

**TOWN OF BOLTON**  
**TOWN BOARD MEETING**

**June 2, 2009**

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

**ABSENT:** None

Meeting Called to order 7:03 p.m.

PLEDGE: Councilman Saris

ANNOUNCEMENTS:

Supervisor Simmes presented service award to George Moffitt for his 25 years of service to the Town of Bolton.

Carol Shaw fundraiser is scheduled for June 13<sup>th</sup> at the Bolton Conservation Park. We ask that you bring a dish to share and a donation. We will also have a 50/50 raffle and silent auction

Warren County Senior Citizen of the year was awarded on May 21<sup>st</sup> to Tom Mihalics.

The Hyde Museum held their 18<sup>th</sup> Annual Regional Juried High School Art Exhibition and four Bolton children were honored with awards out of 1200 entries. Taylor Barrack, Meredith Chamberlain, Emma Cady and David Simmes.

Sarah Calzada received an award for her Law Day essay at the Youth Court luncheon

The Conservation Club Committee is in the process of a design for the replacement of the current structure. We will have a presentation for the July meeting.

Supervisor Simmes recognized Councilman Saris' son for his off-shore power boat race. Councilman Saris stated that he and his son were able to race for the first time together in Ocean City, Maryland. He stated that they did really well and finished fourth out of twelve boats.

Public in Attendance

Kathy Suozzo: Delaware Engineering. The comment period on the environmental review ended today. The only comment received so far is from the Waterkeeper.

Kathy Suozzo updated the TB on the grant application process. She stated that since the last meeting they started the environmental review process under the Green Innovation Grant Program

Project.. She stated that they have sent notices to all interested parties and agencies. This is considered a Type II action which does not require environmental review, but given the nature of the location they felt it would be prudent to have input from all of the agencies to look at the proposal. She stated that the proposal was submitted on May 14<sup>th</sup> and the State has until June 17<sup>th</sup> to come up with a list of approved projects. She stated that their contact, Richard Speidel, at DEC has certified that their project application is complete. She stated that this action tonight is because initially they were going to go through Part 2 of the environmental assessment form but in speaking with Richard Speidel and because it is a Type II they are not required to do so and can shorten the process by passing the proposed resolution which will complete the SEQRA review process.

Kathy Suozzo stated that they did receive one letter of comment from the LG Waterkeeper, who has the following concerns:

Blasting- Kathy Suozzo stated that it appears that in some locations they will encounter some rock which will require some blasting, but in other areas they will not. She stated that if they do have to blast it would be a maximum of four feet but that is still to be determined.

Approvals- Kathy Suozzo stated that they only need a plan review and approval from the DEC. They will also need a sign-off from the State Historic Preservation Office and they are waiting on a non-jurisdictional letter from the APA.

Councilmember Rehm asked if there would need to be any TB, ZBA, PB or LGPC action. Kathy Suozzo replied that the LGPC is doing a jurisdictional review which is required under the State EFC. She stated that there was some confusion because they applied online which did not allow for additional boxes to be checked. She felt that since it was such a high visibility project that all agencies were notified of the project and did check "requires approvals" because they were waiting for a few sign-offs and non-jurisdictional letters. Kathy Suozzo stated that she intends to respond to the LG Waterkeeper's letter in the upcoming days.

### **RESOLUTION #116:**

Councilmember Rehm moved,

WHEREAS, the Town of Bolton on May 5, 2009, declared themselves the lead agency in the coordinated environmental review for the Town's Wastewater Treatment Plan (WWTP) Improvement Project under the NYS Green Innovation Grant Program (GIGP), and as detailed in the April, 2009 "Town of Bolton, Warren County, Wastewater Treatment Plant Improvements- Green Innovation Grant Program" plans, copy of which was held in the Town Clerk's office, and

WHEREAS, under Section 615.7 of the State Environmental Quality Review Act (SEQRA), the above-referenced project has been determined to be a Type II action, and such action will have no significant adverse impact on the environment based upon the criteria contained in subdivision 617.7(c) of the SEQRA, and

WHEREAS, the above-referenced action complies with Section 617.5(c)(2) of the SEQRA, in that the action is a "replacement, rehabilitation or reconstructions of a structure or facility, in kind on the same site.."

THEREFORE, BE IT RESOLVED, that the Town of Bolton does hereby declare the above-referenced action complies with the SEQRA requirements for a Type II action; that additionally, a coordinated

environmental review of the above-referenced project has been completed; and that the Town of Bolton has determined that this project will not have any adverse impact on the environment.

Resolution was seconded by Councilman Saris.

The foregoing resolution was adopted by the following roll call vote:

Supervisor Simmes Aye

Councilmember Rehm Aye

Councilman Saris Aye

Councilman MacEwan Aye

Councilman Maranville Aye Motion Carried.

