

TOWN OF BOLTON
TOWN BOARD MEETING
SEPTEMBER 1, 2009

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

ABSENT: Councilman Robert MacEwan

Meeting Called to order 7:01 p.m.

Pledge: Councilman Maranville

Announcements:

Chrissy's Chair event held Saturday August 29th raised over \$12,000 for Hospice

NYS Office of Parks & Recreation & Historic Preservation will be considering Mohican Cottage for nomination to the National and State Registers of Historic Places.

The Fabulous Folk Fest is scheduled for September 6th from 10:30 to 6:00 in Rogers Park

The Bolton Free Library was the recipient of a valuable sculpture made by David Smith. The "Key to Bolton", was presented by his daughters Candida and Rebecca Smith.

Councilmember Rehm stated that in 1946, world renowned iron sculptor, David Smith created a key to Bolton, to honor one of his neighbors who had returned from WWII. He lived near Edgecomb Pond which in those days was referred to as Tick Ridge. So he created a large key that was inscribed with the words "Mayor of Tick Ridge". This is the closest that Bolton has to a key to the city and the Smith Family has donated it to the Library. She stated that this could earn Bolton some prestige. She stated that David Smith became a prominent sculptor and is well-known in the art community. Supervisor Simmes stated that the key is a very large piece and it will be permanently on display at the Library.

There will be a candidates night at the Bolton Town hall from 7 to 9pm on September 9th.

Warren County Flu Clinic is scheduled for the Bolton Town Hall on September 25th from 11am to 1pm.

Delaware Engineering believes that next week will be the announcements regarding grants for Green Innovation Projects. Our grant application was the sewer rehabilitation.

Public in Attendance

Board of Health

RESOLUTION #184

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

Jeffry Brozyna septic request

The Town has taken the position that holding tanks are unconventional systems requiring a variance. This matter was discussed at the Town Board meeting on December 30, 2008, at which time a resolution was passed, whereby determining to demolish and rebuild a cabin is considered replacement construction that meets all the criteria of an existing dwelling. There is still a question as to whether or not variances are required for holding tanks as Councilmember Rehm did comment on December 30, 2008, "That they will now have this applicant who will have to come back for a variance for this one time and that Mike Muller and Pam Kenyon will be able to work out future projects." To date we have not worked out future projects so the applicant is present in order for the TB to make a determination concerning the holding tank.

Brian Taber, representing Mr. Brozyna stated that the TB has all supporting paperwork and asked if they had any questions. He stated that they had Tom Nace review the application and have addressed his concerns. He stated that the lots are very small in this area and the placement of the system is in the only logical place. Supervisor Simmes stated that they did have some difficulty in coming to an agreement with the applicant and Tom Nace. Mr. Taber stated that they have put in the second alarm as requested. He commented that it is not clear that Tom Nace's recommendations are really considered requirements. He stated that the letter he was sent made it sound as if they were debatable issues. He suggested that if applicants are required to follow Tom Nace's recommendations, then it should be clearly stated. He stated it would have sped up the process, especially since Mr. Brozyna was very agreeable to whatever the Town thought was right.

There was some discussion with regard to conditions of approval. The TB determined that they would like to see an Engineering report every 3 years to insure that the system is working properly and to have an annual pump out report.

RESOLUTION #185

Councilmember Rehm moved, seconded by Councilman Maranville to consider the replacing of an existing septic system with a holding tank for Jeffry Brozyna, Parcel ID#200.14-1-12, 11 Beach Avenue, South Beach Association, as an unconventional system that requires a variance and grant said variance based on the recommendation of the Town Engineer and completion of the SEQR short form which determined that there will not be any undue adverse environmental impacts.

WHEREAS, an application for a variance pertaining to replacing an existing septic system with a holding tank (and requirements imposed by ordinance #36 of the Town of Bolton entitled "Sanitary Sewage Disposal Ordinance") has been applied for the following reasons: The use of a holding tank is considered an unconventional system, requiring a variance.

WHEREAS the Town Clerk's office published notice of public hearing in the municipality's official newspaper and the local Board of Health conducted public hearings concerning the variance request, and

WHEREAS the local Board of Health has been assured that the municipality has duly notified all property owners within 500 feet of the subject property,

NOW, THEREFORE, BE IT RESOLVED, that due to the nature of the variance(s), it is determined that the requested variance(s) would not be materially detrimental to the purposes and objectives of the rule, regulation or ordinance nor to another adjoining property, and will not otherwise create conflict with the purpose and objectives of any town plan or policy; and

The local board of Health finds that the granting of the variance(s) 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(s) granted is the minimum necessary to alleviate the specific unnecessary hardship found by the local board of Health to affect the applicant's property; and

BE IT FURTHER RESOLVED, that the local Board of Health hereby specifically approves the application as follows:

Specifications as to the variance(s) granted:

1) An annual report submitted by September 1st is to be filed in the Planning Office about the number of pump-outs that occurred in the past 12 months. 2) Every 3 years a licensed engineer inspects it before the 1st of September of that year to verify to the Planning office that everything is properly working.

All in Favor. Motion Carried.

Determination concerning incinerator and composting toilets.

Supervisor Simmes stated that 2 individuals are seeking permission for composting toilets. She stated that both have permission from the APA. Pam Kenyon stated that the Town has nothing in the code regarding incinerating/composting toilets. She has provided emails and material regarding this application since July 10th.

Counsel Muller stated that Tom Nace gave an analysis on how he approaches interpreting what the compliance requirements are. He looks specifically to the NYS Dept of Health regulations and then looks at the 1979 Bolton ordinance and finds out where the stricter requirements lie. Tom Nace has indicated that the State uses a handbook called Guidelines when it comes to requirements for composting and incinerating toilets. Counsel Muller stated that he was concerned that the Town of Bolton was enforcing "guidelines". However, Tom Nace pointed out that the local ordinance specifies that the requirements that the Town will also impose are also set forth in the Guidelines. Therefore there are some regulations that they can rely on. Counsel Muller stated that in the Guidelines it states that incinerating toilets must be located at least 500' from any residence or property line/boundary.

Pam Kenyon read from the Guidelines as follows: "These units accept human waste into a chamber where the wastes are burned. The units have a very limited capacity and require a source of electricity or fuel to burn the waste. The ash remains must be periodically removed and must be used similar to fire place ashes. The units must be installed in accordance with the manufacturer's guidelines. The units routinely produce objectionable odors at the start of each incineration cycle as the temperature rises to a proper operating range. The separating distance from the unit exhaust stack to the nearest property line or other habitable buildings should be at least 500'." Pam Kenyon stated that this is the only requirement for these types of systems. The argument is whether or not the individual would need a variance or not. This is considered as an "other system" that is allowed.

Supervisor Simmes stated that she was provided some material which shows that these types of systems are used in campers and on boats. She stated that if they are willing to put these in those types of areas she doesn't see how it could be a problem.

Councilmember Rehm stated that she is concerned with the objectionable odor. She stated that her preference would be to require variances for awhile and see how it works. She stated that neighbors might be concerned with this type of system and should be notified. Pam Kenyon stated that she was not concerned over whether or not they would require variances, but rather that there is nothing in the code that says that a variance is required. She felt that they need to have some sort of policy as to how she will direct people in the future.

Councilman Saris stated that he thought the local ordinance stated that all non-conventional systems would require a variance. Counsel Muller stated that was a valid interpretation of the ordinance. Pam Kenyon stated that the code does not state that. Councilman Saris stated that he thought it would be in the section regarding unconventional systems.

Councilman Saris stated that certain setback requirements don't make a lot of sense. An outhouse has to be 100' from a property line and that waste just sits there but this system requires 500'. He stated that at least the variance process allows it to be reviewed. Pam Kenyon stated that holding tanks, incinerating and composting toilets are all considered "Other Systems" in the DOH regulations, which require that they are designed by a professional, who can certify to the local BOH that the system was constructed in accordance to the plans.

Councilman Saris stated that he feels that it wouldn't be bad to have them go through the variance process so that it can be reviewed. Counsel agreed that it would be the best way to allow for review and allow for public notice.

