

TOWN OF BOLTON

TOWN BOARD MEETING

October 6, 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 7:00 p.m.

Pledge: Councilman MacEwan

Proclamation

Honoring Scott French who is serving in Afghanistan

Supervisor Simmes presented the French family with the following:

RESOLUTION OF THE BOLTON TOWN BOARD

FOR SCOTT FRENCH

WHEREAS: Scott French was born and raised in Bolton

and graduated from Bolton Central School in 1999

and

WHEREAS: Scott chose to enter the military to serve and

protect his country and

WHEREAS: Scott has served in Iraq and is currently in Afghanistan

NOW THEREFORE LET IT BE RESOLVED,

**that we, the Bolton Town Board, do pause in
our deliberations to honor Scott French by
naming October 6, 2009 as Scott French Day
in honor of his service to our country.**

Announcements

- Due to a recent fire at the Arnold French residence, the French Family might need a few things. Please contact Lisa or Tommy French for details. Supervisor Simmes stated that they did have insurance on the house and have found a place to stay until May.
- Final Community Development program applications will be available on the Town website as well as in the Town Hall for interested parties.
- Notification from NYS Environmental Facilities Corp. that we did not receive the grant for the wastewater treatment plant. Supervisor Simmes stated that they owe a debt of gratitude to Delaware Engineering for applying for the grant at no charge.
- Route 9N project is moving forward. Paving from County Route 11 north is almost complete.
- Sidewalk work and stormwater improvements are ongoing.
- Chamber of Commerce is having Columbus Day events including the annual town wide garage sale and an arts and crafts show.
- Huge thank you to Don Russell for donating his labor to build the new Lifeguard storage building
- Mid October is when the sewer line relocation is going to start

Board of Health

RESOLUTION #210

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

- Clarence Linder Lakeshore Dr. #141.1-2.4 is requesting the following variance.

An incinerating toilet is proposed. Under Resolution #186 set forth by this board, acting as the Local Board of Health on September 1, 2009 it was determined that incinerating toilets are considered "other system" requiring review by the Local Board of Health.

With regard to the incinerating toilet, Supervisor Simmes stated that the APA has granted an amended permit, Tom Nace has reviewed and signed off on it and NYS DOH has stated that it is non-jurisdictional.

Supervisor Simmes read an email she received from Mike Shaw, NYS DOH, who indicated "that the 500' separation distance between the incinerating toilet and property line is not a requirement of the Guidance document or design standard. The mention of the separation distance is a recommendation to avoid a potential nuisance from any odors." Supervisor Simmes also read a letter from an attorney for Mr. Hershaft, neighbor of the applicant. The letter indicates that the Hershafts have no objections to the proposal in concept, however they wish that a thorough and proper review be given under all applicable codes and regulations to protect the water quality of Lake George.

Supervisor Simmes stated that she visited the site and found that the proposed site for the incinerating toilet will be 650' from the Hershafts property and 1130' from the Hubbards. She stated that Mr. Kudlack is the closest neighbor, but as she understands it, he too is seeking the same thing.

Clarence Linder stated that he is 60' from the lake shore. He stated that there will be no leaching of anything from this toilet because there will be nothing to leach. All that will be removed from this toilet will be ash.

Councilmember Rehm asked why a traditional system would not work in this location. Clarence Linder replied that there are issues with the separation distance from the lake and the soils in this area would not be conducive for a conventional system. He continued that the APA stated that no system could be placed down there in the original permit. Councilmember Rehm stated that the APA has restricted them to either this type of system or a privy. Clarence Linder stated that the main reason for having this proposal is because their lake front property is 1000' from the house and across the road which poses a safety issue.

Chris Navitsky, Lake George Waterkeeper, stated that they do not have any problems with the proposal; however they were looking for some clarification of the power source. Clarence Linder replied that it would be electrically powered. Chris Navitsky asked how often the incinerator would be used. Clarence Linder replied every 1-3 uses.

Rick Kudlack, neighbor, stated that the APA does not allow them to build houses on the lake front so they have their boats and docks on the lake with no toilets in sight. He stated that he is fully in support of this application. He stated that they should look at this as something other than a variance situation because these toilets are environmentally friendly. He stated that it is a great alternative for many individuals with property on the lake, because currently the alternative is to go in the lake. Rick Kudlack stated that setting up these toilets costs between \$7-8,000. They have to have a shed, electric service and the unit itself. These toilets are self-contained, non-leaching, electric units that could be used anywhere. All that is needed is an electric outlet and a small plastic vent pipe. These toilets come in either composting or incinerating. Both systems vent through the roof of the shed and put out less odor than any conventional toilet stack does. He stated that his family and the Linders have become involved in this because they care about the water quality of Lake George and at the same time provide some comfort for their families.

Rick Kudlack stated that unfortunately since this is a different type of system, it has created a bureaucratic nightmare. In his case, Mitzi Nittmann secretly contacted the APA and after writing some negative comments about him and personally encouraged them to make the toilet a technical violation of his APA permit. He stated that although this is typically non-jurisdictional to the APA they were happy to help out a fellow enforcement officer. He stated that it took over a year for his attorney to rectify this. Rick Kudlack stated that the DOH had difficulty classifying these toilets with no language in the 20 year old rules. He stated that he finally got APA approval and then Mr. Linder got his. He stated that he thought he was done needing approval until he found out that the Town also wanted jurisdiction.

Rick Kudlack stated that there are port-a-potties on thousands of boats, which carry liquid waste, with chemicals to mask the odor. He stated that the DOH tells him he can have a smelly open-pit outhouse 50' from the lake. He stated that is not their desire, but rather they are requesting an electrical composting or incinerating toilet, both of which are environmentally friendly systems, 50 plus feet from the lake. He stated that the basic intent of the law, which is often lost in the interpretation of the language, is to protect the environment and the lake. He doesn't understand why he and Mr. Linder are having so much trouble in trying to do just that. Rick Kudlack requested that the BOH not classify these environmental green toilets as "unusual systems" and require a variance. He further requested that they encourage their use by enacting regulations that permit them within simple guidelines and setbacks.

Councilman Saris stated that he does not have any problem with this type of system. He feels that they are environmentally sound and he applauds the individuals who are willing to seek these types of alternatives. He stated that because technologies are changing he does feel that they do need to review their septic ordinance and bring it up to date, and that it may require updating every 5 years.

RESOLUTION # 211

Councilman Saris moved, seconded by Councilman MacEwan that due to the nature of the variance, it has been determined that the requested variance would not be materially detrimental to the purposes and objectives of the rules, regulations or ordinance, nor to other adjoining properties. It will not otherwise create, conflict with purpose and objectives of any Town plan or policy; and the Local Board of Health finds that the granting of the variance is necessary for the reasonable use of the land in the manner in which it is proposed to be improved and utilized; and the variance granted is the minimum necessary to alleviate specific unnecessary hardship found by the Local Board of Health to affect the applicants' property; and be it further resolved that the Local Board of Health, hereby specifically approves the application for an incinerating toilet for Clarence Linder, Lakeshore Drive, Tax ID #141.1-2.4 classifying the unit as an "other system". All in Favor. Motion Carried.

Councilmember Rehm asked if the applicant and Mr. Kudlack would be willing to assist the Town by providing an update on the use of these systems. Councilmember Rehm recommended that at the end of the summer to report on how the system is operating and whether or not there have been any complaints and anything that the Board should know to help with future applicants.

RESOLUTION # 212

Councilman Maranville moved, seconded by Councilman MacEwan to return to regular session. All in Favor. Motion Carried.

Public in Attendance

- Steve Hart request for two residences not in the sewer district to be considered for hookup.

Steve Hart, representing the VanWarts and Baers in North Brook Village, stated that his clients are interested in hooking into the sewer district. He stated that they are directly across the street from the RPI Freshwater Institute. Currently Mr. Baer is experiencing some septic problems but Mr. VanWart is not having any issues. However, in looking to rectify some of these problems they did speak to Mr. VanWart with the intent to try and tie into the Town sewer. He stated that the Town has a sewer line to the

south of Finkle Brook. About 20 years ago RPI extended the sewer district across Finkle Brook to tie into it. He stated that they are proposing to tie both of these residences in with an 8" sewer main and manhole at the top and tie into the existing town sewer main and manhole on the north side of Finkle Brook via the RPI connection. He stated that they have talked to RPI, DOT and with Chet Dagles, sewer plant operator. RPI has indicated that they do not have a problem with them tying into the system, but he feels that the process should start here at the Town level.

Supervisor Simmes clarified that RPI was not fully brought into the sewer district, she stated that a small part of their property was already in the district which allowed them to hook in. Steve Hart stated that in talking to Chet Dagles, he knows that there are some sewer issues and DEC issues, but he wanted to present this to the Board to see if it was even possible. He stated that the septic system is in enough disrepair that no one is in the house now. If this is something that cannot be done with the Town he will need to start to design an alternative system for this site. He stated that the average flow from each of these homes would be approximately 300 gallons a day out of each home which is 600 gallons a day total which would be .3 of 1% of the sewage flow currently on a daily basis going into the treatment plant.

Supervisor Simmes stated that they have an agreement with RPI. She stated that the sewer lines and manholes are RPI's and it is their responsibility to take care of them. She stated that RPI also pays DOT rent and provides insurance for being in DOT's right-of-way. She stated that these individuals would need approval from RPI to hook into their main. Steve Hart agreed and stated that they would need a maintenance agreement with them and would also need to have some sort of agreement with DOT. With regard to DOT, Steve Hart stated that they would be running their lines in the grass on Mr. Van Wart and Baer's property.

Supervisor Simmes stated that she is concerned that if these two houses hook in to the sewer district then the entire North Brook Village would want to as well. Steve Hart understands their concern that they could be setting a precedent. Supervisor Simmes stated that DEC has submitted an opinion on the matter at the request of Chet Dagles. She has provided copies to all parties.

Councilmember Rehm asked if this would all be privately funded. Steve Hart replied that it would be installed per Town standards at the sole expense of the applicants. Councilman Maranville asked if they would need to go under 9N. Steve Hart replied no it would be outside of the pavement lines. Councilman MacEwan asked if the residences were year-round or seasonal. Steve Hart replied they are seasonal but he is projecting worse case scenario of flow into the district. Councilman MacEwan asked if all of the units in North Brook Village were seasonal because that might address the issue that Supervisor Simmes raised about the entire Village wanting to hook into the district. Councilmember Rehm asked if the 8" main would have the capacity to handle beyond those two homes. Steve Hart replied yes it would be able to handle a certain amount of homes. However that is not their reasoning for putting in that size. Typically when putting in a sewer in a public right-of-way you would use an 8" as a minimum.

Councilman Saris asked what would be involved with expanding the sewer district. Counsel stated that there are 2 procedures; 1) to extend the sewer district, which he does not recommend because it is costly and time consuming due to the engineering and public notice involved. Or 2) To enter into a contract, which he feels would be a more reasonable alternative. This would allow the sewer district to serve users outside the district.

The TB stated that they would need to talk with Chet Dagles and Counsel Muller before pursuing this any further.

Zoning Issues

- Lehman barns: The work has been completed. Total bill \$16,015.05. If not paid by November 1st it will be placed on her 2010 tax bill
- Harold Raven-Mitzi Nittmann, Code Enforcement Officer, is concerned that it is still unfinished.

Counsel stated that Mitzi's concern is that it is unfinished and she is correct. However, Mr. Raven has come into compliance as per the code. He stated that Mr. Raven has indicated that it is unfinished because the deck material he chose a few years ago is not readily available anymore. He plans to finish the project and make it look nice. Counsel stated that he is in compliance and should be removed from the agenda.

- Elmer Clark-

Counsel stated that the property is under contract to be sold. There has been discussion of the prior issues with the prospective purchasers. Counsel stated that Mitzi also took issue with an unsafe porch. He suggested that the Town Engineer look at the porch to make that determination but believes that has not been done yet.

- Thunderbird

Counsel stated this is well underway. He had to do a freedom of information request of the LGPC for his submittal to the Office of General Services for arbitration. He stated that he has discussed the progress with Mr. Sinnott, Mr. Chiraboga and Mr. Chiraboga's attorney.

Correspondence

- We are moving forward in the application process for the dredging of the Finkle Brook delta.
- Copy of quarterly report sent to Encon regarding the Indian Brook Restoration project.
- Village of Lake George requesting a list of organizations in Bolton they can speak to regarding the 10th anniversary of the Lake George Watershed coalition.
- Counsel letter to Janet Lehman regarding bills owed for court costs, attorney and engineering fees and demolition of the barns. Total bill \$16,015.05
- Wurtz letter concerning the Engineering fees for her septic system. Supervisor Simmes wrote to let her know that she is responsible for the bill.
- Cost estimate from the Highway Superintendent for repairing a portion of Potter Hill Rd.

Supervisor Simmes believes the Deputy Supervisor authorized the expenditure if he has funds available. Also included in that is a cost estimate of \$27,000 to pave 800 feet on the East Schroon River Road that would take care of the dust situation for the Martin/Galentino residence.

- Copy of cost of a trimmer that is missing from the landfill. A police report was filed.
- Computel Consultants offering their services to review our Time Warner Cable franchise fees at no cost unless they find a refund and then there is a 50% fee.
- Jane Gabriels letter with comments about the improvements for Rogers Park
- Proposal from UpYonda for the residents of Bolton. Counsel's opinion regarding the request.
- Counsel letter with a draft proposal for recording conditions imposed by boards.
- Copy of APA's comments regarding Local Law #3 of 2009 proposed amendments to Chapter 200
- Notice from LGPC that the stream corridor regulations have been postponed to a future date.
- Thank you note from the Library for their "coming home event".
- Time Warner notification that Mr. Mucha will be our contact.
- APA revised major project public notice for MJ Real Estate Holdings, LLC as a result of an incomplete application
- Notice from Counsel that in the Matter of the application of Chrys and Blesser vs the Town of Bolton, its Assessor and Board of Review has been discontinued.
- Village of Lake George letter looking for help to raise funds for the 3rd annual Polar Plunge. If interested Supervisor Simmes has a website address.
- Counsel letter to LGPC with a foil request for information on Thunderbird Motel
- Henry Sommer letter concerning Bell Point Shore Homeowners. They do not want the terms of approval changed.
- Counsel information concerning the Conservation Park property and the possibility of it being under not for profit status
- NYS DOH letter: Sanitary Survey was performed at the Water treatment plant.
- NYS Encon letter notice of violation for phosphorous counts
- Joy Snedeker letter with concerns about the Rogers & Veterans Parks plans
- Health Plans & Benefits seminar is scheduled for October 14th sponsored by Jaeger & Flynn Associates.
- APA general permit for the Kubricky Construction to dispose of materials
- Copy of memorandum to the Assessor regarding paperwork he needs to file by 10/2

- Warren County Council of Chambers dinner at Stony Creek Inn on October 22nd
- Copy of the post-closure monitoring report for the Landfill
- NYSAC is hosting a Adirondack Health Care Summit at the Municipal Center on October 13th from 10 to noon
- Copy of Fifth interim report on Lake George done by Fresh Water Institute- Supervisor Simmes stated that with the exception of Sawmill Bay everything looks good.
- Copies of the draft zoning ordinance with APA comments- the next meeting of the committee is October 29th.
- Woodshire Estates requested that the Town require that no wells be drilled in their subdivision.

Committee Reports

Councilman Saris

Town Clerk- Local Shares remitted \$15,626.84, non-local revenue \$1,682.99, Total State, County and Local revenues \$17,309.83

Wastewater- Took in 4,958,930 gallons for an average of 165,298 gallons/day. All of the beds are dry with the exception of the one in use. There was one violation for phosphorous. Chet Dagles is working on a plan for better processing of the wastewater which he hopes will stop the increase in phosphorous and hopefully save them some money. They supervised a lateral repair at the Roberts' residence. Cleaned the pump stations and removed 2 garbage cans of grease. Did some maintenance on the sewer jet. They hauled 46,500 gallons of liquid sludge. Chet Dagles is also working on a proposal on using a product to eradicate roots from sewer pipes, which could help them with their grease issues.

Councilmember Rehm

Recreation- The Rec Center is open and the October schedule of events is available. There will be a costume party on October 30th and 31st.

Seniors- The Town website lists the current activities that are scheduled. Ted Caldwell is meeting with the group and will be touring the North Bolton area.

Emergency Squad- will be talking to the Town regarding budgeting for supplementary staff for the summer season. They have had 3 volunteers, Earl Mikoloski, Jim White and Henry Lavit to drive which has assisted them in their responsiveness and cut down their cost. They have \$12,000 left from the original allowance from the Town and wanted to know if they should return it to the Town or just hold onto it to apply to the next year.