Wayne LaMothe: WC Planning & Community Development Re: County budget cuts and the GIS program.

Wayne La Mothe stated that the County is making many cuts in programming and staffing and his department has been indentified to lose a staff person. Under committee review it was determined that the GIS coordinator position should be eliminated. The GIS program marries all of the parcel data from the local assessment rolls with over a hundred different layers used by the Towns and County such as aerial imagery, water districts and zoning.

Wayne LaMothe stated that the committee gave them the opportunity to restructure the salary of this position and bring in revenue against that salary which would then save this position. He stated that he is going to all of the local communities to ask if they would be interested in entering into an agreement with the County for these shared services. He stated that this agreement would have the County continue to provide the Town with GIS capability with all the necessary updates. He stated that if this position is eliminated they will no longer be able to provide this service and each town will have to contract this service from an outside vendor. He stated that the cost for a contractor to do this type of updating is approximately \$125/hour, and based on the number of hours that the GIS Coordinator currently works with each town, that could add up to \$6,500-7,000/year. He stated that they are requesting each town to enter into a shared services agreement which would collect \$2,500/year. For 2009 it would be \$1,250. He stated that hopefully this fee will not be necessary once the County is in a better financial position, but for 2009 and 2010 they are requesting this amount.

Supervisor Simmes stated that this is a very expensive program which is very useful and she would hate to see it fall by the wayside. Wayne LaMothe stated that this program was introduced in the 1980's and they brought someone on to develop the system in 1999 and since that time the County has gone through 3 consultants and approximately \$2.7 million dollars of system development. Supervisor Simmes asked if all of the Towns use this program. Wayne LaMothe replied yes, but Queensbury has their own GIS person for the updates.

Councilman MacEwan asked why the County is eliminating the position. Wayne LaMothe stated that he is unsure of the whole process in the decision making but in the committee meeting the Supervisors were

not pleased with letting this position go but they couldn't make an exception. They realize the value of the system but this was the only position in their office that does not have any revenue against it.

Councilmember Rehm commented that this is an all or nothing situation. She stated that if they cannot find a solution then there is no one in the WC Planning Office that can take over this system. Wayne LaMothe agreed and stated that there is no redundancy and only one person has handled this system.

Councilmember Rehm stated that she noticed in their original agreement with the County for this program there was a 10 cent/parcel fee for the maintenance. Wayne LaMothe stated that they have never billed that, however if a town chooses not to participate and the County still carry the system forward they will bill that out. Councilmember Rehm suggested that they may want to consider this as a better way to generate revenue from the smaller towns instead of the flat fee. Wayne LaMothe stated that they could consider that for the year 2010 but for 2009 they want to present something that is tangible to go forward.

Councilmember Rehm stated that this issue has been hotly debated among the assessors. She stated that although they use the system, as well as most of the towns' planning offices, they feel that they are being passed the bill. She stated that they are already paying for this system in their taxes to begin with so they feel that this is somewhat of duplication. Wayne LaMothe stated that this is different because the taxpayers pay for the maintenance of the system at the County and the Towns would be paying for the development at the Town level. Councilmember Rehm stated that is why she suggested that the "per parcel" fee might be more agreeable especially with the smaller towns.

John Gaddy stated that he supports the GIS program because it is extremely valuable to the planning process, emergency service and infrastructure. Councilman Saris stated that although he is not happy about this cost being pushed onto the towns he feels that it is important to the Town.

Mitzi Nittmann asked what happens to the money that the Town pays currently. Wayne LaMothe replied that the WC Planning office does not receive any money from any of the Towns currently. He stated that the Towns only pay licensing fees to ESRI for the software.

#### **RESOLUTION #117**

Councilman Saris moved, seconded by Councilman MacEwan to sign the shared service agreement with Warren County for the GIS services provided by the Warren County Planning and Development office which will include a \$1,250 fee for 2009 and \$2,500 for 2010. All in Favor. Motion Carried.

Camp Walden has been taking children out to Hilda Roden's island on Trout Lake since last year for a camping program using tents and bathroom facilities. They have built and are using an outhouse. DOH has been contacted and it is not within their jurisdiction, because they have classified this as an excursion/cookout. Our rules require that an outhouse be 100' from the Lake. They will need to come to the Board of Health for a variance as the outhouse is only 58' from the lake. The first question is does the board want the outhouse engineered. Tom Nace has requested from their engineer a report and a plan of what they propose.

#### **RESOLUTION #118**

Councilmember Rehm moved, seconded by Councilman Saris to convene as the Board of Health. All in Favor. Motion Carried.

Mark Bernstein provided some pictures of the current outhouse. Supervisor Simmes stated that Tom Nace did not feel that this needed to be engineered but he would like a report and a plan for what they are planning to do. Mark Bernstein stated that their engineer, CLA Site, has provided a letter stating that in their opinion this is the most ideal location. He stated that although the DEC does not have any ruling on the outhouse they did come out and inspect the site. He stated that DEC feels that it meets all of their recommendations and he has requested a letter from them stating that. He stated that he was not aware of the protocol for this and he has the children scheduled to start camp on June 25<sup>th</sup> and is concerned that the next meeting is not until July 7<sup>th</sup>. He asked if the Board could make a decision tonight or if they could meet again between now and the July meeting so the children aren't affected by his mistake.

Supervisor Simmes stated that the TB has to decide whether or not they need an engineered design on the structure. If they decide that they do not need an engineered plan then the TB will need to schedule a public hearing on the septic variance. She has suggested that the TB meet again on either the 15<sup>th</sup> or 17<sup>th</sup> of this month.

Councilmember Rehm stated that they have a written evaluation from an engineer. She stated that the structure is vermin proof, it has a self closing door and it is screened, it is situated equi-distant from the shoreline. She feels that it is a reasonable conclusion that they waive the requirement for the engineered plan and that the evaluation suffice for a report. Councilman Saris stated that there are 300 outhouses on the islands on Lake George. He feels that technology has been pretty well tested and proven out there.

#### **RESOLUTION #119**

**Concerning Parcel ID#185.19-1-13 Trout Lake Island, Owner Hilda Roden, 1 Trout Lake Club Road, Diamond Point, NY** request for a wastewater disposal system (privy) variance for a requirement of 100' separation between the privy and Trout Lake shoreline and a 55' minimum is proposed;

Councilmember Rehm moved, seconded by Councilman Saris to waive the requirement that this structure needs an engineered system and to set the public hearing for June 15<sup>th</sup> at 7:00 pm. All in Favor. Motion Carried.

#### **RESOLUTION #120**

Councilmember Saris moved, seconded by Councilman MacEwan to adjourn to regular session. All in Favor. Motion Carried.

Mr. Oliver-

Ray Oliver spoke on the matter regarding the issue with the Thunderbird Motel and the encroachment on the Town of Bolton shoreline property. He read a letter from Bob Sinnott regarding this matter. He provided pictures taken May 31<sup>st</sup> showing boats on the encroaching docks. Ray Oliver stated that he hopes that the TB acts favorably on the request of legal action.

#### **Zoning Issues**

Timothy Harrington-

Counsel stated that they are working on the last issue in the zoning office regarding the no-development area. He stated that there is a conflict of opinion between Mitzi Nittmann and Pam Kenyon regarding the no-development area. Councilman Saris asked if they have asked the PB what their opinion was on the no-development area. Counsel replied no but they have come very close. Councilman Saris suggested

that they ask the PB to review this since it was their instructions to begin with. Counsel stated that most of the issues have been resolved with the exception of the clear cutting. He stated that they are trying to work out an agreement with Mr. Harrington to allow for cutting but with PB review or a cutting plan.

Janet Lehman-

Counsel stated that she has a deadline of 6/30 to act, but he has not heard anything as of yet.

Harold Raven-

Counsel stated that Mr. Raven has proposed something that has been allowed in past applications, which are small decks less than 100 sq. ft. He stated that the Planning office has been discussing what is allowed with regard to small decks by means of separation. He stated that Bolton's position in previous applications was that there needs to be at least 2" separation in order for it to be considered non-jurisdictional.

Ben Pratt provided pictures of similar projects or solutions similar to Mr. Raven's situation. He stated that they are requesting that Mr. Raven be treated in the same fashion that these other people have been treated. He stated that in these previous solutions they created some sort of separation that was acceptable to the Town. He stated that they need to determine what that distance needs to be so that they can come into compliance. He stated that they want to put an end to the litigation and resolve this issue. He stated that if the Town wants to change its ordinance from this point he understands but requests that under the current ordinance that they be treated the same.

Supervisor Simmes asked if there is anything in the ordinance with regard to this. Counsel replied that there is nothing on this, which allows the Zoning Administrator to make an interpretation. Councilman Saris stated that he feels that this is a disappointing interpretation because looking at the pictures it is clearly a way around the ordinance. He stated that they should investigate whether or not these previous individuals had building permits for their decks. He stated that if this is the current interpretation they should not punish this applicant but they should address this in the new code.

Councilmember Rehm asked if this could be a stumbling block in receiving approval from the APA. Ben Pratt stated that the APA would only be involved if they were to need a variance or some form of approval. He stated that what they are proposing is making this non-jurisdictional for all agencies. Councilmember Rehm stated that she wants to close this loop hole for the new code but would like to do something about it now. She asked if something could be made available for a public hearing on June 15<sup>th</sup>. She stated that she would like to see something that shows that there needs to be at least a 3' separation. Supervisor Simmes asked John Gaddy what he thought of the separation suggested by Councilmember Rehm. John Gaddy replied that he is agreeable to closing the loop hole but he would have to take a look at some numbers to determine appropriate separation. Counsel stated that he would draw something up for the next meeting.

Councilmember Rehm stated that she will vote against any resolution but suggested that if a motion is made that the Town Board assess a civil penalty.

Supervisor Simmes stated that just because a precedent has been set that they do not have to allow this proposal. Counsel advised that they follow the interpretation as applied. He stated that they cannot change the precedent but they can re-visit this and amend the code.

Mitzi Nittmann stated that the upper deck is larger than what was originally proposed. She stated that this still needs to be cut down. She also indicated that no permit or variance was sought for this deck. Ben Pratt stated that if the top section of deck is larger than what is allowed by the code, they will cut

that back to bring it into compliance. Councilman Saris stated that they will require that all of the deck comes into compliance. Ben Pratt stated that part of the upper deck is part of the original deck and should be grandfathered and anything beyond the original deck will be cut into 100 sq. ft. sections or less.

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### **RESOLUTION #121**

Councilman Saris moved, seconded Councilman MacEwan to assess a civil penalty of \$500.00 on property owned by Harold Raven, Treasure Point Road, Tax ID#186.15-1-19 payable to the Town of Bolton within 30 days. The reconfiguration of the lakefront decks to be brought into compliance also within 30 days. Supervisor Simmes Aye, Councilman Saris Aye, Councilman Maranville Aye, Councilman MacEwan Aye, Councilmember Rehm opposed. Motion Carried.

Elmer Clark- Mitzi Nittmann stated that the house is for sale. David Clark has presented his construction drawings to the Executor of the Estate and that is as far as he could go.

Bell Pt. Shores-

Mitzi Nittmann stated that she met with Tom Jarrett this afternoon. She reviewed his concerns with him. She stated that Norwood Drive is stable. Water gets to a roadside retention area but it is not as good as it could be. She stated that Tom Jarrett indicates that if they get a contractor in there they could have everything remediated in a few days. He has also offered his services to them as well. The main concerns are the lower outlet off the lower retention pond that dumps directly into Lake George and the lakefront. Instead of removing the stone as requested by Ms Nittmann they put more stone in to raise the elevation in the parking area. There is no controlled outlet for when it fills up and everything runs down the road and into the parking area.

Counsel stated that Mike O'Connor called him and requested to set up a meeting. Mitzi Nittmann stated that they have done this before and it didn't get very far.

Mitzi Nittmann stated that Old Bell Point Road is impassable by regular passenger vehicle. Counsel stated that Mike O'Connor indicates that he felt that all parties that have rights to that road had a willingness to abandon that road.

Robert Weisenfeld, representing Madeline Weisenfeld, one of the owners of a pre-existing property, stated that no one has contacted them about this matter and they would not be in agreement to abandon that road. He stated that any pre-existing owners have rights to pass over both of the roads. He stated that they used this road prior to construction of Norwood Drive and the major storm a few years ago. He stated that when it is once again passable they intend to keep on using it.

Robert Weisenfeld stated that when this subdivision was approved it was approved pursuant to SEQRA as an integrated project. There were lengthy discussions on impact and access and it was determined that both roads would be maintained to mitigate impact. He feels that it is inappropriate to remove the use of one of the roads just because the subdivision has decided not to properly maintain it. He stated that the PB determined that the old road should be passable by any regular vehicle. He stated that there are major repairs that need to be made to the road. He stated that there has been minor repair to the upper part of the road but the entire road needs to be done in order for it to be used. He requested that he and Madeline Weisenfeld be copied on any letters and would like to be present at any meetings scheduled regarding this matter.

Supervisor Simmes asked how many other pre-existing home owners have the same right over the roads. Robert Wisenfeld replied that there are 7 original home owners plus the 18 in the subdivision. He stated that once the subdivision is built out completely there are supposed to be 2 homes with driveways on Old Bell Point Rd. so he does not see how it can be abandoned.

Counsel stated that he would schedule a meeting and notify all parties. Councilman Saris stated that he does not understand the point of the meeting. He stated that they should not have a question of their responsibility to the subdivision. He stated that even if they get all of the home owners to sign off on the abandonment of the road they would still have to go before the PB. Counsel agreed. Supervisor Simmes agreed with Councilman Saris that they should not hold a meeting and just demand that the work be done by July 15<sup>th</sup>. She stated that if they do not do the work they will engage a contractor to complete the work and assess it on their property taxes. The TB agreed.

### Correspondence

Liquor License renewal for Waters'Edge

Copy of resolution adopted by Stony Creek and Warrensburg in support of keeping the WC Fish Hatchery.

Supervisor Simmes stated that she is not going to support this. She feels that they have to start saying no at some point to start saving money for the County.

Copy of Planning & Zoning schooling offered by Association of Towns. Date closest to us is in Albany on July 23<sup>rd</sup>.

Copy of Counsel's letter to Candida Smith regarding the sale of the water district parcel

Copies of two letters from Mr. Sinnott regarding Thunderbird encroachment

APA re-issuance of a permit for Green Island LG, LLC and an amended permit for Wm. & Stacy Bixby and Anne B.D. Reid

Request from LGA for a letter of support as they prepare a grant application for Froehlich funding. They needed a letter by May 22<sup>nd</sup>. Supervisor Simmes sent one.

Notice of Tentative State Equalization Rate for the 2009 Assessment roll is 58.25. The deadline for any complaint regarding the rate is 6/4/09

We have copies of the Notice of Appropriation from the State of New York for easements etc. regarding the 9N project. There are 6 properties involved in the project Norowal Marina, Clavins Holdings, NY Telephone Co., Town of Bolton, Ann Brickner, and Ed Foy.

Wednesday, June 3<sup>rd</sup> from 6 to 8 at Crandall Public Library there will be a roundtable on how to profit from the growing bicycle tourist market.

Notice from WC Soil & Water there is no cost to use the hydro seeder for road maintenance operations. For all other municipal needs materials need to be paid for by the municipality

NYS Encon notification that Sept. 18-20<sup>th</sup> will be 400<sup>th</sup> anniversary of the first European exploration of Lake Champlain by Samuel de Champlain. More details to follow

## Committee Reports

### **Councilman Saris**

Town Clerk- Total Local Shares remitted- \$13,778.20 Total non-local revenue- \$473.24 Total State, County and Local Revenues \$14,251.44.

Wastewater Treatment- Took in 5,112,100 gallons of wastewater for an average of 164,906 gallons/day. They hauled 32,000 gallons of liquid sludge. There were no violations. Their air compressor is not operating properly. They have replaced the master meter. The grinder pump at Brickners has been replaced and they are going to look into whether this was speced out properly because it has not lasted as long as expected. The Village of Lake George came up with their cameras to inspect our lines and found that the line from behind Cate's to the Grand Union was really packed with grease. It was so bad that the camera didn't make it through the whole line. They cleaned it out with their sewer jet 3 times and they are going to ask Lake George to come back up and film it again. Chet Dagles feels that part of the problem is not just the obvious maintenance of the grease traps but rather that they have a lot of roots in their line which assists in the clogging. He is trying to come up with a product that will help get rid of the roots.

### **Councilmember Rehm**

Recreation Dept- The Town webmaster has raised the concern that they have not posted any monthly minutes for the Rec Commission. Councilmember Rehm stated that she is seeking some direction regarding this. She stated that none of the committee member feels that they have time to draft minutes and the committee seldom takes any formal action. She asked if the newsletter or report from the Recreation Director would suffice as minutes. The TB agreed that the report would suffice.

The Rec Center will be closed mid-month because school will be out and the summer schedule is almost complete. In July they should have their seventh committee member.

Rescue Squad/Fire Depart- The Board of Fire Commissioners and Rescue Squad are meeting tonight to work through their details of separation and responsibilities.

Seniors- Tom Mihalics was recognized as the WC Senior of the Year. A schedule of events for the seniors is posted in the lobby of the Town Hall.

Library- The last Saturday of August the Library will be hosting a reception. Candida Smith and her sister are donating a David Smith sculpture, which is a key to the city or key to Bolton, to the Library and it will be on display there.

A forester has determined that a few trees on and around the library property are in need of coming down. They are about to get some price quotes for the removal of the trees. One of the trees is extremely close to the Town right-of-way and they may be coming to the TB to ask for some financial assistance in removal of that tree.

### **Maranville**

Assessor- The 2009 Assessment Roll was filed. In 2008 there were 3,579 parcels with a total assessed value of \$1,084,525,359.00 and the Town billed 1,044,382,070. For 2009 there are 3,612 parcels with a total assessed value of \$1,091,682,053 and the Town billed 1,051,478,252. During the grievance period they only had one individual attend the session. He is still pressing the State for its reimbursement of taxes for the past years for Norowal Marina. A new computer has been ordered, \$1,500 was budgeted and he only spent \$581.00, it should be set up in a few days.

Police- Patrolled 3,841 miles and used 298 gallons of fuel. A detailed list of all the calls answered is available for review.

## **MacEwan**

Transfer Station- Total receipts \$6,700. They thanked the Highway Department for their assistance in the Senior Citizen pick up day. Overall it was a success. A box of rechargeable batteries and cell phones were sent out.

Water Department- 6,931,000 gallons of water filtered. The pond level is over the spillway. The monthly bacterial samples came back satisfactory. Turned on water for several new customers this month and flushed the hydrants.

## Supervisor's report

Receipts \$721,374.75 Disbursements: \$362,621.02

This quarter water collection figure is \$69,728.80 Sewer: \$28,835.27

Mortgage tax check for period ending March 31, 2009 was \$85,039.18

Bed tax check will be \$110,800.74. This is a difference of \$3,956.19 from the same time last year.

## Old Business

Supervisor Simmes would like permission to proceed with one new street sign by Horicon Ave. Supervisor Simmes has permission from Mr. Palazzo to place one there. Also Sweet Pea farms and Sagbolt are willing to pay for the addition of their business on the sign. Cost is approximately \$815.

Councilmember Rehm suggested that while they are looking at replacing signs that they should give some consideration to having signs indicating free public parking, especially in areas that some may not know about such as, after hours in the Health Center and Rogers Park.

## **RESOLUTION #122**

Councilmember Rehm moved, seconded by Councilman Saris to authorize Supervisor Simmes to proceed with ordering a new street sign to be located at Horicon Avenue. All in Favor. Motion Carried.

Discuss awarding bid for boiler replacement at Town Hall. We received two bids: Jack Hall P&H \$59,850 and Mr. Comfort Heating & Cooling \$55,000. Supervisor Simmes stated that the low bid did not meet the specs of the bid in that he did not provide any of the paperwork that was required of him for the workman's comp or insurance.

Supervisor Simmes stated that this is for the replacement of the boiler to convert to propane but it does not include the installation of the propane tank. Councilmember Rehm was concerned that this is \$10,000 more than what Excel had anticipated being the cost and this does not include the tank. Councilmember Rehm asked how much the tank would cost. Supervisor Simmes stated that she is not aware of the total cost. She stated that if they buy and install the tank they can get their propane from anyone, but if they have someone purchase and install the tank for them then the Town is required to only buy from that contractor. Councilman Saris stated that they will need to remove the current oil tank. Supervisor Simmes stated that this new tank will go underground in the back of the building. The tank has to be 10' from the property line and 25' from the transformer. Councilmember Rehm asked how they are going to pay for the project. Supervisor Simmes replied that they had anticipated borrowing the money.

Zandy Gabriels stated that he supports the replacement of the heating system in the Town Hall because it has needed it for a long time but he does not agree with how they anticipate paying for it. He stated that according to the State Comptroller's Report from 12/31/08, the Town is sitting very flush with its un-appropriated reserves and could very easily appropriate the \$59,850 out of the un-appropriated reserves. They could utilize these funds for other things as well such as the staffing of the rescue squad, new roof for the Town Hall or even a new surface of road from Mohican Hill/Potter to Brausers' Corner and still have a flush un-appropriated reserve account that would make the County, State and Federal Government green with envy. Councilmember Rehm stated that was good advice and she would withhold a final determination until they get quotes from a bank regarding interest rate.

Councilman Maranville stated that he would like to see a bid for utilization of the oil tank that is already there. Councilman MacEwan stated that propane is more efficient and burns cleaner. Supervisor Simmes agreed and stated that if they do that it would change the whole bid and they would have to go out to bid again.

### **RESOLUTION #123**

Councilmember Rehm moved, seconded by Councilman Saris to accept the only fully compliant bid from Jack Hall Plumbing and Heating in the amount of \$59,850 for the replacement of the heating system at the Town Hall and that the Town of Bolton prepare the documents for a bond anticipation note. All in Favor. Motion Carried.

### **Resolution change for Ordinance #38**

Supervisor Simmes stated that Huddle Beach and Bixby Beach will need to be removed from this ordinance since they are not considered beaches. Counsel stated that he would draw up the necessary paperwork.

### **RESOLUTION #124**

Councilmember Rehm moved, seconded by Councilman MacEwan to amend Ordinance #38 entitled "Ordinance for regulation of parks and beaches in the Town of Bolton, New York shall hereafter be amended as follows:

Subparagraph 15 (entitled, "ALCOHOLIC BEVERAGES") shall be renumbered as subparagraph 15.1, and in all other respects, the text of the entire original paragraph shall be retained as stated in subparts A and B. There shall be a new subparagraph 15.2 (entitled, "TOBACCO USE PROHIBITED") and it is therein provided. It shall be unlawful for any person to utilize any tobacco product, including but not limited to, cigarettes, cigars, chewing tobacco and pipes, on any beach area within the parks".

In all other respects, Ordinance #38 is hereby reconfirmed.

All in Favor. Motion Carried.

Name changes for the roadways known as Bixby Beach Road and Huddle Beach Road.

**RESOLUTION #125**

Councilman Saris moved, seconded by Councilman MacEwan that subject to the requirements of the Warren County Planning and Community Development Office, forthwith the name of the area of roadway know as "Bixby Beach Road: shall hereafter be named "Bixby Road', and the name of the area of roadway known as "Huddle Beach Road: shall hereafter be renamed "Huddle Bay Road." All in Favor. Motion Carried.

New Business

Resolution for an amendment #2 to Contract #C301757 for the Indian Brook Stream Corridor Improvement project extending the date to December 31, 2009. Authorize the Supervisor to sign the contract.

**RESOLUTION #126**

Councilmember Rehm moved, seconded by Councilman Maranville to approve the amendment to Contract #C301757 for the Indian Brook Stream Corridor Improvement project which would extend the date until December 31, 2009 and authorize the Supervisor to sign said contract. All in Favor. Motion Carried.

Request from Northbrook Village Co-op for an adjustment to their water bill regarding bleeder usage.

Supervisor Simmes stated that their bill came to \$6,000 and they are seeking to work with the Town. She stated that they have been using the bleeder valve for some time but have never been metered until this year. Councilmember Rehm stated that this is a private issue that a bleeder is needed. Supervisor Simmes agreed but stated that they have never had a bill like that before. Councilmember Rehm suggested that they request that the full amount be paid but waive any penalty and give them one additional penalty free time. Councilmen MacEwan and Saris agreed.

**RESOLUTION #127**

Councilmember Rehm moved, seconded by Councilman Maranville to allow one penalty-free period to the Northbrook Village Co-op for the recent water bill and to ask the Water Department to verify if everything is working properly and if so, Northbrook Village will be required to pay the bill in full. Supervisor Simmes opposed. All Others in Favor. Motion Carried.

Thunderbird

Supervisor Simmes stated that she, Counsel, Mr. Chiraboga and his Counsel met last week and discussed the TB proposal which they felt would be agreeable to all parties. She stated that the proposal was for the removal of the L-shaped dock, a lot line adjustment that would allow the boathouse to be within his own riparian rights and a requirement that Mr. Chiraboga would pay a fee of \$8,000-9,000 for the Town's out-of-pocket expenses. As a result of that, they have received a letter from Mr. Chiraboga's attorney which indicates that their client does not feel that they are in any violation and should not be required to pay any additional fees. They countered with a proposal agreeing to removal of the L-shaped dock and

would sign an off-shore boundary line agreement. Counsel described what an off-shore boundary line agreement is. He stated that Mr. Chiraboga's Counsel cites some case law on this type of agreement. He stated that the TB could act on this tonight or they could take some time to digest this new proposal. Councilmember Rehm stated that she would like to talk about this in Executive Session. Supervisor Simmes agreed.

Councilman MacEwan asked Mr. Chiraboga if he rejected their proposal for monetary reasons. Mr. Chiraboga replied that it was part of the reason. Councilman MacEwan stated that the Town has put forth a lot of expense to review this issue carefully. Mr. Chiraboga replied that he has already spent about \$10,000 himself.

The TB decided to discuss this issue in Executive Session.

#### Public in Attendance

John Gaddy stated that he has no new information on the new lighting for the Town but he is investigating working with NYSEDA to see if they can look into LED lights.

John Gaddy stated that he is trying to get his students to work on designing storm drain notices painted over the storm drains to indicate that this water drains to the lake. They have consulted with the LGA and they have offered their stencils but he is going to have the kids design one. He wanted to present the proposal to Supervisor Simmes for her approval.

With regard to the Harrington zoning issue, Zandy Gabriels stated that the draft stipulation read that diseased trees will be taken down, but there is no definition or control mechanism to define what a dead tree is.

With regard to the Raven zoning issue, Zandy Gabriels stated that his memory goes back to Ronning's Tavern on the Pond front steps and it was a separation of an inch. He stated that this issue has been outstanding for some time and hopefully the new zoning code can take care of this.

Zandy Gabriels stated that the State DOT has indicated that they have all the necessary highway appropriations, including Norowal, for the re-construction of Route 9N. However, they took it by powers of eminent domain before they told them they were going to take it. He stated that they still have not come to a final agreement between the State DOT and Norowal Marina for the replacement of the Norowal Marina sign.

Zandy Gabriels stated that he would like to further discuss the Town's un-appropriated surplus because it is quite healthy. He stated that Mohican Hill from Potter Hill and over is rapidly deteriorating and was last done about 15 years ago. The base of the road is very good but the surface needs to be done. He feels that this could be done with \$90,000-100,000 this year. He stated that there is excess money and it could easily be taken out, however, in order for this to be done the TB has to authorize this in the near future so the highway department can coordinate timing schedules and plans. He stated that although they are spending \$230,000 on Wall Street and that is a major renovation of a road and this would only be for the top coat.

Councilmember Rehm stated that she had an inquiry about the transfer station numbering their receipts. She stated that the cash register does generate a receipt and there is a number on it.

Councilmember Rehm stated that she wanted to commend the short-staffed Parks Department. Mr. French has been out with an injury and Mr. Mumblow and Mr. Chamberlain have been doing over-time work. She stated that the Recreation Department also appreciates all of their hard work.

Councilmember Rehm commended Supervisor Simmes on her letter to Governor Paterson. In this letter Supervisor Simmes brought to his attention that the LGPC has all kinds of rules and regulations for stream corridors and they have stormwater management regulations for more than 10 years. She stated that her family recently went to NYS Hearshstone Park where the State has done a tremendous amount of re-surfacing of the roadway at the park without a single stormwater measure associated with it and now the beach is eroding and washing into the lake. Supervisor Simmes stated that Chris Navitsky gave her a list of DEC people whom she copied the letter to.

Councilmember Rehm stated that recently they changed their health insurance carrier for their Town employees. They did their due diligence in finding a good premium and good coverage. She stated that they have now received a letter from their carrier advising them that there will be an increase in their premiums to balance surcharges and assessments for employer sponsored health insurance plans. She stated that this has increased their premiums 10% and that is the surcharge levied by the State of New York. She stated that this is such a hot issue right now and the State is looking to reduce their budget deficit and have done so by passing along a 10% surcharge. She stated that this trickles down to the Town and employees. She stated that she has already sent a letter opposing the surcharge to the local representatives and she suggested that Supervisor Simmes send a letter on behalf of the Town. The TB agreed.

Pay the bills

**RESOLUTION #128**

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

General Fund: \$29,577.60

Lighting 3,313.45

Highway 17,779.56

Sewer 7,376.72

Water 5,310.24

Tourism 24,436.43

Zoning Ordinance Update 2,000.00

All in Favor. Motion Carried.

Transfers

Councilmember Rehm stated that the Water District was the recipient of \$220,000 for the sale of a piece of property and the Water District owes the Town \$170,000, so out of these proceeds the Water Department is repaying the Town.

**RESOLUTION #129**

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

Increase General Fund Budget \$170,000.00 Revenue 5031 Transfers from Water District

Appropriations 10104 Town Board \$10,000.00

19904 Contingency 160,000.00

Increase Water District Budget \$219,811.00 Revenue 2660 Sale of Property 219,811.00

Appropriations 19904 Contingency \$49,811.00

99019 Transfers \$170,000.00

FROM TO

Sewer District 81304 81302 Sewage Treatment, Equipment \$270.00

All in Favor. Motion Carried.

Executive Session

**RESOLUTION #130:**

Councilman Saris moved, seconded by Councilman Maranville to enter Executive Session at 9:28 p.m. All in Favor. Motion Carried.

Returned to Regular Session at 10:20 pm.

Hiring workers for the Parks Department.

Supervisor Simmes stated that she is going to pursue hiring a couple of people for the summer to work for the Parks Department.

Thunderbird

Supervisor Simmes stated that they are going to respond to Mr. Chiraboga's offer with a counter-offer and Counsel will handle that.

Highway Department issues

Councilmember Rehm stated that Counsel has set up some protocol for handling the clearing along the highways. Currently there is a policy that states that property owners are to be advised that the Highway Department will be working adjacent to the right-of-way. If the Highway Department intends on cutting any trees on the adjacent property the property owner is to be asked if they would like the timber after it is cut and that is to be in writing and put on file with the Town Clerk. Anyone who does not want the timber and advises as such, the Highway Department is advised to bring the timber to be stored at the Highway Department for the potential use by the public in need. It is also understood that the Highway

Department is to work exclusively in the 50' right-of-way as described and anything beyond that they are not allowed nor permitted and would be considered a violation of private property rights. This is a slight change in the previous policy.

RESOLUTION #131:

Councilmember Rehm moved, seconded by Councilman MacEwan to (Counsel is to draft amendment)

All in Favor. Motion Carried.

Highway Dept Vehicle Use Policy

Councilmember Rehm stated that given the cost of fuel for Highway Department vehicles she suggests that they amend the vehicle use policy.

RESOLUTION#132:

Councilmember Rehm moved, seconded by Councilman MacEwan to amend the Highway Department vehicle use policy as follows: that the Deputy Highway Superintendent is not to take a Town vehicle home between April 1<sup>st</sup> and November 1<sup>st</sup> unless he or she is acting as Highway Superintendent. All in Favor. Motion Carried.

Adjourn:

RESOLUTION #133:

Councilman MacEwan moved, seconded by Councilman Maranville to adjourn at 10:26pm. All in Favor. Motion Carried.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary