because that would only take effect if parking were to occur on both sides of the road to prevent any cars from getting through and the only way to eliminate parking in that area is through an ordinance. With regard to previous signs or notices, Officer Neumann stated that he does remember signs there but he has been unable to find anything in writing to state that it was a Town ordinance. John Tabner asked Officer Nuemann if there have been any complaints on the portion coming off of Route 9N to Nate's Bayshore. Officer Nuemann replied no. John Tabner stated that he feels that there have not been any complaints because the road is wide enough in that area. He stated that there doesn't seem to be any real press here for public safety or public health so there is very little reason to restrain the use of a public highway that has served everyone very well. Supervisor Simmes asked where his client would not want the restriction. John Tabner replied that his client would not like the restriction from Route 9N to the end of her property and he feels that this is exactly what the Cotton Point HOA is asking for.

Matt Finley stated that he is the property owner over much of the area that this ordinance would take effect. He stated that he is in complete agreement with the Cotton Point HOA and with Mr. Tabner that the area from Nate's Bayshore to Provost's property is the main problem. He stated that he feels that this is a safety hazard and a health hazard and he brought some photographs representing the problems that they often get. He stated that he is not sure that Mr. Tabner can express a position on the area from 9N

to Nate's Bayshore because he owns the property on both sides of the road and he owns the land under the road. He stated that this road was condemned in 1903 over the objections of the property owner, so the Town has the right to lay and maintain a road but the Town does not own the fee, he does. As the owner of the property of the land from 9N to Nate's and the water he would request that they enact this ordinance to include that area. He stated that based on his photos there could be a difficulty in passage of vehicles. Although the road is 3 rods wide that is the right-of-way and the road is not really that wide and parking is done on both sides he feels that this could be a serious problem. He is surprised that the Cotton Point HOA does not share that concern. With regard to the public health issue is those individuals parking along the Cotton Point Road especially those who park close to 9N and walk down and sit on the edge of the road. There is also no place for these individuals to relieve themselves and they often use the wetlands and there is often garbage left behind. He stated that the rip rap along the lakeside is being destroyed by not only the ice fisherman but also the people that sit on the beach and move the rocks to make themselves a spot to sit in. He stated that he encouraged the TB to include all of the area described in the ordinance. He continued that it would not be his intent to obstruct the ability of Joan McKeag to conduct business and if people need to park there temporarily as Mr. Tabner described, that is not what the ordinance is about and it is about cars parking all day long, or cars creating obstacles.

Ed Scheiber, Secretary of Hemlock Point HOA, asked if Mr. Tabner's request for no parking started from the end of Nate's Bayshore property or the bend in the road. Mr. Tabner stated that his client wishes for it to begin at the end of her property line. Ed Scheiber stated that with no disrespect to Ms. McKeag the corner is very dangerous in winter and summer and hopes the ordinance would include the northeast corner of her property to Provost's property. He asked if it is considered trespassing if people are parked off of the road from the portion from 9N to the bend because he has no problem with people parking in this area as long as they are not in the roadway. Counsel stated that the purpose of the ordinance is to prevent people from parking on the municipal roadway which is the 49.5 ft even though the pavement is less. Matt Finley stated that the roadway is not located in the middle of the right-of-way and its location is more to the north. Councilman Saris stated that Counsel's point is that the Town ordinance would be for parking in the Town's right-of-way. Ed Scheiber stated that there is a lot of area that individuals can park on the non-paved area and still be on the Town's right-of-way. Counsel stated that he was correct the individuals could be ticketed. Ed Scheiber stated that the Hemlock Point HOA would like the area from Route 9N to the McKeag's northeast corner to remain unrestricted because there is plenty of room to park and to enforce no parking from the northeast corner of the McKeag's property to Provost's property. Councilman MacEwan asked if he would be concerned if they allowed parking on both sides of the road from 9N to the McKeag property. Ed Scheiber replied yes because most people park off the road in that area anyway. Councilman MacEwan asked even in the winter. Ed Scheiber replied it depends on the snow. Councilman MacEwan suggested that they could post just on the one side. Ed Scheiber agreed and stated that the summer and ice fisherman try to park up there so they are out of the way.

Spokeperson representing the Provost Family, explained the Provost's survey because what they are proposing is not including all of their land and they actually own from the road where it is to 7 feet to the other side. He stated that he remembers the signs from years ago posting no parking. He stated that he feels that these signs are gone because the road eroded from the ice and not because of the fisherman or tourists. He stated that the lake has created the road to rise and nothing has been done to this road including trimming and cutting. He stated that he suggests that the Town post signs along the lake side of the road but allow for parking on the swamp side and possibly pave it for parking. He stated that he feels that this would still allow for adequate room for emergency vehicles to travel this road. He stated that the up to \$150.00 fine for parking in this area does boast well for the Town. We are trying to encourage visitors to see our Town but if they park in the wrong areas they will get a ticket. Supervisor Simmes asked if he could leave his map.