Library- The Library is up 1,000 uses over last year. On Labor Day, Ms. Simmes drew the lucky ticket for a kayak and Jane Gabriels was the winner. Mrs. Gabriels has generously donated it back to the Library to be raffled off Columbus Day. Mrs. Gabriels has asked that it be focused on children and raffled to them at 25 cents a ticket.

Supervisor Simmes stated that she also drew a local resident in the church raffle. Steve Roberts won the \$10,000.

Councilman Maranville

Assessor-The number of real estate sales in September have been few, but it is the same as last year. Deed maintenance and sales are up to date. At the beginning of the month they went to the School to bring them updated names and addresses for billing.

In September they had numerous visits and phone calls from residents upset over their taxes. The tax bill is difficult to understand and poorly shows the process of calculating the tax amounts. There is also much confusion over the assessment amount and the estimated market value. The State legislature reduced the Star Exemptions amounts by 11% making the school tax bills for those with the exemption even more than last year with a small increase in the tax rate and no change to the assessment. In his 14 years he has never had more inquiries during September than this year, it must be a sign of the economic recession.

During September he continued work on the re-evaluation project, updating the land tables, but this work is still under way. He also defended the assessments in Small Claims Court, he is still awaiting the Court's decision.

He finally received the paperwork regarding the Conservation Easement allocation factor on the Town's Norowal Marina property. In order to clarify some confusion he stated that this represents the difference in appraised value before and after the property is encumbered with a conservation easement. By Real Property tax law the State who encumbered the property with their easement paid their share of any real property taxes based on the allocation factor. Normally the State will only go back 2 years in reimbursing the property owner for taxes paid after the easement was given. Because the State was tardy in assigning the allocation factor they have authorized the Comptrollers' Office to pay the property owner back for all the taxes they owe since the easement was placed. Ken Tomkins from the Office of Real Property Services advised him that the property owner should move forward with their claim with the State because of the budgetary constraints and changes to their policy with regard to this property.

Lastly, he went to a NYS Assessor's Conference held in Saratoga Springs from September 27th-30th. As in the past this was very informative and he received continuing education credit.

Police- patrolled 2,634 miles and used 215.9 gallons of fuel. . A detailed list of all the calls answered is available for review.

Justice- Hon. Harry Demarest took in \$9,910 and Hon. Ed Stewart took in \$6,425. Total monies forwarded to the Town of Bolton - \$16,335. Itemized lists are located in the Court.

Councilman MacEwan

Stated that he had no reports but did want to bring to the Town's attention that they will no longer be able to burn brush effective October 9th. He stated that many of the transfer stations in the area are refusing to take brush anymore because they do not know what to do with it. He stated that in the past when they have had brush problems they had to get a chipper, however this is costly. Supervisor Simmes stated that until they figure it out, there is money in the 2010 budget for hiring someone to chip the brush if they decide to continue to take it.

Supervisor's Report

Receipts: \$290,803.92 Disbursements: \$603,342.37

Old Business

- Adopt a resolution stating that the Town Board confirms that the Operations Manual and Application Process for the Community Development Program has been reviewed by the Town Board and Counsel and is complete and that the Town Board has committed \$2,000,000 to the initial program. Supervisor Simmes stated that they will be placing the application on the website and will be sending notices to those who have shown interest and they can also be picked up by the Town Hall. She stated that the committee that worked on this project should be applauded.

RESOLUTION #213

Councilmember Rehm moved, seconded by Councilman Saris to confirm that the Operations Manual and Application Process for the Community Development Programs has been reviewed by the Town Board and its Counsel and is deemed completed and that \$2,000,000 has been committed to the initial program. All in Favor. Motion Carried.

- Encon letter Re: Edgecomb Pond Dam: We are waiting for C.T. Male's proposal. Supervisor Simmes stated that she just received a copy of their proposal this afternoon. Task 1 is the spillway capacity and stability analysis, Task 2 is safety inspection and inspection and maintenance plan, Task 3 Emergency Action Plan, Dam Failure modeling and Undulation mapping, etc. Total cost \$30,070.
- Status of Rogers Park pier and dock- LA Group will be re-bidding the project on October 13th, opening bids on October 26th in time for an award at our November meeting if acceptable. Cost estimate is \$1 million.
- Status of Conservation Park project

Supervisor Simmes stated that the deadline for submitting a petition was 10/5/09 at 4pm. There was one but it was submitted late and did not have the proper number of signatures, which would mean that there was no challenge. Supervisor Simmes stated that if there were no comments from the public in attendance then she would ask the TB if they would be willing to put \$150,000 into the Conservation Park, which would bring them to \$515,000. She stated that the only reason she raised it to \$600,000 at the last meeting was because of the accumulated interest.

Councilman Maranville asked if the number of signatures was calculated off of the number of voters who voted in the last general election. Counsel stated that he did not check that number but Supervisor Simmes indicated that it would have been 51. Councilman Maranville asked if the petition would have been to go to permissive referendum to increase the capital reserve account to \$600,000. Counsel replied yes. Councilman Maranville asked if the TB could make that decision to go to general referendum. Counsel replied no it had to be by permissive referendum procedure only.

Councilman Maranville stated that 3 years ago he asked for a business plan for the Conservation Park and he has yet to see it. He would be very interested in seeing how this facility will be run and to be sure that it will bring in enough money to sustain itself. Counsel Muller stated that the TB would have to first determine who is in charge of the Conservation Park, because if it is the TB, then they would be responsible for providing the business plan. If it is a not-for-profit corporation then they would have a contract with the Town and they would be the one to provide the business plan.

Councilman Maranville stated that he is the one who got this petition going. He received 43 signatures in only 2 hours. He stated that there is some opposition to spending these funds. He would have liked to have seen this go to referendum. He stated that they should be looking at other types of community groups in Town and asked if this money is made available to them as well. Counsel stated that although it is a sizable amount of money, it is in a dedicated capital account and cannot be spent for anything other than the Conservation Park. He stated that he would not want the Town to put in more money than they need for this project because it is really hard to get out. Supervisor Simmes commented that they do provide funds to other community groups. Councilman Maranville stated not to this extent.

Councilman Saris stated that they have to look at this as an expenditure over time, this will not be an annual event for the Conservation Park. Councilman Maranville stated that it is a lump sum of \$150,000 and asked where it will be taken from. Councilman Saris stated that it depends on where they decide to take it from, but they could look to take it from the sale of the surplus water district lands. He stated that he feels that they need to move forward on this. They have taken on the obligation and made the commitment to follow through on the Conservation Park. This is a resource that is used by the Town quite a bit and currently it is an eyesore. Councilman Saris stated that the money is not out of line with what has been invested in the Library, Historical Society and other community groups.

Councilman Maranville stated that he is not disagreeing with the project being completed. However, he thought there was a \$300,000 capital reserve fund established for it and doesn't understand why they can't just use that instead of increasing it to \$600,000. Councilman Saris stated that the building that they proposed is not too grand or extravagant. He stated that he wants to see something that belongs to this Town. Councilman Maranville suggested using the money that they gained from selling the surplus lands to reinvest into their water lines in Town while they are ripping up Route 9N instead. Councilman Saris stated that there are always going to be people opposed to it. Councilman Maranville stated that he feels that the voters should have a voice.

Kevin Kershaw stated that they have set money aside for the past 6 years, but have been working on the project for the past 10 years. He agrees with Councilman Saris that the building is an eyesore and is a liability to the Town since it does not meet code. Even though money has been set aside over the years they have also paid money out for a new well and septic system. These were considered investments in the property which they will not re-coop unless a building gets put there again. They will need a new furnace, electric, etc. In the past few months the Town has put out approximately \$20,000 in preparation of this project. If they can get this project up and running with the additional \$150,000-200,000 it would be a bargain.

Kevin Kershaw stated that they have stayed within the same footprint. They plan to salvage whatever they can from the previous building to cut costs. Supervisor Simmes stated that the layout will remain the same. There will be a nice finish on the front of the building but the indoor space will remain the same layout and size. She stated that there is nothing lavish about it. Kevin Kershaw stated that he agreed with Councilman Saris that this should be a nice building that represents the Town, one that the Town is proud of.

Sue Wilson stated when the Comprehensive Plan was developed one of the recommendations was that the property be expanded and developed for the community. She feels that the people have had the opportunity to speak about Conservation Park.

Jack Robinson stated that he wanted to thank the TB for their patience. He stated that it has been a long process of preparation.

Zandy Gabriels stated that it has taken a long time to get this project under way because there was some difficulty in getting the first \$350,000 over time with surplus funds and without raising local taxes. This is all part of the Town's parks and highway situation, because they had no problem spending almost \$300,000 on the little league field, which required no business plan.

Supervisor Simmes stated that people are still using the Conservation Park as is and she continues to get calls for events. However, she has had to put some on hold because she is not sure what building they will be using. She stated that the fees currently are minimal- \$25 for events, \$100 for weddings, \$200 for corporate rental and will be raised slightly, commensurate with the new building, but still affordable.

Councilman Maranville stated that some of the individuals he spoke to suggested other ideas such as smaller buildings, pavilions with barbeque pits, etc. Councilman MacEwan stated that when this project first came to light the cost was \$300,000, and now all these years later it really is no surprise that it is going to cost this much more. Councilman Saris stated that they could come up with a lot of new ideas and the discussion could go on forever. However, they have had the same group of people for the past 10 years dedicated to improving this building and he has a lot of confidence in their choices and decisions.

Dennis Murphy stated that he has confidence in Kevin Kershaw and the Conservation Park Committee. He fully supports this project and feels that the TB should move ahead with this project. He feels that this building will be a huge asset to the community and could further assist the other community groups such as the Senior Center.

RESOLUTION #214

Councilmember Rehm moved, and stated that there is money available that would now come from unappropriated surplus. The General Fund received money from the Water District when the Water District repaid loans that had been forwarded to them over the past several years. There is \$304,000 and \$150,000 of that I suggest to the Board we move into the Reserve Account that's been established for the Capital Project to complete the Conservation Park building. Second by Councilman Saris. Councilman Maranville opposed. All others in Favor. Motion Carried.

· Smith family marina

Sue Millington, representing the Smith family, stated that they have been working on trying to purchase a small section of land to legitimize their property. She stated that the agreement between her clients and the Town would be the payment of a large sum of money for a small section of property. She stated that their concern is not the amount to be paid but how it was to be paid. She is not sure that her client can afford a down payment on this property. She asked if it would be agreeable to meet with the surveyor and take this tiny section of land and sign the agreement. She stated that the agreement would be to pay over the next 5 years. She asked if they were at the point to get this agreement signed.

Supervisor Simmes stated that the small piece was something they were trying to negotiate. However, the property line runs from 9N to the lake within 8' of their building. She stated that the Smiths have been parking their boats, trucks and trailers on the Town property. Sue Millington stated that she was under the impression that this was used by the public as a boat launch. Supervisor Simmes stated that this is not a public launch. Sue Millington stated that all she is seeking is some guidance on how the TB wants to proceed.

Councilman Maranville asked if this was the appropriate place to have this discussion. Counsel replied to a degree yes, but they certainly could go into executive session to discuss contractual negotiations. Sue Millington stated that she thought that they were at the point of an agreement with the Town. She stated that this money would certainly help the Town with a purchase price of \$100,000 over 5 years.

Counsel stated that they were very close to an agreeable scenario as to how this was going to be done with regard to the transaction. However, what has not been discussed is the fact that daily operations of the marina spill out onto the Town property that is unrelated to the transaction. He stated that this was an issue that was handled previously. Sue Millington stated that she knew it was a problem last year but was not aware that it was an issue this year. Counsel stated that the problem has continued this year. Sue Millington stated that her client has this property for sale. She is not operating it and has been leasing it to one of her children. She stated that they can certainly get cooperation from Mrs. Smith immediately because she knows what she wants to be doing with this property. It is important to her client to make the Town happy. She stated that she is concerned because the TB will be changing over again and she is trying to get a feel for where they stand with this agreement.

Councilman Maranville suggested that they have this discussion at the end of the meeting in Executive Session.

New Business

- Adirondack Runners request to use Rogers Park on June 27, 2010 for the finish line of the race. They would like the park closed to traffic until 10:00 a.m.

RESOLUTION #215

Councilman Maranville moved, seconded by Councilman MacEwan to authorize the Adirondack Runners request to use Rogers Park on June 27, 2010 for the finish line of the race and to keep the park closed to traffic until 10:00 a.m. All in Favor. Motion Carried.

- Request to use the Town Hall parking lot on Columbus Day weekend for the garage sale.
- Request to use the Town Hall meeting room on October 10th as a rain date for the Art show.
- Motion to set up budget workshops.

RESOLUTION #216

Councilman Maranhville moved, seconded by Councilman Saris that the Town Board is in receipt of the Town Budget for 2010 and will hold budget workshops on October 13, 14, 20, 21, 27 and 28th at 6:00 p.m. All in Favor. Motion Carried.

- Counsel letter regarding litigation between Joan McKeag v Madison Finley.

Counsel stated that he received a call from Mark Cerasano, attorney representing Madison Finley, who indicated that there is some private litigation between Madison Finley and Joan McKeag regarding disputed property rights/ownership. Counsel stated that Mark Cerasano takes the position that the Town, as a right-of-way owner, is an indispensable party. He told Mark Cerasano that he would accept service on behalf of the Town. Counsel stated that Joan McKeag's attorney opposes and disputes having Bolton be part of the litigation, which he understands. He stated that he only wanted to make the Town aware of the situation and to get their authorization to defend the Town if the Judge requires their involvement.

Supervisor Simmes read the letter from Joan McKeag regarding her opposition to the Town being a part to the lawsuit of McKeag v. Finley. Supervisor Simmes asked if they would only be authorizing Counsel to defend the Town in this lawsuit if the Judge requires it. Counsel replied yes.

RESOLUTION #217

Councilman Saris moved, seconded by Councilman Maranhville to authorize Counsel to defend the Town of Bolton, if required by the Judge in the case of McKeag v. Finley, at a rate of \$175/hour. All in Favor. Motion Carried.

- Correspondence from Up Yonda concerning a possible budget request proposal. We will discuss at budget time. Copy of Counsel's opinion regarding the proposal.

Supervisor Simmes stated that this will also be in the budgetary discussions for 2010. She stated that Up Yonda received a gift from the Scotts a few years ago. However, there is an agreement which states that they are only allowed to use the interest off the account. In light of the recession, they have not made a lot of money and have had to make a lot of cuts. The County has refused to give them anymore money, so they have had to pare down their staff, which means they will have to cut programs. Supervisor Simmes stated that Up Yonda has presented a proposal to the Town to request getting some funding. Supervisor Simmes read the proposal:

To create a partnership with Warren County and Bolton to assure the continued operation of Up Yonda farm. This would promote community involvement by offering recreational and educational opportunities to the Town of Bolton. Up Yonda Farm would become an additional park in the Town complimenting Veterans and Rogers Park by providing hiking trails, auditorium, museum and sugar house.

Memberships- They would provide one free annual membership for every Bolton resident every year the Town contributes to Up Yonda.

Benefits- Free admission to all regular programs plus discounts on woodworking and snow shoe program. Free school programs to BCS students, teachers and chaperones. One program per month or up to ten programs during the school year. Free programs to Bolton Recreation Center children and staff. Free programs to the Bolton Seniors group. Free parking for Bolton residents. Residents would

get an application at Up Yonda farm or the Town Hall. Events, craft fairs, etc could be held at Up Yonda. Residents can reserve the picnic shelter for private parties at no cost.

Operating Agencies- the Town of Bolton would be named as a partner with Warren County for all promotional materials, advertising and on the Up Yonda website

Supervisor Simmes stated that they have not specified a figure. She stated that if Up Yonda does make more money in the future they will not be coming to the Town for assistance.

Counsel stated that if there are no restrictions imposed by the County then the Town would have full discretion to fund a not-for-profit corporation that provides quasi-governmental services.

Zandy Gabriels suggested a counter proposal to the County that the Town take Up Yonda over fully. Supervisor Simmes stated that this is something that is being discussed. Councilman Maranville asked if UDAG money could go toward something like this. Counsel replied yes.

- Counsel letter with a suggested explanation and sample covenant that could be used by the boards.

- Authorization for the Supervisor to sign two amendments to inter-municipal agreements between the Town of Bolton and Warren County for hauling and disposal of processible and non-processible solid waste Resolution #165 of 2009.

RESOLUTION #218

Councilman MacEwan moved, seconded by Councilman Maranville to authorize the Supervisor to sign two amendments to inter-municipal agreements between the Town of Bolton and Warren County for hauling and disposal of processible and non-processible solid waste Resolution #165 of 2009. Councilmember Rehm abstained. All others in Favor. Motion Carried.

- Authorize to declare as surplus one of many computers we have and to allow the BLDC to have it.

RESOLUTION #219

Councilmember Rehm moved, seconded by Councilman Saris to declare all computers surplus, allowing one (1) to be given to the BLDC for their use and placing the remaining surplus computes for sale on the Town website. All in Favor. Motion Carried.

- Highway Department has two items for surplus: one (1) Lee Boy shoulder machine and one (1) 1999 10' Stainless Steel sander. It fits a single axle dump. They paid \$8,000 when it was new, Tim Coon says it's worth no less than \$4,000.

RESOLUTION #220

Councilman Saris moved, seconded by Councilmember Rehm to declare one (1) Lee Boy Shoulder machine and one (1) 1999 10' Stainless Steel Sander surplus. Both items will be put up for sealed bids

with a minimum bid of \$4,000 for the 1999 10' Stainless Steel Sander. Bids to be opened at the November 4th, 2009 meeting. All in Favor. Motion Carried.

- New heating system has been installed by Jack Hall Plumbing & Heating. He has sent a proposal for a service protection plan. Two yearly inspections: Cost \$2,880. This does not include repairs or parts. Cost for foreman is \$98/hours, apprentice \$75/hour, if on overtime or holiday foreman \$118/hour and Apprentice \$96/hour. The TB discussed the details of the protection plan. Supervisor Simmes stated that she just wanted the TB to be aware of the costs so that they can budget for it. With regard to the additional component that is supposed to make the system more efficient Supervisor Simmes stated that she requested that Jack Hall P & H present something before the TB.
- Hours for the landfill starting November 16th- closed all day Mondays and Wednesdays.
- Request to put a weight limit on Church Hill Road from Kelly Bishop.

Supervisor Simmes stated that they sent this request to the County and they indicated that it is a Town problem. They discussed applying NYS traffic law 1660. She stated that Ms. Bishop is concerned with large trucks coming down Churchill Road. Last year a logging truck was parked there and created problems with her driveway. Supervisor Simmes stated that she presented this to Tim Coon who indicated that he does not have a problem with this. However, she is not sure how to create signage. Counsel stated that they would have to create a local ordinance so that they have the force of law behind it. Signs would be placed and if someone is found in violation then a fine could be imposed. Counsel stated that it is not about Ms. Bishop's complaint about the logging truck, but notably the logging truck is there on a project and that would not be excluded when applying this section of law. This would also be true of any large vehicle that is tending to business on that road.

Councilman Saris stated that he would not be participating in any decision on this matter since the entrance to one of his storage sites is on Churchill Road and he uses trucks to deliver boats on and off the property. Councilman Maranville stated that he is not comfortable making a decision on this matter without knowing more about what the actual problem is and if it is a problem for anyone else. Supervisor Simmes stated that she would ask her to come to a meeting to further discuss the issue.

- Copies of proposed Ordinance #46 entitled "An Ordinance to Provide for the Imposition and Collection of Administrative Fees and Application Expenses." This would allow for the Town to use its discretion to increase fees without having to hold a public hearing.
- Copies of Proposed Local Law #4 of 2009 to allow a change to the fee structure imposed on applications before various boards. "Surcharge for after the fact approvals". This would provide some structure to handling after the fact applications.

RESOLUTION #221

Councilmember Rehm moved, seconded by Councilman MacEwan to hold a public hearing for proposed Local Law # 4-2009 and Ordinance #46 at the November 4, 2009 Town Board meeting at 6:30pm. All in Favor. Motion Carried.

- Woodshire Estates- request by the HOA to not allow any wells to be drilled in their subdivision.

Supervisor Simmes stated that Woodshire Estates is not in the water district but they do get water from the Town. Everything on their property is owned by them. They are requesting that the Town declare them a well-free zone. Counsel stated that he thought they could do this by covenant. Supervisor Simmes stated that she has a DOH letter from 1976 that tells people that they are not supposed to drill wells. She stated that Woodshire Estates is asking the Town to honor the initial agreement between the DOH and the Town of Bolton by declaring Woodshire Estates a well-free zone. She stated that she cannot find anything other than a letter from the DOH that refers to it. Councilmember Rehm stated that when this land was developed they were very small lots and they agreed to get Town water. Counsel asked if there was ever a contract. Councilmember Rehm replied probably not. Then in the 1980's the Town realized how small the lots were and that they were not buildable so they merged some lots and forgot about the well-free zone and two have wells. Counsel stated that he would have to look into this further. Counsel stated that if the Town agrees to this it will not undo the wells that already are there.

Local Law #3 -2009-APA comments

Counsel stated that he would need some input on what the Town would like him to do in the way of revisions, if any to Local Law #3 based on the APA's comments. He requested that they start some communication between all interested parties so that he can keep this moving forward.

Public in Attendance

Chris Navitsky, Lake George Waterkeeper, stated that in February 2009 his office had asked about the process for determinations on particular zoning issues and the process. He stated that they have submitted a total of 3 letters pertaining to one particular determination. He stated that they have not gotten any response as of yet. He stated that this saves time for their comments that go to the PB. The particular issue is the width of driveways which are limited at 16'. He stated that he feels that this process needs some improvement.

With regard to the extension of sewer districts, Chris Navitsky stated that he understands Counsel's recommendation to speed line the process, possibly without public comment, but obviously there are some concerns. He stated that this should be carefully considered and there should be public input.

Zandy Gabriels gave some additional history on the Woodshire Estates.

With regard to Edgecomb Pond, Zandy Gabriels suggested that the Town put in a FOIL request to Encon for inspection reports from 1978 to current.

Zandy Gabriels stated that he saw an article on legislation on a consolidation bill, whereby special districts as they were formed pursuant to some municipal law would consolidate. He asked Counsel Muller if under the provisions of the prevailing bill if Bolton's water and sewer districts would fall within this. Counsel's reply was that he would look at this if the TB asked him to review it. Zandy Gabriels stated that he received something from Senator Little indicating that this has now been signed into law. He stated that this could possibly consolidate the water and sewer districts under the general operations of the Town. Supervisor Simmes asked that he provide additional information and they would discuss this with Counsel.

Poker Run

Councilman Saris stated that he wanted to clarify some of the media reports regarding the Poker Run that was to be held Columbus Weekend. He stated that his recent experience in dealing with the LGPC was extremely disappointing. He stated that he and his business partner Rick were contacted by a man that wanted to hold a Poker Run on Lake George Columbus Day weekend, as they have done in the

past. He stated that this gentleman was very pleasant and had participated in this event in the past and wanted to continue the tradition. He wanted to put the whole thing together but asked them, as local people, to assist in putting it on. He stated that they met with the LGPC on April 17th to plan this event and filed a regatta permit with the DEC. They met again on May 11th to further discuss the application. On May 20th the DEC called and asked for a clarification of the application. The application was modified in response to LGPC requests and re-submitted to DEC. On June 1st they received a letter from DEC approving their regatta permit without objection by the LGPC law enforcement. On June 12th they held a meeting with the LGPC law enforcement, WC Sheriff's Office and Mayor Blais. There were no problems but there was a request at that time to raise the speed limit from 45 to 55 mph from the area north of the Mother Bunch Island group up to Rogers Rock. They met with them again on several other occasions and the LGPC stated that they did not want to stand in the way of this event but as far as the speed limit goes, they could not give them permission to break the law. On June 15th, they made arrangements to reserve the docks in Lake George, bought a \$1 million liability insurance policy, reserved a block of rooms at the Fort William Henry, planned a banquet for 200 people at King Neptune's, etc. based upon their approval. He stated that the LGPC also sent them a copy of the Navigation law, which has a provision for an exemption from the speed limit for an organized boating event or regatta, on a specified course. He stated that they met all of those criteria so they requested formally for the exemption. On September 25th, they received a letter from LGPC Executive Director stating that they were asking the DEC to revoke their regatta permit. He stated that all along they had stated that they would like the exemption but if it were not granted they would proceed at 45mph. At the LGPC meeting in September they were not on the formal agenda but apparently the LGPC came prepared with a resolution to ask the DEC to revoke the regatta permit due to safety and environmental concerns.

Councilman Saris stated that regardless of whether or not a Poker Run is an appropriate event for Lake George, there is right and wrong way to do things. He stated that even if the answer was no, the LGPC could have handled it a lot differently. He stated that he has always been proud of how the Town has made decisions in an open forum. This unfortunately was not his experience with the LGPC.

Councilman Saris stated that this type of behavior by the LGPC is especially concerning when they keep telling the Town not to worry about the Stream Corridor Regulations because there will be a variance process.

Supervisor Simmes asked if anyone has written any letters to the LGPC. Councilman Saris replied that a few members of the public and there was a story in the Post Star. He stated that the organizer of the event requested to be put on the LGPC's next agenda. Supervisor Simmes asked if it would help to send something from the TB.

RESOLUTION #222

Councilmember Rehm moved, seconded by Councilman MacEwan to authorize Supervisor Simmes to send a letter to the Lake George Park Commission indicating their disappointment in a fellow governmental organization that does not adhere to open meetings and full disclosure and proper notice. All in Favor. Motion Carried.

Transfers

RESOLUTION #223

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

FROM	TO	AMOUNT
GENERAL FUND		
56502 Off Street Parking	56504	\$200.00
56502 Off Street Parking	56501	300.00
19904 Contingency	56501	500.00
71104 Parks, Contractual	71102 Equipment	470.00
90108 Retirement	71504	2,800.00
19904 Contingency	86874	2,250.00

Increase 19904 Contingency \$11,800 From Grant Payment Sustainability Grant

Un-appropriated surplus increase Revenue \$30,000 for Ambulance Assistance

Reduce un-appropriated surplus used for Furnace by \$8,675.00 Additional interest in UDAG

SEWER DISTRICT

81104 Administration	81102 Equipment	\$225.00
81304 Sewage Treatment	81302 Equipment	7,200.00

All in Favor. Motion Carried.

Pay the Bills

RESOLUTION #224

Councilman Maranville moved, seconded by Councilman Saris to approve payment of the following bills:

General Fund:	\$80,681.14
Highway Fund	168,203.15
Light Dist.	3,768.16
Water Fund	10,159.32
Sewer Fund	19,151.77
Tourism	13,884.26

Rogers Pk Docks 1,110.00

Conservation Park 10,000.00

Rogers Park Trust 3,002.13

All in Favor. Motion Carried.

Executive Session:

RESOLUTION #225

Councilman Maranville moved, seconded by Councilman MacEwan to enter Executive Session at 9:58pm and adjourn the regular meeting with no further business to be conducted.

Respectfully submitted by:

Patricia Steele

Town Clerk

Respectfully submitted by:

Kristen MacEwan

Recording Secretary