Clarence Linder stated that he is requesting to install the incinerating toilet. He feels that the 500' setback is pretty ridiculous considering that they will be passing a regulation that requires wood burning furnaces be 200' from property lines. He stated that wood burning stoves put out pollutants and carcinogens 24 hours/day. The incinerating toilet only runs for a few minutes with objectionable odor that doesn't travel very far. He stated that the 500' came from the "Guidelines" which pre-date the current regulations which don't say anything at all about the 500'.

Clarence Linder stated that this particular incinerating toilet is approved by the Coast Guard and the NSF. The only instructions for installation is that it needs to be 4" from one wall and 6" from others so that they can access the lever to dump it and push the button to turn it on. The system vents out the back or top. Councilman Maranville suggested that they consider venting the system upward instead of out the back. Clarence Linder stated that he could do that.

Supervisor Simmes asked how far this would be located from the property line. Clarence Linder replied 1,000' from his house, more than 500' from any residence and about 100' from his neighbor's property line. He stated that his neighbor is also looking to install one. Councilmember Rehm asked what structure he intends to use this in. Clarence Linder replied that he will have it in his bathhouse which is 60' from the lake. He stated that this is like an island outhouse. It is a simple system, there are no regulations on it, and it is approved by the Coast Guard. He stated that the LGPC has no regulations on it.

Clarence Linder stated that he has been waiting 4 months to get permission to do this and if he has to go through the variance process he will only be delayed further. He stated that he submitted a variance application for last month, but since the TB was not sure what to do they delayed him again. Councilmember Rehm asked how long it took to get approval from the APA. Clarence Linder stated that after he submitted the second set of questions he got approval within 2 weeks. He stated that he even

delayed responding to the second set of questions for a month in hopes that the Town might make a decision that he could pass along.

Counsel stated that the TB needs to determine what Bolton's policy is with respect to holding tanks, composting and incinerating toilets. Councilmember Rehm stated that although these systems are considered "Other Systems" that are acceptable, she does find that they are unusual alternatives and suggests that the BOH review them.

RESOLUTION #186

Councilmember Rehm moved, seconded by Councilman Saris to set a Town policy that composting, incinerating toilets and holding tanks are considered "other systems" which will require review by the Local Board of Health. Supervisor Simmes opposed. All Others in Favor. Motion Carried.

Michael Dean: East Schroon River Road. He is requesting an extension until December 31, 2009 to finalize his septic problems

Supervisor Simmes stated that Mr. Dean is trying to acquire additional land in order to install his leach field. He has requested an extension in order to complete that acquisition. She stated that he will not be using the place after October 1st.

RESOLUTION #187

Councilman Maranville moved, seconded by Councilman Saris to approve Michael Dean's request for an extension until December 31, 2009 to resolve the septic issues for his property located on East Schroon River Road. All in Favor. Motion Carried.

Lichtenstein: They are looking for the TB to grant permission to place fill on their site to sit for one year, contingent upon them returning to the ZBA in October to have their variances granted.

Supervisor Simmes stated that DOH has given approval to place the fill to sit for a year. After one year they will determine if it is acceptable to be called native soil. If it works then they will be seeking a variance for a septic system.

Supervisor Simmes stated that there is one issue; Mr. Lichtenstein has gotten a variance for a retaining wall, which is where this dirt is supposed to go. However, he got the variance in August 2007, it was renewed in 2008 and on August 13, 2009 it expired. He will have to apply again to get that same variance. She asked if the TB was willing, based on the fact that he gets that variance, allow him to place that fill in the retaining wall area.

Councilman Saris asked why he would need their permission. Pam Kenyon replied that they don't really need to grant permission, she was just trying to keep them apprised of what was happening since he will be seeking a variance next year for the septic system. Counsel stated that Stephanie Bitter, attorney for Mr. Lichtenstein, asked for something formal from this Board. She asked for a grace period on behalf of her clients. Although the time period has passed they feel that some of the administration of the application has held up the project. Counsel stated that this is not provided for in the ordinance but he did note that the time has been running and not due to the neglect of the applicant. He stated that Bolton was waiting to hear from the NYS DOH who indicated that the soil had to go through one freeze cycle.

Pam Kenyon stated that she has been trying to get an answer from the TB for about 2 months. Counsel agreed and thought that it actually may have gone back further than that. He asked if this application had much controversy. Greg Smith stated that some of the neighbors had some concerns but the applicant got the variance. He stated that he feels that the applicant has had plenty of time to set up everything they needed to do. He stated that he feels that they should come back before the ZBA.

Supervisor Simmes stated that she was seeking permission from the TB to allow Mr. Lichtenstein to place the fill on the property with the condition that he obtained the variance from the ZBA. Counsel stated that the applicant also agreed to remove the soil if it did not become native soil. Councilman Saris stated that he is not comfortable with granting permission to put soil on their own property, especially not knowing if they will be able to grant the variance for the septic. He stated that they don't need their permission. Councilman Maranville agreed. Pam Kenyon stated that she does not want to be questioned as to why the fill was allowed when they come back in a year from now. She stated that she brought this to the BOH just to keep them apprised of the application.

RESOLUTION #188

Councilman Saris moved, seconded by Councilman Maranville that it has been determined that the Lichtensteins do not need approval from the Local BOH to place fill on their property. All in Favor. Motion Carried.

RESOLUTION #189

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

Zoning Issues

Status of Raven property-

Mitzi Nittmann stated that Mr. Raven has paid his civil penalty. She stated that he was given 30 days to come into compliance. To date he has made the cuts in the patios so that they are in compliance but the remainder of the project is still in the process. Supervisor Siimmes stated that since he is in compliance he can be taken off of their agenda.

Copy of Counsel's letter to Janet Lehman that she has until Noon on September 9th to complete the demolition on her property

Supervisor Simmes read a fax from Janet Lehman in which she explained her situation and requested patience for her to complete the salvage and demolition of the barn. Supervisor Simmes stated that she has until September 9th. Counsel stated that he has everything ready to go if necessary.

Thunderbird

Counsel stated that he is in the process of getting the litigation papers together and hopes to have them submitted to Court soon.

Elmer Clark

Supervisor Simmes noted that there was a letter from Robert Slozak and a Notice of Protest from Elena Hammel.

Correspondence

Letter to DOT from Mr. & Mrs. Franz concerning the stormwater inlet across from the LG Land Conservancy

VMJR letter concerning the bids for the Town Pier reconstruction

Fresh Water Institute fourth interim coliform monitoring program. No problems

USDA Re: Financing Programs for Community and Economic Development

Letter from Joe Russell with concerns about Bell Point Shores

Letter from Alex Conway concerning Coolidge Hill Rd. neighbor problems

DOH requesting sample info from the Water Dept. It has been taken care of

APA amended permit to Clarence Linder to allow an incinerator toilet in his boathouse

Liquor License renewal for Hometown Diner

Notice from Warren County Real Property that there will be an increase in fee for the software the assessors use from \$1300 to \$1625 for 2010 budget purposes

Thank you from the LGA for donation to support the Floating Classroom

Letter from Sally Defty regarding Rogers Park Plan

Notice from Finch Paper that they will be timber harvesting on the East River Road Tract. This is classified as Private Forest Land and not subject to requirements of the Fisher Act.

Letter from Sheila Page stating that her family was very pleased with the Arts & Crafts program.

Thank you from The Sembrich for financial support through the Occupancy tax funds.

Counsel's letter to the Rothbort's concerning their well. It has been taken care of.

Notice from Pumpernickel's and the Wooden Barrel that they are renewing their Liquor License

Time Warner notification of possible channel changes

NYS DEC letter with a violation for nitrogen and phosphorous at the sewer plant.

Committee Reports

Councilman Saris

Town Clerk- Total Local Shares remitted- \$33,185.68 Total non-local revenue- \$808.15 Total State, County and Local Revenues \$33,993.83.

Wastewater Treatment- Took in 7,424,790 gallons of wastewater for an average of 239,509 gallons/day. There were 2 violations for nitrate and affluent violation for phosphate. Well 1 had 14.5 and well 3 had 11.1. They determined that it was an I and I problem from all of the rain. They replace the variable speed drive for the resurge pumps. They replaced it rather than repaired because the part was obsolete. He stated that this is becoming a problem with obsolete parts. The back flow preventer tested by the BOH was satisfactory. All the beds are dry with the exception of the one in use. There was 45,000 gallons of liquid sludge hauled. There is a bad pump at the Norowal station and a new one has been ordered at a cost of \$3,866.

Councilmember Rehm

Recreation Dept- The summer programs have settled down with the exception of the lifeguards who are still on duty. The Rec. Center will be opening September 12th. The Directors report is available online. Councilmember Rehm highlighted a few items. They received a notice of merit from the DOH for their staffing of the beach. She stated that they increased the budget from 2009 to increase staffing, leaving no chance for the water not to be watched especially when guards are relieving another post. She read the following from the Director's report: "Both of the parks and beaches were immaculate the entire summer. The removal of the geese and the commitment of George Mumblow and the entire Parks Dept to maintain the areas did not go unnoticed. They received several compliments from regulars and seasonal attendees on the improvement of the park."

Emergency Squad- The addition of paid staff has gone so well that they found people showing up at the firehouse for care. This allowed for immediate service. The Rescue Squad has asked to run with the paid staff through September 25th. There are still plenty of funds left for this coverage. The TB agreed to allow for the additional coverage.

Councilman Maranville

Assessor-Dave Rosebrook stated that the month of August was slow for sales and maintenance updates. Sale trends files were merged with Lake George to have more complete and larger base to monitor trends. On August 13th the new computer was installed with the State programs needed. He prepared updated appraisals for the Town's defense of the Lynch and Phillips properties. The hearing date for the Lynch property is on September 4, 2009 and a date has not been set for the Phillips property. As expected an Article 7 was received from Chrys and Blessner. The appeal has been passed to Counsel Muller to defend. On August 20th they received from NYS official paperwork granting the allocation for taxes of the Conservation Easement on Norowal.

Police- Patrolled 3,040 miles and used 255.8 gallons of fuel. A detailed list of all the calls answered is available for review.

Justice- Hon. Harry Demarest took in \$10,380 and Hon. Ed Stewart took in \$11,195. Total monies forwarded to the Town of Bolton - \$21,575. Itemized lists are located in the Court.

Supervisor's Report

Receipts: \$776,616.11 Disbursements: 419,108.07

Supervisor Simmes called the Union Rep and requested we get ready to negotiate a new Highway Union contract.

We will not be granted a burn permit at the Transfer Station after October 9, 2009. A decision needs to be made as to whether we want to stop taking brush or work a figure into the 2010 budget to allow a grinder.

Update on Time Warner- this is construction project for Wall Street and Federal Hill Road. She stated that Mr. Mucha has indicated that a lot has to take place in order to do this, especially approval from utility companies who own the poles and lines. He is projecting that they will not see this project take place until sometime between July and October 2010.

Councilmember Rehm asked if they could possibly look into doing Pine Tree Lane because they have had a request for that. Supervisor Simmes stated that they would need to add that to the project. Councilmember Rehm stated that she would at least like to ask them to evaluate it. Supervisor Simmes stated that she would ask them to look into it.

Notice from Police Dept. that people still do not have their 911 numbers up. Send notices to paper advising people that for emergency reasons they need to get those numbers up.

Chief Neumann stated that they recently responded to an alarm and had difficulty finding the home. He stated that recently he spoke to Dean Fisher, Assistant Fire Chief, who suggested that they have some sort of ordinance which requires that the numbers are visible from the road. He stated that he is not sure how the ordinance worked but they did have a program in which the police and/or fire department would provide reflective numbers for senior citizens. Chief Neumann stated that he thought a few years ago Bolton may have done something like that and asked if they could look into that again. He stated that he is concerned that in the case of a real emergency that they may not be able to respond in a timely manner. Supervisor Simmes stated that they can place notices in the paper. She requested that the Police Department provide them with any properties that they have or do come across in the future so that they could send letters to the owners.

Old Business

Last month we adopted Resolution #178 authorizing LA Group to write a grant for improvements to Rogers Park. We need a resolution to apply for that grant in the amount of \$370,000.

RESOLUTION #190

Councilman Maranville moved, seconded by Councilman Saris to authorize the LA Group to apply for a grant in the amount of \$370,000 for improvements to Rogers Park. All in Favor. Motion Carried.

Proposal for system controller for new boilers: \$8800

Supervisor Simmes stated that she has talked to another individual who supplies system controllers, who indicated that it will not save them any money because they will need to put in 3 other things to have it function properly. This has now been scratched from the project.

UDAG committee has sent their proposal for the use of the UDAG funds to potential applications. It has been reviewed by Counsel and the Board. Grant approval to move forward and invite applicants to apply for funding.

RESOLUTION #191

Councilman Saris moved, seconded by Councilman Maranville to approve moving forward with the UDAG committee proposals and invite applicants to apply for funding. All in Favor. Motion Carried.

Bids were opened for the Pier project on August 19th. Two bids received:

Creative Carpentry (d/b/a) The Dock Doctors)

Item 1.01 \$ 1,078,780.00

Item 1.02 20,000.00

Total: 1,098,780.00

VMJR Companies, LLC

Item 1.01 \$ 1,134,800.00

Item 1.02 20,000.00

Total: 1,154,800.00

Supervisor Simmes stated that there are some questions to be answered before making a decision. VMJR has voiced some concerns and Counsel Muller has reviewed them. Counsel Muller stated that the bid specifications were well stated, including the flexibility that any bidder could propose an alternative system that would be acceptable in their review.

Supervisor Simmes stated that the Dock Doctors have indicated that there was a way to save money on other items if they choose to. She stated that she has talked to Carl Schroeder about that and she is waiting on his advice. Counsel Muller stated that everyone is in favor of saving money. However, if the alternative is not available to all bidders then that is not proper.

RESOLUTION #192

Councilman Saris moved, seconded by Councilman Maranville to table the bids and to set a Special Meeting for September 22nd at 7:00 p.m. to discuss the possible awarding of a bid for the Pier project. All in Favor. Motion Carried.

New Business

NYS DEC inspected the Edgecomb Pond Dam and classified it as a Class C – High Hazard dam.

We need to hire an Engineer to evaluate their findings

Supervisor Simmes stated that she spoke to Fred Monroe, Chester Supervisor, who indicated that they recently had to do the same. They hired CT Male and were very pleased with their work. Supervisor Simmes stated that she has called CT Male, she is awaiting a call back from the individual who will be handling it. She stated that it will be an expensive project (approx. \$20,000) to evaluate the dam.

RESOLUTION #193

Supervisor Simmes moved, seconded by Councilmember Rehm to hire CT Male for the evaluation of the findings regarding Edgecomb Pond Dam pursuant to the NYS DEC inspection and classification as a Class C- High Hazard dam. All in Favor. Motion Carried.

Discussion of a Nuisance law

Counsel stated that Hudson Falls and Glens Falls both have nuisance laws in place. He stated that their systems vary with regard to how they keep track of incidences. He stated that these work for these towns because they have their own Police Departments to do the enforcement. Unfortunately, Bolton often relies on other agencies to respond to problems, which might make it difficult to keep track of incidences. Counsel stated that both systems are able to prosecute in the justice court. He added that not only can they prosecute the offender but the owner of the property as well.

Councilman Maranville asked Chief Neumann if he felt that this was something that Bolton needed. Chief Neumann stated that he is not a proponent of adding layers of law. He stated that there might be situations that can be addressed by law which might be something worth considering. He stated that often times this is a result of a civil conflict between neighbors, which may require more of a professional mediation to handle it. He stated that most of these types of conflicts occur in areas where houses are close together or pre-date existing zoning laws. He is not sure if it would be worth it for Bolton, but does feel that it would be worth discussing.

Councilmember Rehm stated that she agrees with the concept but does not like either set of laws that were presented. She asked if there was any other version that they could review that might pertain more to the Town of Bolton. Counsel replied that there are a lot of other examples. Councilmember Rehm stated that she would like to see more examples of this law that could be reviewed by Chief Neumann and Councilman Maranville. Counsel stated that he would forward some examples for their review.

Resolution to authorize Counsel to defend the Town in an assessment challenge: Fee is \$175 per hour

RESOLUTION #194

Councilmember Rehm moved, seconded by Councilman Maranville to authorize Counsel Michael Muller to defend the Town of Bolton in an assessment challenge at a rate of \$175/hour. All in Favor. Motion Carried.

Ed White request to be appointed a Marriage Officer.

Supervisor Simmes stated that he would only be permitted to perform marriages in the Town of Bolton. She stated that they have to set a term. Councilman Saris stated that Ed White has asked to allow it to be a 3 year term. The reason for the length is because he has a few marriages which are spread over the next few years.

RESOLUTION #195

Councilman Saris moved, seconded by Councilman Maranville to appoint Ed White as a Marriage Officer for the Town of Bolton for a three year term starting January 1, 2010. All in Favor. Motion Carried.

Reappoint Andrew Roden to the Board of Assessment Review. Term to expire 9-30-2014

RESOLUTION #196

Councilman Maranville moved, seconded by Councilman Saris to re-appoint Andrew Roden to the Board of Assessment Review with a term to expire 9-30-2014. All in Favor. Motion Carried.

Catherine Persons passed the Civil Service test for Zoning Assistant.

RESOLUTION #197

Councilman Saris moved, seconded by Councilman Maranville to appoint Catherine Persons as the Zoning Assistant. All in Favor. Motion Carried.

Resolution to approve and authorize the signature of the Supervisor for the inter-municipal agreement 400th Explore New York Grant with Warren County for an approved grant in the amount of \$45,000. Our share of the grant would be \$3,461.

RESOLUTION #198

Councilmember Rehm moved, seconded by Councilman Saris to authorize the Supervisor to sign for the inter-municipal agreement for the 400th Explore New York Grant with Warren County for an approved grant in the amount of \$45,000, which includes Bolton's share of \$3,461. All in Favor. Motion Carried.

Resolution to accept matching funds from New York State through the Warren County Youth Bureau in an amount to be determined.

RESOLUTION #199

Councilmember Rehm moved, seconded by Councilman Maranville to accept \$1,300.00 in matching funds from New York State for the Recreation Commission through the Warren County Youth Bureau. All in Favor. Motion Carried.

Resolution to raise the amount of the Capital Reserve Fund for the Conservation Park to \$600,000. Counsel stated that since they are increasing their maximum they will need to make this subject to a permissive referendum.

RESOLUTION #200

Councilman Saris moved, seconded by Councilmember Rehm to approve raising the amount of Capital Reserve Fund for the Conservation Park to \$600,000 subject to a permissive referendum. Councilman Maranville opposed. All Others in Favor. Motion Carried.

Request to use the Town Hall one day a week for about two hours for a diet weigh in.

Councilmember Rehm asked if they could use the Health Center. Supervisor Simmes replied no because there are too many people. There was some discussion of the times that they were interested in using the Town Hall.

RESOLUTION #201

Councilman Maranville moved, seconded by Councilman Saris to allow use of the Town Hall one day a week for approximately two hours for a diet weigh in. All in Favor. Motion Carried.

Sound permit request from Pumpnickel's for October 2nd through the 4th for music until 11:00pm on each night, there will be two to six musicians and for October 10th for a wedding.

RESOLUTION #202

Councilman Maranville moved, seconded by Councilman Saris to authorize the sound permit for Pumpnickel's for the dates of October 2, 3, 4 and 10th until 11:00pm. All in Favor. Motion Carried.

Request from Barb Adinolfi Dommaschk to have a handicap parking sign in front of her apartment at 4 Stewart Ave.

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RESOLUTION #203

Councilmember Rehm moved, seconded by Councilman Saris to approve the handicap parking sign for Barb Adinolfi Dommaschk outside of her residence located at 4 Stewart Avenue. All in Favor. Motion Carried.

Councilman Maranville stated that if it is just a regular handicapped sign anyone could park there. Supervisor Simmes stated that they should look into what they did for Mrs. Hall to insure that she has a space to park. Councilman Maranville stated that sign is only a regular handicapped sign.

Public Attendance

Dan Daniger-

With regard to the nuisance law discussion, Dan Daniger stated that there are many areas in Bolton that are in close proximity to each other because they are non-conforming and pre-date zoning. These are often the most historic areas as well. He stated that he has tried to talk to the neighbors about these issues and concerns. He is not sure how a mediator would assist at this point. He stated that he recently returned from vacation and found that someone had lit 300 fire crackers 15' from his house. In talking about these nuisance laws he asked how many warnings and code enforcement do they need to have before something happens. He asked whether it is considered a civil or town matter when there is a change in use of the property or when fireworks being used within close proximity to his house.

Councilman Maranville stated that they understand the situation and they are trying to address it. Dan Daniger stated that he knows that the Town is working to resolve the issue but he has been dealing with it for 3 years now and is looking for a resolution. He hopes they can find something that will work for the Town of Bolton. He stated that he will be going to the ZBA this month to discuss this situation. Supervisor Simmes stated that they are and will continue to work on this issue. Councilman Maranville asked if this mainly occurred in the summer. Dan Daniger replied that mostly, but there have been incidences during other times of the year. The difficulty is catching all of this activity because it occurs at night.

Donna Boggs stated that they are offering a Defensive Driving Course on Saturday, September 26th from 9 am- 3pm, with a ½ hour for lunch. The cost is \$35/person.

Zandy Gabriels

With regard to the 400th Anniversary, Zandy Gabriels asked if the Town has to do anything. Supervisor Simmes stated that the Chamber would be involved in that.

With regard to the Edgecomb Pond Dam, Zandy Gabriels stated that he is opposed to the hiring of CT Male for the current evaluation of the dam. He stated that in the past 13 years the Town of Bolton has already incurred 2- greater than 100 year storms, one in 1996 and the other in 2005. In 1996 they asked DEC to come and take a look at the dam. They also had an evaluation by CT Male. He stated that the DEC should be looking at their previous data that was provided back in 1996. Supervisor Simmes stated that she has already requested that they look up this information for them.

Supervisor Simmes stated that they are classifying this as a Class C because there are 2 properties down stream that would be directly affected by and washed out if the dam broke.

With regard to the permissive referendum for the increase in capital reserve, Zandy Gabriels stated that he thought that they would need yes votes from 5% of the electors in the Town of Bolton that voted in the last general election. Counsel explained the process of the permissive referendum. He stated that what was enacted in 2003 was not subject to public notice. He stated that when you create a capital reserve account you must specify the specific purpose for the expenditure, which is subject to permissive referendum so that when it comes time to spend it for that specific purpose there is no resolution subject to permissive referendum. He stated that in 2003 they did a really great resolution but they just didn't subject it to public notice which would then be defect, except for the fact that after 4 months passes on anything that the TB does then the opportunity to challenge that has expired. Zandy Gabriels asked if the first portion of the original resolution was still valid. Counsel replied yes. This new issue about increasing the maximum will be the relevant issue if someone wishes to challenge it.

With regard to the Pier project, Zandy Gabriels stated that he is opposed to spending that much money on the project. He suggested that they break up the project into phases to do a little at a time.

Pay bills

RESOLUTION #204

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

General Fund: \$85,184.47

Light: 3,718.00

Highway Fund: 61,241.16

Water Fund: 9,392.79

Sewer Fund: 7,192.79

Tourism: 914.91

Rogers Park Dock: 10,692.45

All in Favor. Motion Carried.

TRANSFERS

RESOLUTION #205

Councilmember Rehm moved, seconded by Councilman Maranville to approve the following transfer for September 2009:

FROM TO AMOUNT

GENERAL FUND

19904 Contingency 14104 Town Clerk \$2200.00

12202 Supervisor 40104 Board of Health 100.00

General To Sewer \$2,000.00 more for August

SEWER DISTRICT

81104 Administration 81102 Administration Equip 1200.00

Executive Session

RESOLUTION #206

Councilman Maranville moved, seconded by Councilmember Rehm to adjourn the regular Town Board meeting and enter Executive Session at 9:10pm. All in Favor. Motion Carried.

Respectfully submitted by: Respectfully submitted by:

Patricia Steele Kristen MacEwan

Town Clerk Recording Secretary

Adjourn