Andy Farstad, Cotton Point resident, stated that he comes in and out of the roadway several times a day year round and he has never had a problem coming up that road from Nate's Bayshore to 9N and he is not sure why someone is requesting no parking for this area. He has never seen a time when they

couldn't get an emergency vehicle through there. However, from Nate's Bayshore to Provost's property he feels that does need to be addressed.

Craig Rivers stated that he agrees with the Cotton Point HOA and Joan McKeag and supports no parking from the McKeag property along the swamp to Provost. He stated that it should start from McKeag's northeast corner and run to Provost's corner because both are dangerous. He also recommended some road improvement because in the 48 years that he lived there very little work, if any, has been done. He suggested that they widen and re-pave the road. He stated that he is confused that an ordinance that was enforced in the 1960's cannot be found. Supervisor Simmes stated that it was not an ordinance and it was just signs posted.

Ed Hodgkinson stated that he wanted to clarify the record. He stated that this road has been in use for many years and there was a lawsuit brought by the Finleys in the latter 80's and it was settled by a court decision. The Court decided that the fee of the road belonged to the Finley's. However, the Court also granted to the Town a 3 rod right-of-way for public traverse, which would include vehicles or pedestrians. He stated that it is a public road all 3 rods of it.

Supervisor Simmes suggested that they leave this public hearing open.

Councilmember Rehm suggested that they alter their description for the library to include Route 9N as the starting point and measuring back 65 feet from there. Supervisor Simmes stated that they used the sidewalk. Councilmember Rehm suggested that they be more specific for their starting point.

RESOLUTION #159:

Councilman Maranville moved, seconded by Councilmember Rehm to table the Ordinance #40 amendment public hearing until the October 7, 2008 Town Board meeting. All in Favor. Motion Carried.

Public in Attendance

John Gaddy stated that he has been in communication with Debbie Graff from National Grid regarding the mercury vapor lights. She has informed him that they now have over 200 lights in existence that are in contract with National Grid that could be considered candidates for replacement with more energy efficient lighting. He stated that he plans to set up a meeting soon to be held at Town Hall for anyone that might be interested. He stated that they could start saving money in 6 months from now depending on how construction is.

John Gaddy stated that he also brought an article from the Sunday New York Times Business Section which discusses how other parts of the country are dealing with lighting. He asked the TB to review some of the highlighted sections.

Meredith McComb stated that she is concerned that the Hamlet Sustainability meeting on September 10, 2008 will be in conflict with the Zoning Revisions meeting. Supervisor Simmes stated that the Hamlet Sustainability is just a committee meeting. Meredith McComb asked if it would be at the same time because some of the members of the Hamlet Sustainability Committee are also interested in attending the Zoning Revisions meeting. Supervisor Simmes replied that they are at the same time but she just got that notice today and she will see if she can try to change their meeting.

Zoning Issues

Saddlebrook: Discussion of letter of intent regarding two issues that the Water Keeper and the Fund would like the TB and PB to consider.

Supervisor Simmes stated that this is as a result of a meeting with Rolf Ronning, Counsel, the Water Keeper, the Fund's Counsel, herself and the Pam Kenyon in an effort to avoid an Article 78 from being brought against Mr. Ronning. She stated that as a result of the meeting they have come to an agreement between the Fund, Sommas and Saddlebrook, but in that there were 2 requests of the Town 1) The PB should give special consideration to enacting a policy and procedure, whereby a specially qualified engineer or certified stormwater management designer/planner may act as an expert consultant for Board consideration on complex projects that involve stormwater run-off issues, and 2) The Zoning Administrator should include the Water Keeper, who is a New York State Licensed Professional Engineer, in the earliest possible processing of major subdivisions with major stormwater permit applications at the pre-application stage. Supervisor Simmes stated that Counsel wrote this as a letter of intent for their discussion and decision.

Chris Navitsky, Lake George Water Keeper, stated that he would like to thank the Town for the opportunity to comment. He stated that they would also like to thank the Town and their Counsel in their time and assistance in reaching the agreement regarding the Saddlebrook Subdivision and their consideration of the 2 initiatives that were just referred to. He stated that they came up with these recommendations for several reasons; 1) In the past 6 years there have been approximately 12 major subdivisions approved by the Town of Bolton PB and over half have resulted in post approval problems. He stated that Cobblestone was approved in 2003 and there have been consistent stormwater and erosion problems, it has required 2 re-designs and has had a DEC notice of violation and other Town violations. He stated that the Lake Winds subdivision was approved in 2003 and litigation was filed after approval and settlement was reached where the Town enacted an actual stormwater permit process. He stated that Wright's Farm in 2004 required re-approval for the stormwater management system and it received a DEC notice of violation. The Bluebird Cottages in 2004 required re-approval for stormwater management. The Saddlebrook Subdivision, which just received its second approval from the PB, litigation, re-designs and notice of violations which require significant effort from Town employees and Boards to monitor and correct existing situations. He stated that these issues, many times, are raised during the review of the applications and are better addressed at that time. 2) The process can be improved. Many times applicants receive sign-offs from the Town Engineer and have significant time and capital invested into a project before there is any public input. It then becomes a financial concern to implement the changes at that stage as well as becoming a logistical problem. He stated that input from the public at an earlier stage can only improve the process. With regard to Counsel Muller's letter having the Water Keeper involved, he stated that they feel that it should be a public process and not just for the Water Keeper to get involved. 3) The APA has a similar process and the Town of Bolton has a locally approved land use plan, so it would be a natural fit. The Town of Queensbury has public input at all stages of the review of the applications in front of the PB. The Water Keeper is currently reaching out to meet with developers to discuss concerns on applications as early as possible. He stated that the public involvement in the application would allow for the process to be more inclusive and more open.

4) With regard to concerns that their comments would be seen as anti-development, Chris Navitsky stated that the Water Keeper program has continued to advocate for the application in compliance with existing regulations and codes and the application of scientifically proven measures to protect the water quality and natural resources. This process would only improve the quality of development in Bolton as well as protect the water quality and natural resources. 5) Additional expertise and experience would benefit the Town of Bolton and planning decisions. He stated that they were interested in having the Town consider an outside consultant only for major subdivisions including major stormwater processes. Although the Town does not want to dictate and design projects for applicants the Town can steer and encourage through the use of an outside consultant experienced with balancing development with the natural surrounding and the environment. Project design is simply not meeting all of the code requirements but to be creative in development to fit the landscape in the community. Locating

stormwater basins within 5 feet of a Town right-of-way, within a scenic corridor or locations of stormwater basins along a boundary of a protected wetland requiring the clear cutting of entire buffers or replacing a 12" pipe with a 30" pipe located several feet from the neighbors property is not development in which the Town of Bolton should be approving. Chris Navitsky stated there is a general support of the Lake George Water Keeper in the Town and their concern for protecting the environment. He stated that they are noticing subtle changes beneath the surface of Lake George and water quality. It is only through a combined effort of partnership that they will be able to maintain the water quality of this national treasure. The level and quality of development must be raised to compliment the beauty of the natural surroundings of Bolton. The current process has not worked for all parties and there is room for improvement. This is why the LG Water Keeper has decided not to pursue litigation regarding Saddlebrook Subdivision and put forth an effort to improve the process.

Councilmember Rehm asked when an application become public. Counsel replied that the application becomes public when a completed application is submitted to the Zoning Office. Councilmember Rehm asked if the Water Keeper was asking for the application to be public before the application is complete. Chris Navitsky replied that they are hoping that there would be a pre-application process. He stated that it is open to the public, but many times public comments are not recognized by the PB and it is only accepted at the time of preliminary plan if the PB determines that an application requires a public hearing or there is enough public concern raised. He stated that at that point, the applicant could have put in tremendous effort and money and they are trying to open the process earlier to save the applicant time and money. He stated that the Zoning Revisions refer to a pre-application meeting and they are hoping that it could be open to the public so that concerns of the public could be put into the record early on and be incorporated before the developer spends money working on his plans.

With regard to the Water Keeper's comments about needing another consultant on major subdivisions and major stormwater, Councilmember Rehm stated that they already have that with the Town Engineer. Chris Navitsky agreed but stated that on complex projects they feel that additional expertise with a company or firm that has worked in these types of developments to incorporate them into the natural environment and surroundings is advisable. They feel that this would be an additional resource for the Town to utilize to get the expertise from a firm that may be familiar with low impact development concepts or alternative stormwater measures. Councilman MacEwan asked Chris Navitsky if the subdivisions that he mentioned had problems because they did not follow through with their approved plans. Chris Navitsky replied that some of the issues came up because of poor maintenance during construction, some from erosion and some from not following plans properly. He stated that using an additional consultant would not cost the Town because it would an expense that the applicant would bear.

Councilman Saris stated that he is concerned with the whole concept. He stated that all major subdivisions will be required to go through the public hearing process. Although starting the public involvement in the process earlier would help the developer before being fully invested, he feels that it may not be a concern because that is the developer's responsibility. He stated that he would hope that developers would learn from their own mistakes and the mistakes of others and come to a PB more prepared and if their development requires the aid of one these types of firms that they will have already hired one and it is the one of their choice. He stated that they also have to consider what is enforceable which is their regulations and not things that are suggestions. He stated that Mr. Navitsky has stated it himself that if you get 3 engineers they may all come up with a different solution. He stated that although the public should have their chance to voice their opinion, the property owner has some rights in this matter as well. Councilman Saris stated that he is not sure that this would save any time in the process by involving the public sooner than later. Sometimes they can cut through a lot of stuff without involving the public and often times when involving the public things can get sidetracked. He feels that the PB should have the right to decide if applications should have a public hearing or not and it should remain that way. He also feels that if an applicant feels as though litigation may be brought by the public it may take over the design and the path that the application travels through, which should really be

determined by the Town regulations and zoning ordinance. He stated that although Mr. Navitsky mentioned those subdivisions in which things did not go as planned, all of those things got ironed out and the great detriment was to the developer who hopefully has learned a valuable lesson.

Supervisor Simmes stated that she would not like to make decision on this proposal until the PB has had the chance to look at it. The Board members agreed.

Harold Raven: Supervisor Simmes asked Counsel if there was anything new to report.

Counsel replied no, not since his last report.

Lehmann barns

Code Enforcement Officer Mitzi Nittmann stated that she has not heard from Ms. Lehman. Supervisor Simmes stated that work has stopped on the repair of the property and Ms. Lehman was supposed to attend this meeting. Counsel stated that the lawsuit was staid based upon the TB instructions and Ms. Lehman's professed interest in saving the barns. Supervisor Simmes stated that they will not be able to save the one barn and they should ask her to take it down. Counsel suggested that they give her additional notice that the Town intends to proceed with the action and give her 15 days to take action. He stated after the 15th day after given notice Counsel would re-present it back to the Court. Tom Nace reported that the one barn needed to come down because it is in dangerous condition and the other barn needs work to secure the building. Counsel stated that it would be appropriate to give Ms. Lehman additional notice that time is up and she needs to act.

RESOLUTION #160:

Councilman Maranville moved, seconded by Councilmember Rehm to authorize Counsel to proceed with the 15 day notice of Ms. Lehman to respond and take action on property located at 57 Horicon Avenue, Tax ID #171.15-1-28. All in Favor. Motion Carried.

Elmer Clark property- 824 Trout Lake Road, Tax ID # 186.00-1-20, Supervisor Simmes stated that CEO Mitzi Nittmann wrote a letter dated August 5th. Mitzi Nittmann stated that the 30 days starts from the date that the letter was received which was August 28th.

Lake George Camping Equipment- Supervisor Simmes stated that they were not ready to make a decision on this yet.

Sue Millington, attorney for LG Camping Equipment, stated that they have just settled litigation involving the northerly dock after 7 years. She stated that it was a good conclusion and all parties seems to be happy on all sides. Her clients were able to preserve their northerly dock although they don't have full use of it. She stated that she has a 1960 aerial map of Lake George Camping that was done when the current maps of the lake were grandfathered in which shows the Lake George Camping docks in virtually the same spot that they are today. She stated that she also has an aerial done by Warren County in 2003 that gives them an idea of what they are seeing. She stated that it appears that her clients' southerly dock may be in the waters of the Town of Bolton in the area of where the old Town docks used to be. She stated that she had a survey done by Bolster and Associates and it showed that while her clients' dock is fairly close to the Town property line there is the situation where once you get into the water beyond the land the dock tends to veer over into Town property. She stated that in the Court case the Court was clear on the fact that when a dock has been someplace for 50 years it is thought that the dock should continue to be there, whether it should be used in the same way or not. She stated that the Smith's and the Connerty's prior to them have been running this operation in a very similar fashion for over 50 years. She stated that the Town was very concerned at the thought of private developers

purchasing Norowal a few years ago and affecting access to the lake and small marina business. She stated that this operation and others like it bring a lot of commerce to the Town and provide access to the lake. Sue Millington stated that when she talked to Supervisor Simmes they had talked about long term lease but she wanted them to keep in mind that this is a small family owned operation and while they are successful they are not overly so. She stated that she appreciates the Town looking at this and looks forward to working with them.

Councilmember Rehm asked what the settlement involved on the northern dock. Sue Millington explained that the Court decided that they could use the final 85 feet of the dock on the lakeside on the northerly side of the north dock, putting smaller boats closer to the shoreline and they retain the entire use of the southerly side of the north dock.

Board of Health

Rosamond Butler septic- ID# 171-12-1-4, Crown Island. Supervisor Simmes stated that they have a letter from Tom Nace who stated that he agrees that the modifications made to the approved drawings do not have any negative impacts on the system and therefore recommend that the Town Board of Health favorably consider modification of the previously granted variance. Supervisor Simmes stated that Counsel recommends that they hold another public hearing.

RESOLUTION #161:

Councilman Saris moved, seconded by Councilman Maranville to hold a public hearing regarding the Rosamond Butler septic modification at the next Town Board of Health meeting in October 7, 2008. All in Favor. Motion Carried.

Correspondence

Minutes of August TB

APA project amended permit for Brook Hill Development Inc.

APA project permit for Richard & Barbara Eggleston

APA amended project permit for Wm. & Kira Greer

APA project permit granted to Raymond Hensler Sr.

Thank you to Vince Posteraro Eric Santel, June & Dennison Beers for help when Chance Peters fractured his arm

Letter of appreciation to June Beers for Arts & Crafts and to Vinnie Posteraro for swimming program.

Cable TV notice of possible channel changes

LGPC water quality watch for South Sawmill Bay Brook and Rogers Memorial Beach. The retesting of Rogers Park was satisfactory

Copy of letter to DOT requesting signs and a lower speed limit on Route 9N near Walker Pt. Lane

DOT's reply that they will conduct a survey

Copies of amounts for scrap metal for Sewer Dept. \$2765.30 and Landfill an additional \$204.20

Kingsley letter concerning the Planning Office

Copy of NYS DOT letter to Neuffer's with a concept for their property regarding sidewalks

Copy of minutes for the Middleton Road Bridge over Schroon River

Southern Adirondack Independent Living Center: Concerning issues with our handicap access. George Mumblow will address the issues

APA is sponsoring a special program on conservation subdivisions: September 24th 7 to 9 at Raybrook NY

Hamlet Sustainability Plan July 30th minutes

Thank you from Sembrich for bed tax funding

Thank you to Veterans Park staff namely Vinnie Posteraro and Mary Owens.

Committee Reports **Councilman Saris**

Town Clerk- Total local shares- \$25,613.22, non-local revenue- \$915.16 Total State, County and Local revenue- \$26,528.38.

Sewer Department- Took in 8,132,970 gallons of waste water for an average of 262,354 gallons a day. They are having problems with high nitrate levels in three of their wells. It has been an ongoing issue and they have been working with DEC on this issue. They received \$2,765.30 for all of the scrap metal taken away. There were some issues with the generator at the Norowal pump station but it has been repaired. The belts were replaced on the #1 pump at the south station and they have ordered extra belts to keep in stock. They met with the Sagamore about smoke testing and that will be done on October 28th. They hauled 60,000 gallons of liquid sludge.

BLDC- The summer has gone well for Norowal Marina and it generated enough income to pay the bills. This has provided another year of not having any tax payer input. There are no rate increases proposed for the 2009 season. He stated that winter storage has been offered to dock space customers and there is one building that the marina owns that is being offered to commercial customers to rent the entire structure. Councilmember Rehm asked if they would need to hire someone for the winter storage operation. Councilman Saris replied no because it is completely self-storage.

Councilmember Rehm

Recreation Department- She stated that the recreation program was successful again this summer with full enrollment for the camp and several special events. As of September 9th the hours are as follows:

Tuesdays- Friday 2:30- 6:30 p.m and Saturdays 11:00 a.m.-5:00 p.m. With regard to budget for next year, they are looking to add more lifeguards to help with the beach maintenance in the morning before going on duty and they will need a shed at Veterans Park to house their equipment. She stated that at the last meeting there was a resolution prohibiting smoking in Town vehicles and there was some discussion as to prohibiting smoking on the beaches as well so that the lifeguards can work in a smoke free environment. She asked if they could consider this at the October meeting.

Senior Center- She stated that they have had a good summer. During July they went bowling and went to 3 Lake George Youth Theater events in August. They played miniature golf and traveled to Lake Champlain. In September they are looking to attend Warren County's senior citizens picnic and another site seeing trip to Vermont.

Fire Department- The rescue squad sponsored the arts and crafts show and the attendance was good. Both the fire department and rescue squad will be submitting budgets.

Councilman Maranville

Assessor- On July 1st the final assessment roll for 2008 was filed with the Town Clerk and a notice of the same was placed in the Post Star. In July one assessment complaint from Donald Green was filed in Court for small claims and will be heard on September 9th. The hearings will be defended by Dave Rosebrook and he has been preparing comparables for his defense. In early July he moved the files into the next year of processing which allows them to begin the changes for the 2009 assessment roll and year. He attended continuing education training at SUNY Utica and took a 2 day course in August. He mailed out commercial questionnaires to the Town's commercial properties for the hope of getting sufficient rental data to build income basis of value. On August 22nd, he attended a seminar in Saranac Lake on the valuing of State Land. In addition to the Cold War Vets exemption that the Town passed last month the County has passed an amendment to the existing alternative Vets exemption which would provide an additional 33.3% increase in the caps on this exemption. Currently the caps are set for \$27,000 for non-combat, \$45,000 for combat and \$90,000 for disability. The amendment purposes caps of \$36,000, \$60,000 and \$120,000 respectively. The Vets exemption is not reimbursed by the State or Federal government, meaning that whatever is given is made up by everyone else.

Police Department- They patrolled 3,569 miles, used 271.1 gallons of fuel, they responded to 1 burglary, 1 domestic disturbance, 3 larceny, 3 criminal mischief, 7 disorderly conducts, 2 harassments, 2 aggravated harassments, 6 trespassing, 1 littering, 10 alarms, 7 noise complaints, 1 fireworks complaint, 3 animal complaints, 5 lost and found, 2 suspicious persons. They issued 4 parking tickets, 10 traffic tickets, 2 boating tickets, 7 assists to WC Sheriff, 6 assists to NYS Police, 1 assist to Fire Dept, 14 assists to EMS, 1 civil fingerprinting, 1 warning ticket for parking, 1 criminal arrest, 2 Court security details. They also attended training for handling and processing juveniles.

Justice Department- Hon. Harry Demarest- \$10,960.00 and Hon. Edward Stewart- \$5,601 Total- \$16,561.00. Itemized lists are located in the Court.

Councilman Maranville stated that he spoke to Judge Demarest the other day and he suggested looking into the ratio that the State takes from the fees of the Court and see if they can increase the amount of the fee that they receive from the fine. Counsel stated that the Office of Court Administration can provide the answer and asked if Judge Demarest doesn't feel that Bolton is receiving their fair share. Councilman Maranville replied yes. Counsel stated that the State does an annual report which shows each and every court's contribution that is returned to the State, the County and the municipality. He stated that they could look at last years report and compare it with last year's local number to see if there is a disparity and if so then they would report that to the OCA.

Councilman MacEwan

Water Department- Gallons made 9,983,543 with an average of 322,049 gallons/day. The monthly bacterial samples came back satisfactory.

Transfer Station- Total receipts- \$10,939.00. Councilman MacEwan stated that the brush pile is becoming a concern again and asked what the TB would like to do about it because Al Dague can't keep up with it. Supervisor Simmes suggested that they use the sandpit for collection of the brush, but she needs to speak to DEC about getting a permit to do so. Councilman Saris asked what they would do with it once it was in the sandpit. Supervisor Simmes stated that they could burn it. Supervisor Simmes stated their only other option is to tell people that they cannot bring it up there. Councilmember Rehm stated that they could have it done by a professional tree service. Supervisor Simmes stated that she is concerned that it would be too expensive. Councilman MacEwan stated that it wasn't that much last time. Councilmember Rehm stated that they should act on this soon because they are approaching fall clean-up time. Supervisor Simmes suggested that they go out to bid for the brush removal.

RESOLUTION #162:

Councilman MacEwan moved, seconded by Councilmember Rehm to accept bids for removing the brush pile at the Bolton Transfer Station. All in Favor. Motion Carried.

Supervisor's Report

Receipts: \$797,104.22 Disbursements: \$473,470.54

Old business

Vacancy on Zoning Board of Appeals

Supervisor Simmes stated that she contacted Mark Roden who indicated that he is much too busy to devote the time. The only other person interested currently is David Ray. She suggested that if they are interested in looking for other candidates that they advertise on the website and in the Adirondack Journal and LG Mirror.

Letter from Deb Gaddy requesting to serve on the Recreation Commission

Recommendation from the Recreation Commission

RESOLUTION #163:

Councilmember Rehm moved, seconded by Councilman Maranville to appoint Deborah Gaddy to serve on the Recreation Commission for the remaining term of 12/31/2011. All in Favor. Motion Carried.

Sandblasting of large highway truck: One bid from Arrowhead for \$4463. Supervisor Simmes contacted Master Blaster. No response. Supervisor Simmes called them twice and there still has been no response.

Councilman Saris suggested calling companies out of Albany. Councilmember Rehm suggested making a couple of phone calls to some Albany firms to see if they are interested in bidding and if not, they have done due diligence and they can award it to Arrowhead.

New business

Sound Permit for Pumpnickel's for October 3rd 6 to 11 pm, Oct. 4th 12:30 to 11 pm and Oct. 5th 1 pm to 11 pm. 2 to 6 musicians.

RESOLUTION #164:

Councilman Maranville moved, seconded by Councilman MacEwan to authorize the sound permit for Pumpnickel's Octoberfest on October 3rd from 6:00-11 pm, October 4th from 12:30 to 11 pm and October 5th from 1 pm to 11 pm. All in Favor. Motion Carried.

Dave Decker request for resolution authorizing a draft work plan related to analyzing the source of sediments and nutrients that flow into Dula Pond There is no cost to the Town of Bolton.

RESOLUTION #165:

Councilmember Rehm moved, seconded by Councilman Maranville to approve the following:

WHEREAS, the environmental health and overall quality of life in the Lake George Watershed area is critical to the social and economic well being for the Town of Bolton, Warren County, and the region in general, and

WHEREAS, the protection, preservation and proper management of water quality within the basin is an essential ingredient to maintaining this revered natural resource as a key to the social and economic vitality of this region, and

WHEREAS, the Town of Bolton has been an active participant in developing the critically important water quality management plan, and actively participating as part of the Lake George Watershed Conference, and

WHEREAS, several member institutions of said Conference have proposed to undertake an analysis of the sub watershed that serves as the source of water to Dula Pond, located within the Town, for the purpose of identifying possible sources of sedimentation and nutrient buildup in the pond, due to stormwater runoff and/or ground water flows, and

WHEREAS, the conduct of such an analysis and study will be undertaken and supported by grant funds awarded by the Department of State, from the Environmental Protection Fund – Local Waterfront Revitalization Program (EPF-LWRP), as well as in-kind matching services from the several participating LGWC member institutions,

NOW, THEREFORE IT BE RESOLVED, that the Town authorizes the Director of the LGWC to coordinate and undertake the conduct of such a study, and also authorizes the participation and assistance of Town employees in advancing said study, and to thereafter provide a written report of findings to the Town Board, following the conclusion of field inspection and analysis activities envisioned in a work plan submitted by the LGWC. All in Favor. Motion Carried.

Copy of an agreement between the Town of Bolton and Home Place Corp. for Bixby Beach Rd and adjoining 5 feet to the north of Bixby Beach Rd. If they are in agreement with the above agreement and we can proceed to the following: Counsel request for

proposals to survey Bixby Beach Rd. We have received two replies. Resolution to accept proposal if Home Place Crop. signs the agreement for Bixby Beach Road

Supervisor Simmes opened the bids for the survey of the property:

WJ Rourke Associates-\$1,800.00

D.L. Dickinson & Associates- \$850.00

Van Dusen & Steves- \$3,000.00

Bolster & Associates- \$3,950.00

RESOLUTION #166:

Councilmember Rehm moved, seconded by Councilman Maranville to award the survey job to D.L. Dickinson & Associates pending the Supervisor's review of the submittals to be sure that they are in compliance with the Town's request. All in Favor. Motion Carried.

Request for use of Town Hall out front for an Art Show and out back for anyone who would like to set up their garage sale. This is for Columbus Day weekend. Supervisor Simmes stated that when she used to run the garage sale they used to allow the public to use the parking lot to participate in the garage sale. She stated that this may draw more people to Town if people can bring their goods to sell into downtown. As a side note, the artists have also requested to use the front of Town Hall to sell their pieces during the next craft show weekend because they do not consider their art a craft but they can discuss that next year. Councilman MacEwan stated that Mark Perry has been doing capturing images of the area and he has asked if he would be allowed to use the front of Town Hall. Supervisor Simmes stated that this is something different because this is a group asking for specific dates and not just one individual asking to do it anytime. Councilman MacEwan stated that he would ask for a specific date. Supervisor Simmes stated that this is also in conjunction with other things going on in Town and they cannot allow an individual to conduct business on Town property. Councilmember Rehm suggested that he join up with the festival.

RESOLUTION #167:

Councilmember Rehm moved, seconded by Councilman Maranville to authorize the Chamber of Commerce to use the front of Town Hall for the Fall Festival and to authorize private individuals to set up for the garage sale in the Town Parking lot. All in Favor. Motion Carried.

Bolton Police request to state specifically when the traffic signs are changed

Rescind Resolution #269 of 1999 and adopt a Resolution

To authorize the following schedule: from the day after Columbus Day until May 15th will be a flashing light.

RESOLUTION #168:

Councilman Maranville moved, seconded by Councilman MacEwan to rescind Resolution #269 of 1999 and resolve to authorize the following schedule: from the day after Columbus Day until May 15th will be a flashing light. All in Favor. Motion Carried.

Smoke testing is planned for October 28th in Town Cost approximately \$300. The smoke testing has to be approved by the board and letters will need to be sent out to the individuals involved.

RESOLUTION #169:

Councilman Saris moved, seconded by Councilman Maranville to approve the smoke testing on October 28th which is to be done by the New York Rural Waterworks for the amount of \$300.00. All in Favor. Motion Carried.

Justice court needs a resolution in support of the grant that they have applied for that would require security related construction and for two new judicial robes. Supervisor Simmes would need a Resolution authorizing her signature on the application.

RESOLUTION #170:

Councilmember Rehm moved, seconded by Councilman MacEwan to authorize the Supervisor to prepare the grant application for the justice department. All in Favor. Motion Carried.

Supervisor Simmes would like to request a survey for Brereton Road to know exactly where our south boundary line is.

RESOLUTION #171:

Councilman MacEwan moved, seconded by Councilman Maranville to authorize Counsel to obtain bids for the surveying of the Town property located on Lower Brereton Road in the Town of Bolton. All in Favor. Motion Carried.

Request from Matt Coon for two weeks unused vacation.

Councilman Maranville stated that they need to make some stipulations on vacation/sick time. Supervisor Simmes stated that the County does not pay for vacation and neither does the State. Councilman MacEwan suggested that they try some sort of accrual of paid time off which includes sick, vacation and personal days and every time someone takes a day it comes out of their bank. Councilmember Rehm stated that she likes that idea. Supervisor Simmes asked that Councilman MacEwan look into this further and they can discuss it further.

Councilman MacEwan stated that they have paid them out of practice and are they just going to stop it now. Councilman Saris stated that he would highly recommend that they amend their policy sometime in the future but in the meantime he feels that they should continue with their current practice. Supervisor Simmes stated that as long as she has worked for the Town she has never been in favor of this. Councilmember Rehm agreed.

RESOLUTION #172:

Councilman Saris moved, seconded by Councilman MacEwan to authorize payment to Matt Coon for two weeks unused vacation time. Supervisor Simmes and Councilmember Rehm opposed. All others in Favor. Motion Carried.

Supervisor Simmes would like to attend the Wild Center lectures concerning "going green" Cost \$65

Adirondack Runners request to have their distance run again. In 2009 they want to hold the event a week earlier to avoid the 4th of July. The date is June 28th ending at Rogers Park

RESOLUTION #173:

Councilman Saris moved, seconded by Councilmember Rehm to authorize the Adirondack Runners to hold their distance run on June 28, 2009 ending at Rogers Park. All in Favor. Motion Carried.

Public in attendance

Barbara Weinschenk stated that she is concerned with Lake George Water Keeper's comments. She stated that the LGPC has been doing some stream corridor regulations which have been very controversial. They were supposedly set in stone, the public got a hold of the regulations and they have since been rescinded and they are doing workshops for the public to voice their opinion. She feels that Mr. Navitsky is forcing this on the Town. She understands their interest in the developers and hopes that the developers would do it the correct way. She doesn't think it would benefit bringing the public into the process earlier and just feels that communication between developers should remain open. She stated that it should be up to the PB to decide whether or not they need more expertise for major projects.

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Transfers

RESOLUTION #174:

Councilman Saris moved, seconded by Councilman MacEwan to approve the following transfers:

FROM TO AMOUNT

General Fund

13552 Assessor Equip 13554 Cont. \$325.00

31202 Police Equip 31204 Cont. \$2,000.00

35102 Dog Control Equip 35104 Cont. \$85.00

75101 Historian Personal 75104 Cont. \$1,013.00

Increase Budget Revenue 3897 Lake George Association \$13,027.77

Approp. 87454 Stormwater Control \$13,027.77

Sewer Dist

81304 Sewer Treatment Cont. 81302 Equip \$2,100.00

Water Dist

83404 Transmission 83104 Administration \$1,700.00

83404 Transmission 83204 Source Power \$1,875.00

All in Favor. Motion Carried.

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Pay the bills

RESOLUTION #175:

Councilman Maranville moved, seconded by Councilman Saris to pay the following bills:

Tourism: \$4948.00

General Fund: \$61,934.87

Light District: \$2214.20

Sewer: \$10,968.22

Water: \$6,046.60

All in Favor. Motion Carried.

RESOLUTION #176:

Councilman Saris moved, seconded by Councilman MacEwan to approve payment of the highway bills, \$84,582.11. Councilmember Rehm abstained. All others in Favor. Motion Carried.

Executive session

Councilmember Rehm moved, seconded by Councilman Maranville to enter into Executive Session at 9:05 p.m. All in Favor. Motion Carried.

Adjourn

RESOLUTION #177

Councilmember Rehm moved, seconded by Councilman Maranville to return to regular session and adjourn the meeting at 9:25 p.m. All in Favor. Motion Carried.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary