

STATE OF NEW YORK
COUNTY OF WARREN
TOWN OF BOLTON

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

PUBLIC HEARING: Five (5) Zoning Code Amendments: 150-23B(6) - Sketch Plan; 200-16 - Special Density Regulations; 200-23 - Parcel Located in More than one Zoning District; 200-55 - Gifts, Devises and Inheritances; 200-8 Definition of Driveway and of Road

Supervisor Gabriels opened the public hearing for 6:32 pm, stating that the amendments were publicly noticed in the Post-Star newspaper. He noted that yesterday the APA provided comments, which are substantive enough such that the Board would not likely be able to move forward on adoption of the amendments this evening. There were no comments from the public. The public hearing was left open.

PUBLIC INFORMATIONAL PRESENTATION by Lisa Nagle of ELAN Planning & Design: Feasibility Analysis Phase I on the Town & State purchase of NoRoWal Marina property (tax parcel id #'s-171.15-3-36 & 39)

Supervisor Gabriels noted that the idea of purchasing the property came to the Board in mid-August, when the Board began analyzing the changes going on in Town and the prospect of NoRoWal Marina being sold. The idea was raised half-jokingly that the Town purchase the property, which upon further consideration became more apparent to be in line with the vision of the Comprehensive Plan. The Board decided to begin taking the appropriate steps to determine if such a project was feasible, recognizing that it was in line with the Comprehensive Plan, which came about from a Town wide survey done in 2002 indicating community interest in maintaining Lakeshore access, and protecting open space and recreational values. The feasibility study on the purchase of NoRoWal became a component of the Town's draft Local Watershed Revitalization Program, in conjunction with the State.

Supervisor Gabriels wished to make it clear that the prospect of purchasing the NoRoWal property is merely conceptual at this point, and no decisions have been reached. The Town has provided copies of the feasibility study to representatives of the Dept of State and NYS DEC, who have informally indicated they see the value and merits of the proposal in protecting the economic interests of Bolton as well as that of the NYS DEC island campground facilities.

Supervisor Gabriels introduced Ms Nagle of ELAN, the company contracted to do the feasibility study. Ms Nagle stated that she has been working on projects with Bolton for 5-6 years, including the draft Waterfront Revitalization Plan as well as the Comprehensive Plan, so she is familiar with the community and its sentiments. Ms Nagle reiterated much of what Supervisor Gabriels stated in his introduction of the proposal. When she was first approached by the Board

and asked for her initial thoughts about the proposal, Ms Nagle agreed that, given the limited public access to the Lake and the development of the shoreline into private residential lots thereby removing more public access, the plan was a good idea and in keeping with the Comprehensive Plan.

Ms Nagle explained that ELAN began the study by looking at the many different operations of the existing facility, which included boat/engine sales and service, boat rentals, a retail store, a Laundromat, public access, as well as public parking and launching. She noted that Mike Bogucki from Paradigm Consulting, a partner in the study who has analyzed many municipal operations across NY State, advised that the municipality not get involved with sales and services portion of the operations, as there are private businesses that provide this. The Town's priorities then became public access, and public parking and launching to preserve access to Lake George for the community and its visitors.

The initial figures provided by NoRoWal indicated that the services aspect of the operation, could be sold as could the existing inventory, the revenues from which could come back to the Town. The Town would also receive ongoing revenues associated with public access, parking and launching. When looking at the overall figures based on a purchase price of \$4.5M, it became apparent that the Town could not support the sale by itself, but could perhaps with the State as a partner, keeping in mind that the overall goal of the effort was to maintain long-term public access to the Lake.

The Board felt that the following aspects aided in making the proposal so valuable: the inability of other marinas on the Lake to pick up the volume currently handled by NoRoWal due to space constraints and an increase in regulations, and the affects from the current trend in waterfront properties converting from commercial to residential. The study found that access to the State islands is significant through NoRoWal. Furthermore, the loss of parking alone would be significant. The Board believes the whole region, including the Town's shops, restaurants and Tops Market, would be affected by the discontinuation of the marina.

Councilman Andersen noted that regarding parking, NoRoWal accommodates almost 19,000 cars & trailers for parking and launches almost 7,000 boats per season. A large amount of people who come here support the local economy, and by discontinuing Lake access through NoRoWal, the character of Bolton would be changed. Lake George is advertised nationally, and Warren County spends a significant amount of money on promoting the area, with Lake George being a focal point. Tourist dollars are crucial to the Town's economy. There is limited access to the Lake right now, and to lose the NoRoWal facility would be a great impact on tourism, even on second homeowners, who are looking at access to the Lake when they are looking at the area as a whole.

Councilman Saris noted that the Comprehensive Plan was created out of the input from the residents of Bolton, who indicated they liked the community as it is, and would like to see it maintained as such. They like the economy which is based on the balance of tourism and year round services. Statistically, 42% of residents felt more public dock space was necessary, 32% recommended that additional boat launching facilities should be provided, and 31% suggested the need for seasonal docking for Town residents. It is clear that Lake access is very, very

important to the residents. Councilman Saris noted the inevitable change occurring in Bolton, making it difficult to maintain the “mix” that everyone seems to like. The Board felt that the proposal of purchasing NoRoWal was certainly merited in light of the feedback from the surveys. Councilman Saris noted that the State considers Lake George a great resource for the entire region, and if the Town starts losing public access to the Lake, the State may be less likely to putting resources back into the area.

Supervisor Gabriels stated that the feasibility study presupposes a joint cooperation with NYS, who has a key interest in maintaining use of the island facilities. He noted that Mr. Lamb’s property has been on the market for 1½ years, and he has received several offers. Since the Town announced an interest in the property, at least 2 private developers have offered to make arrangements with the Town to maintain the marina facility if improvements were made to it, an offer that makes Supervisor Gabriels hesitant. He feels that such an arrangement would not adequately service the amount of people using the facility currently.

Regarding taxes, Supervisor Gabriels referred to one of the scenarios in the feasibility analysis, which proposes that there would be revenues generated after taxes, offsetting about \$105,000. Supervisor Gabriels stated that if this pans out, and the State is able to provide the amount being sought by the Town, there should be a marginal impact on local taxes. Because it would be municipally owned, the property would come off the assessment rolls. It currently is assessed at slightly under \$2M, which translates to less than \$20,000 of town, county and school taxes.

From the public:

- Tony Hall asked if Mr. Lamb gave the Town a deadline for an answer. Supervisor Gabriels responded that Mr. Lamb understands the Town is working with the State, which will take time. The Town will encourage the State to respond by the end of the fiscal year (which is March).
- Walter Law commented that the State is run by Republicans, although this did not seem like a Republican idea. He asked the Board who they contacted at the State level. Supervisor Gabriels indicated that they sent a packet to Governor Pataki, Secretary of State Daniels, DEC Commissioner Erin Crotty, as well as the Director of Costal Resources (who has helped with numerous projects throughout the basin) and DEC Region 5 Administrator Stu Buchanan in Raybrook, who is responsible for the operation of state islands, and will be taking a tour of NoRoWal.
- A citizen commented that the proposal seems slanted. He asked the Board if a purchaser of the property guaranteed they would keep it as an operating marina, why would the Town need to get involved. Supervisor Gabriels responded that agreements with the private sector are subject to change. Councilman White believes the numbers would not work at \$6.5 under this scenario.
- Meredith McComb indicated that \$6.5 was way out of line with other marinas for sale on the web. She encouraged the Board to consider the numbers of what could be developed there, as far as size vs available land, suggesting the Town get the Land Conservancy involved as a possibility to lower the cost. If town buys the property and finds it to be a financial burden, they could put deed restrictions on it for keeping it a marina. She referred to an article in the LG

Mirror re: the suggestion of adding a boat washing station at the site if it were to remain a marina, which she supports. It was noted that Mr. Lamb had appraisal done, which came to \$4.5M. Supervisor Gabriels indicated the Town would be looking into other scenarios as part of the next phase, including partnering with a land conservancy. M. McComb later raised the concern about whether the municipal sewer system could handle the volume associated with the property if it were developed into year round homes.

- A citizen wondered if the owner had been approached about holding terms on property. Supervisor Gabriels stated that he heard that Mr. Lamb rejected an offer because he didn't want terms. Ms Nagle added that the feasibility study only looked at the one scenario of a Town/State partnership, noting that Mr. Lamb wants to retire.

- Mr. Behan (?) pointed out that NoRoWal will likely go off the tax rolls, as did both Rogers and Veterans Parks, which is substantial. Currently there is only one dock in use at Veterans that only accommodates 4 short boats. He noted that government in general is notorious for not running things efficiently, and he referred to the suggestion of moving the State Police barracks and other municipal type buildings over to this prime lakefront property. He feels the whole matter needs to be thought out from all sides, and he hopes there would be a public vote. Supervisor Gabriels responded that he believes the Town shouldn't get involved with the sales operations aspect, but rather should lease out the repair portion of the business. The question at hand is how strongly should the Town look at preserving this access to the Lake, and is an appropriate development for the Town.

- Ken Parker thanked the Board for bringing the idea to the public, adding that he initially felt the idea was unrealistic, but historically may prove to be beneficial.

- Barbara Lyons asked if some of the parking spots at the site are currently leased out. Councilman Andersen believes that approximately 35% of the upper parking lot goes with the cabins. It is Mrs. Lyons' understand that there are neighboring properties who lease approximately 100 parking spaces from the marina. Councilman Andersen could not say for sure, but the map he was shown indicated about 65% of the upper lot goes with marina.

- Greg Bonath noted that the State has the ability to access the islands other than through NoRoWal, and probably have the ability to buy NoRoWal on their own. Mr. Bonath feels the Town is basically looking at 3 months' income from the purchase of this property, since Rogers & Veterans Parks handle the winter operations as far as snowmobilers, ice fishers, etc. He does not feel that it is the Town's problem to fill the State islands. If the property is developed privately, it would likely provide more year round income with hardly any burden to the Town. Mr. Bonath would not like to see Bolton become a mini-Lake George Village with congestion.

- Linda Bennett encouraged everyone to look at the big picture, in that the Town needs business in general, but not more residents on a 2-day per week or month frequency. If the Town expects to attract people, they must have access to the Lake. She feels the marina needs to stay open in some capacity.

Supervisor Gabriels noted that this was a basic discussion to hear the pros and cons of the project, adding that there will be additional meetings on the project as long as it remains viable. Both Supervisor Gabriels and Ms Nagle thanked the public for the input. Supervisor Gabriels encouraged the local media to keep information flowing on this significant opportunity for the Town.

Supervisor Gabriels closed the informational meeting.

REGULAR MEETING

Supervisor Gabriels called the regular meeting to order at 7:49 pm.

Pledge of Allegiance - Councilman Saris

Announcements:

- ❑ The Bolton Rec Center was thanked for decorating the Town Hall
- ❑ Schoder River Associates has presented plans for repairing the C&D ramp at the transfer station
- ❑ The Warren-Washington County Homeless Youth Coalition will hold a scavenger hunt in Bolton on Saturday, January 8, 2005
- ❑ Meal site menu available
- ❑ There are now 2 Town of Bolton website addresses: [.town.bolton.ny.us](http://town.bolton.ny.us) and [.townofboltonlanding.com](http://townofboltonlanding.com)

Public in attendance:

- ❑ Robert Weisenfeld asked if the required stormwater maintenance engineering report was submitted on behalf of Bell Point Shores. Counsel responded that Tom Jarrett of Jarrett-Martin Engineers had contacted him to tell him that HOA president Mr. Damiani indicated that work had been done, although Mr. Jarrett was not certain exactly what was done. Mr. Jarrett intends on making a site visit and following up with a written report within a week or so.

Correspondence:

- ❑ Favorable letter from the Michaels Group on the prospective NoRoWal acquisition
- ❑ Letter from McComb outlining the concerns she raised during the information meeting re: NoRoWal
- ❑ Letter from Mr. Stafford of DOS re: NoRoWal, suggesting the Town revise its zoning there to create a recreational overlay
- ❑ Letter from Judy Sammis in recognition of Town Mechanic Mitch Monroe who, on his own time, repaired bikes donated for international students to use. She also thanked Tim Coon and the Highway Dept and Supervisor Gabriels in their efforts
- ❑ An agreement between the Town and the Farbanices of Bluebird Cottages Subdivision re: tapping into the Town's waterline with a 4" line
- ❑ Letter from DEC re: a 5-year extension of the mining permit for the Town sandpit

- Letter from Edwards, Williams, McManus & Ricciardelli offering their auditing services to the Town
- Letter from Time Warner re: changes to basic cable, including a raise in price
- Letter from FEMA and SEMA indicated that they extended the declaration of emergency date back to include the August 16 storm that came through Bolton causing \$190,019.58 in damages, with 87.5% of being returned to the Town Highway Dept. Supervisor Gabriels thanked Matt Coon for photographing damage to help support this effort for reimbursement.
- Letter from Town Engineer Tom Nace re: ground water flows on Mohican Hill Road at the Donohue property
- APA minor project public notice for a project located on E. Schroon River Road
- Letter from Schoder River Associates re: the C&D ramp at the transfer station
- Notice from the WC Board of Supervisors Chairman that County offices will be closed on both Fridays December 24 and 31, as will the Town Hall
- Letter from Peter French and Gail Street requesting use of the Dula Parking lot on the Sat - Mon, July 2-4, Sat & Sun, August 13 & 14 and Sat & Sun, Sept 3 & 4 for the Arts & Crafts Show
- Letter of resignation from Animal Control Officer James Gallagher effective 1/1/05
- Letter from Tim Coon requesting use of the highway garage to hold a hunter safety course in January
- Determination from Army Corps of Engineers approving the request of Judith Martialay to work below the existing waterline
- Letter from John Gaddy proposing a strict interpretation of the existing Town zoning laws in consideration of the environment
- Letter from Alex Rhodes of CT Male requesting a meeting with the Board re: the possible extension of the water district to serve Pioneer Village
- Letter from BCS Superintendent Ray Ciccarella thanking the Town for hiring Heather Chenier as school crossing guard
- Letter from John Gaddy re: lighting at the highway garage
- Letter from the Chamber of Commerce requesting \$3,500 of occupancy tax funds for a fishing contest
- Packet of resolutions passed by the Adirondack Association of Towns & Villages
- Request from Lara Mazzeo of the Rec Dept for a new computer with WebCam to conduct live correspondence with scientists in Antarctica
- Correspondence from the Division of Fish Wildlife & Marine Resources
- Correspondence from NYS Legislative Commission on Rural Resources re: land use planning and regulation

Reports:

Councilman White:

ASSESSOR:

- Mr. Rosebrook reports that they now have the new computer successfully networked with the old. Zoning violations are now passed onto the Assessor's office. There has been no action on the Rainbow Beach. After reading the feasibility study on the NoRoWal acquisition, Mr. Rosebrook agrees that it is in the Town's best interest to preserve a marina with a launching

facility and ample parking. He feels that removing the property from the tax rolls would have a negligible effect on future tax rates, given that the taxable assessment base is over \$1 billion. However, he feels that the Town would be best served by the facility continuing as a marina operation run under a qualified operator from the private sector.

WATER DEPT:

□ Water made: 6,042,377 gals. Pond level is over the spillway. DOT has finished the job across from the cemetery in the Huddle. The Dept did pressure tests and took biological samples at Bluebird Cottages Subdivision, as well as did routine maintenance and assisted the Sewer Dept.

JUSTICE COURT:

□ A/R: Judge Demarest - \$2,095. Stewart - \$3,575. Total: \$5,670.

POLICE DEPT:

□ Hours officers worked: White - 107.5, Howse - 58, Schroeder - 57. Miles patrolled: 1,337. Fuel used: 107.1 gallons. Officers had 5 assists to other agencies, 2 security alarms, 1 traffic summon, 2 parking tickets, 1 auto accident, 1 domestic complaint, 4 court securities, 2 medical assists, 2 fire dept assists, and 6 misc complaints. Police schedule is available at Town Clerk's office.

Councilman Saris:

SEWER DEPT:

□ The Plant took in 4,156,390 gals of wastewater, for a daily average of 138,546 gals. The Dept is still doing nitrate and ammonia testing for DEC. Grease in the line continues to be a large problem, as the Town removed over 8 garbage cans of grease this month. The Dept assisted the water dept with flushing hydrants, and worked on getting the Plant ready for winter. 120,000 of liquid sludge was hauled away.

INSURANCE:

□ The Town received quotes and met with members from the following three insurance companies: Cool, Community, and Sterling Marshall re: the Town's insurance policies.

Councilman Andersen:

PLANNING OFFICE:

□ Permits applied for: 17 certificates of compliance / 3 wastewater disposal systems / 3 variances / 5 site plan reviews / 3 subdivision / 5 stormwater permits. 50 miles traveled. A/R: \$1,547.15.

□ Code Enforcement Officer M. Nittmann has been very busy setting up her office and addressing some outstanding issues. The ongoing failed septic system at the Jensen residence has finally been resolved. M. Nittmann has issued 3 letters of violation, with 5 others pending.

BUILDINGS & GROUNDS DEPT:

□ Dept is getting ready for winter. The Dept was thanked for assisting the Bolton Business Association for decorating Main Street.

RECREATION DEPT:

□ The Rec Dept and Center remain very active. Annual Fun Spot program has been extended to include K - 12 grades. Registration for the Gore Mt Ski Program ends Dec 8. The Dept is looking into a day camp program for next summer.

Councilman MacEwan:

TRANSFER STATION:

□ A/R: \$4,779. Lisa French continues to inquire about repair of the C&D bin, for which preliminary drawings have been submitted. Mrs. French noted that there was a large amount of old furniture deposited at the transfer station after hours, a situation that is under investigation. The Parks Dept was thanked for putting up the stockade fence.

Supervisor Gabriels

SUPERVISOR:

□ Total receipts: \$329,697.81. Total disbursements: \$449,486.41. The County still has not made a decision on allocating the remaining 1% of the 4% occupancy tax

Unfinished Business:

Supervisor Gabriels asked the Board if they wished to move forward on the next phase of the study for the Town/State purchase of NoRoWal Marina, which involves aspects such as funding & strategy, management & marketing, a 3-yr business plan, and public relations. ELAN proposes a lump sum fee of up to \$27,500 to complete these phases of the study, in addition to standard reimbursement expenses associated with site visits by Paradigm Consulting. It is expected that all work would be completed within 1 month upon receipt of a signed contract.

RESOLUTION #268

Councilman Andersen moved, seconded by Councilman Saris, to contract with ELAN to move forward with the next phase of the study for the prospective Town/State purchase of NoRoWal Marina. All favorable. Motion carried.

Regarding the Jensen failed septic system, Counsel reported that he is in receipt of an engineered report from Tom Hutchins indicating the system is now in compliance and functioning properly.

RESOLUTION #269

Councilman White moved, seconded by Councilman MacEwan, to allow Counsel to withdraw and dismiss the prosecution of the Jensens, as they are now in full compliance. All favorable. Motion carried

When the Board made a motion last month re: drive-by water meter readers, they did not

address the matter of existing meters that are being repaired or replaced, and whether they should be upgraded to the new type. The matter was tabled.

Regarding the Article 7 tax certiorari case with Rainbow Beach Association, Counsel will set up a meeting of all interested parties. Regarding other tax certiorari cases, Counsel indicated he was proceeding with the next appropriate steps, noting that one of the grievors (Mr. Peebles) was basing his grievance on an appraisal from 2000.

Regarding the ground water problem at the Donohue property (parcel id #171.19-1-10) on Mohican Hill Road, Mr. Nace has consulted a renowned geoscientist and provided a report, which indicates that the water is traveling through the natural fissures of the rock, leading it to the Donohue property. The report, which indicates that several holes will have to be dug to verify the cause, has been passed along to the Donohue's attorney, Gary Bowich. Supervisor Gabriels feels the responsible party might as well dig the ditch if holes have to be dug. The issue of whether the flow is coming from the Sewer Plant remains outstanding. Counsel has not yet received a response from Mr. Bowich, whom he contacted last week.

Town Bookkeeper Donna Boggs requested that dollar amount for labor costs as listed in the July Town Board Resolution #168 be corrected from \$479.79 to \$239.85.

RESOLUTION #270

Councilman Saris moved, seconded by Councilman Andersen, to change the dollar amount for labor costs in the July Town Board Resolution #168 from \$479.79 to \$239.85. All favorable. Motion carried.

The matter of coming up with a more precise definition of "retirees" re: Town employees, for the purpose of continuing health insurance, was tabled.

RESOLUTION #271

Councilman Saris moved, seconded by Councilman Andersen, to adjourn as Town Board and convene as Board of Health. All favorable. Motion carried.

Supervisor Gabriels noted that the Town received a septic variance request from Glenn Conrad, adding that neighboring landowners were not noticed because there were no setback issues from property lines. Counsel believes this was incorrect procedure and advised in the future, regardless of whether such a request involves property lines, proper notification be made. The plan was designed by Engineer Tom Hutchins and reviewed by Town Engineer Tom Nace. The plan includes the relocation of the leach field a considerable distance further away from Trout Lake.

RESOLUTION #272

Councilman Andersen moved, seconded by Councilman Jason Saris, to grant the septic variance requested by Glenn Conrad (tax map #185.19-1-20), involving a deficient vertical separation distance of 3', where 5' is required. All favorable. Motion carried.

RESOLUTION #273

Councilman Saris moved, seconded by Councilman White, to adjourn as Board of Health and reconvene as Town Board. All favorable. Motion carried.

Supervisor Gabriels referred to a zoning violation referral from Code Enforcement Officer M. Nittmann, for Timothy Butler (tax map #156.00-1-10) involving the illegal placement of a storage shed on the property, for which the ZBA denied a variance (V04-49 on 11/15/2004) and referred the matter to the Town Board for Alternative Remedy including a recommendation for removal of the shed.

Mr. Butler explained that he purchased the property in the mid-1980s. Approximately 6 years ago, he erected a 12' x 12' tool shed not knowing a permit was required. He discounted the claim in one of the letters submitted that anyone was living in the shed, as he used it for lawn equipment. He had a 20-gal holding tank installed about 2 years ago, which was pumped into an approved septic system. Mr. Butler removed the holding tank as soon as he was alerted to the violation, and he subsequently dismantled the shed (although it has not yet been removed from the property). He asked the Board consider these facts when contemplating imposing a civil penalty, as the loss of the shed already cost the Butlers \$3,000. When asked why he installed a holding tank, Mr. Butler stated it was for use when he and his family came up on weekends to maintain the property. Mr. Butler indicated there was a septic system installed and approved by then-zoning administrator Joe Deppe in 1995.

Supervisor Gabriels noted that there was no indication in the tax map file that the septic system ever received a stamp of approval from Mr. Deppe, although there was a permit on file. Mr. Butler indicated that the septic system was inspected and approved by Mr. Deppe. The holding tank was not approved by Mr. Deppe. When asked why he had a holding tank if there was a leachfield on the property, Mr. Butler indicated that this was due to the elevation, as the leachfield was at a higher elevation than the holding tank.

Supervisor Gabriels referred to correspondence from concerned neighbors. When asked, Mr. Butler indicated that he used the storage structure as sleeping quarters 4 to 5 times per summer, and the shed was not there prior to the existing foundation being built. He had always intended on putting up the house for which he got permits, but he has been unable to do so, as he recently put his children through college.

Counsel explained that the situation arose when P. Kenyon discovered the shed contained living quarters (including toilet, beds and kitchen facilities). She contacted Counsel who in turn contacted Mr. Butler that he was in violation of both Bolton and DOH codes. Mr. Butler has since cooperated with the requests of the Planning Office, and appeared before the ZBA. Counsel read from the November 15 ZBA minutes, indicating the predicament posed by each proposed course of action by the Town, such that granting a variance to keep the shed would make it an accessory structure without a principal building, and allowing a single-family dwelling is prohibited by DOH at this time, until the pending water problems in the association are resolved.

Councilman Saris did not understand how Mr. Butler didn't realize the shed needed a permit, especially when it was converted to include living quarters. He felt a civil penalty was in order.

Councilman Andersen added that the structure needed to be removed. Counsel advised that a specific time limit be imposed to help the code enforcement officer determine compliance.

RESOLUTION #274

Councilman White moved, seconded by Councilman MacEwan, to impose a civil penalty of \$1,000 upon Timothy and Claire Butler for the violation charged (building a storage building without a certificate of compliance from the Town of Bolton or a building permit from Warren County, enlarging a septic system, and not applying for the appropriate Area or Use Variance), to be paid within 30 days, and require the Butlers to remove the shed structure from their property (tax parcel id #156.00-1-10) within 30 days (January 7, 2005). All favorable. Motion carried.

Supervisor Gabriels referred to the Lawrence & Elizabeth Smith violation referred to the Town Board by Code Enforcement Officer M. Nittmann. Mr. Smith distributed copies of the plans he submitted to the Planning Office for a permit to demolish and replace a section off the back of his camp. While contemplating the project, and prior to submitting the plans for a permit, Mr. Smith had purchased and placed on his property a 12' x 14' shed to house the building materials for this construction project.

While at the site, Mr. Smith's contractor, Kevin Kershaw, informed Mr. Smith that he needed to apply for a permit for the shed. Not realizing this at the time he placed the shed, Mr. Smith immediately contacted P. Kenyon and M. Nittmann, who informed him that the shed met setbacks and therefore did not require a variance, but did indeed require a permit. Mr. Smith, who fell and broke his back while assembling the shed, has since applied for the proper permits, but was told that he could not move forward until addressing the matter with the Town Board. Mr. Smith intends to keep the shed for storage after the construction project is completed.

Counsel indicated that he did not have any correspondence on the matter, and informed the Board that they did not have to impose the same civil penalty on everybody, but should take each case on its own merits. Councilman Saris felt that this case was slightly different from the previous case, as no setbacks were violated, and he made the following motion.

RESOLUTION #275

Councilman Saris moved, seconded by Councilman Andersen, to impose a civil penalty of \$1,000 upon Lawrence and Elizabeth Smith for the violation charged (building a storage building without a certificate of compliance from the Town of Bolton or a building permit from Warren County), to be paid within 30 days. Conditioned upon payment as mandated, the Smiths' shed would be allowed to remain (tax parcel id #171.19-1-17), as long as they applied for the necessary Certificate of Compliance from the Town of Bolton and secured a building permit from Warren County. All favorable. Motion carried.

Supervisor Gabriels referred to the David Cummings matter referred to the Town Board by M. Nittmann, involving a camp that was constructed without permits. Mr. Cummings indicated that he looked at the Town of Bolton zoning schedule for the LC25 zone, and listed under the column for "permitted uses" was hunting/fishing camp under 500 sq ft. Based on this, Mr. Cummings assumed that his 216 sq ft hunting camp was allowed and did not require a permit. He noted that nowhere on the pages of the zoning schedule did it indicate that there was

a threshold for structures in excess of 100 sq ft requiring permits. He immediately applied for the permits upon learning from friends and neighbors that he was in violation. The structure meets setbacks. It is not completely constructed.

RESOLUTION #276

Councilman Saris moved, seconded by Councilman MacEwan, to impose a civil penalty in the amount of \$1,000 upon David Cummings for the violation charged (building a camp without a certificate of compliance or a building permit from Warren County), to be paid within 30 days. Conditioned upon payment as mandated, Mr. Cummings' camp would be allowed to remain (parcel id # 171.00-1-5), as long as he applied for the necessary Certificate of Compliance from the Town of Bolton and secured building permit from Warren County. All favorable. Motion carried.

Regarding the Martin Smith matter, involving a structure inadvertently placed on Mr. Smith's property by his neighbor, the matter was tabled to allow Mr. Muller time to provide the Board with correspondence suggesting the Town's course of action.

Regarding the Nicoletti matter involving non-compliance with conditions of variance approval, Counsel reported that he has been in contact with Ms Nicoletti's attorney (Brennan), who must decide if they are in agreement with what needs to be done to come into compliance. Counsel noted that the problem is that the Board asked that the applicants basically "do their best" to clean up the property, which is hard to enforce. Supervisor Gabriels noted that the Town received 2 letters from members of the public, one from Ross French who indicating that although peak season over and the situation seems to be a better, he encouraged the Town to deal with the litter issue before next summer. The other letter was from Gail Street requesting the Town Board enforce littering laws in general. Supervisor Gabriels asked Counsel if ZBA Chairman should recuse himself on any future hearings on the matter, as the idea of ethics has been raised because he is related to one of the objecting neighbors. Counsel suggested Mr. Smith recuse himself.

New Business:

Counsel acknowledged that although submitted very late in the process, the APA provided very good comments on the proposed amendments to the zoning ordinance. Counsel suggested the Town allow him to revise the amendments to incorporate the APA's suggestions, after which time a new public hearing would likely have to be held.

From the public David Curran asked for clarification on the Board's decision in granting the Conrad variance request earlier in the evening, as he had concerns over public health and safety. Supervisor Gabriels explained that the Town ordinance requires 5' minimum separation distance between the lowest portion of the leachfield and high ground water or bedrock. The applicant requested 3', which the Board granted. Mr. Curran thanked the Board for the clarification.

RESOLUTION #277

Councilman MacEwan moved, seconded by Councilman Saris, to close the public hearing on the proposed zoning amendments. All favorable. Motion carried.

Supervisor Gabriels noted that the Town's insurance policy expires today, and the Board needs to select a provider. The Board solicited 3 premium quotes from Cool (\$64,550), Community (\$70,577.46) and Sterling Marshall (\$66,668.93) insurance agencies. The Town has maintained a good and long time relationship with Community Insurance, and does not generally have extensive claims.

Councilman White noted that when dealing with municipalities or large companies, it is often difficult to keep track of inventory, which Community Insurance has done a great job in keeping track of. Furthermore, changing companies involves a re-inventory, and that company may disagree with values Community Insurance has placed on inventory.

RESOLUTION #278

Councilman Saris moved, seconded by Councilman White, to continue the Town's insurance policy with Community Insurance Agency in the amount of \$70,577.46. All favorable. Motion carried.

The Board discussed the option of accepting or rejecting terrorism insurance pursuant to the insurance laws.

RESOLUTION #279

Councilman MacEwan moved, seconded by Councilman Andersen, to reject the option for terrorism insurance pursuant to the insurance laws. All favorable. Motion carried.

RESOLUTION #280

Councilman Andersen moved, seconded by Councilman Saris, to accept the proposal to enter into a "consent to settle" for insurance claims. All favorable. Motion carried.

Regarding the requests of several Highway Dept employees requesting to be paid for accrued vacation time, the Board discussed adopting a policy on using or being paid for vacation time. There was concern about accruing too much time, which presents scheduling and manpower issues for the following year, if carried over. Town Clerk Simmes felt the policy should be consistent Town wide, as non-union employees must use their vacation time or lose it. The Board indicated they would look into the matter.

RESOLUTION #281

Councilman Saris moved, seconded by Councilman MacEwan, to grant the requests of the following highway personnel to be paid for unused vacation time as follows: George Moffitt - 2 weeks, Matt Coon - 2 weeks, Bob Dunsmore - 50 hours, and James LaFoy - 40 hours. All favorable. Motion carried.

RESOLUTION #282

Councilman White moved, seconded by Councilman Saris, to authorize Supervisor Gabriels to sign a contract between the Town and Convenient Medical Care for drug testing (at a rate of

\$53/employee) and alcohol testing (at a rate of \$21/employee) for January 1, 2005 through December 31, 2005. All favorable. Motion carried.

RESOLUTION #283

Councilman moved Saris, seconded by Councilman Andersen, to re-appoint Andrew Roden to Board of Assessment review for a 5-year term retroactive to October 1, 2004. All favorable. Motion carried.

RESOLUTION #284

Supervisor Gabriels moved, seconded by Councilman Saris, to appoint Susan C. Wilson to the Bolton Planning Board to replace M. Nittmann. Term expires 12/31/04. All favorable. Motion carried.

RESOLUTION #285

Councilman Saris moved, seconded by Councilman MacEwan, to accept the resignation of James Gallagher as Animal Control Officer/ Dog Control Officer and advertise this position. All favorable. Motion carried.

The animal control officer position will be advertised, with applications being accepted through December 20, 2004.

The Board will discuss the prospect of extending the water district to include Pioneer Village at its end of the year meeting on December 28, 2004 at 9 am.

RESOLUTION #286

Councilman Saris moved, seconded by Councilman Andersen, to approve the Chamber of Commerce's request for \$3,500 of occupancy tax funds for the Town's first ever ice fishing contest on Saturday, February 5, 2005. All favorable. Motion carried.

The Board selected the following people to serve on the Bolton Occupancy Tax Committee Ted Goutos, Dave Forshay, Willie Bea McDonald, Bonnie Donnelly, Gina Lindyberg, Phil Farbaniec, Julie Denison and Kate VanDyke.

Supervisor Gabriels announced the following 5 people to serve on the Local Development Corporation in conjunction with the NoRoWal feasibility analysis/project: Supervisor Gabriels, Councilman Saris, Richard Bartlett, Ronald Alcan, and J. Buckley Bryan.

The Board will look into designs for a salt storage shed with funds (not required to be paid back to general fund) from FEMA/SEMA from the storm damage on August 16, 2004.

RESOLUTION #287

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

GENERAL FUND:

FROM	TO	Amount
10104 Town Board Cont.	12202 Supervisors Equip	\$ 190.00

10104 Town Board Cont.	12204 Supervisors Cont.	250.00
10104 Town Board Cont.	13304 Tax Collection	240.00
19904 Contingency	19504 Water/Sewer Charges	1,110.00
13554 Assessor Cont.	13552 Assessor Equip	75.00
	14204 Attorney	3,048.00
13554 Assessor Cont.	16504 Central Comm.	155.00
13554 Assessor Cont.	31204 Police Cont.	210.00
33101 Crossing Guard	33104 Crossing Guard Cont.	30.00
51322 Garage Equip 1700.00	51324 Garage Cont.	1,700.00
19904 Contingency 5300.00	51324 Garage Cont.	5,300.00
16204 Bldgs & Grounds	71104 Parks Cont.	1,250.00
75504 Celebrations	75104 Historian	55.00
81604 Landfill Cont	81602 Landfill Equip	75.00
80204 Planning, Cont.	80104 Zoning Cont.	1,000.00
80201 Planning Personal	90108 Retirement	10,150.00
80101 Zoning Personal	90608 Health Insurance	2,921.00
HIGHWAY FUND:		
51421 Snow Removal Personal	51204 Bridges	16,250.00
51421 Snow Removal Personal	90108 Retirement	5,260.00
51421 Snow Removal Personal 6,250.00	51302 Machinery Equipment	
51424 Snow Removal Cont. 15,000.00	51304 Machinery, Cont.	
90308 Social Security	90608 health Insurance	27.41

All favorable. Motion carried.

The Board scheduled its end of the year meeting on Tuesday, December 28, 2004 at 10 am.

The Board set the organizational meeting for January 4, 2005 at 6:30 pm, with the regular meeting beginning at 7:00 pm.

Public in attendance:

- Bob Weisenfeld requested a copy of the stormwater maintenance engineering report for Bell Point Shores when it becomes available.
- Karen Willard suggested the Town look at the situation of the Highway Dept employees requesting to be paid for unused vacation time. She believes that under the current system they are being paid double for those weeks, as employees are paid for 52 weeks a year, so the budget would have to be adjusted. She noted that accrued vacations don't allow this, as they only postpone the debt. She noted that if the contract only allows employees to accrue 240 hours, that would imply that after that amount, the vacation is lost. She asked if the employees are using sick time, etc. She felt the matter could be kept under control by time and accruals on the time sheets.

She further noted that regarding the salt storage shed, she heard a comment that the Highway budget didn't have money to pay for it, however, she believes it is the responsibility of the general fund to put up any buildings. She noted that there are many designs to choose from, and many municipalities have increased their sheds to accommodate both Town and County salt to save money in the long run.

□ Frank Passaro asked for clarification as to the difference between civil penalties and fines. Counsel explained that statutes have limits as to what may be imposed as fines, which are imposed by courts of law. Civil penalties are permitted by Town Law, can be imposed by agencies other than a court of law, and are not limited in the manner that fines would be limited.

RESOLUTION #288

Councilman Saris moved, seconded by Councilman White, to pay the LG Watershed Conference bills in the amount of \$9,048.96. Voucher was submitted on 12/07/04, as approved by K. Millington (DOS), pending availability of funds from NYS, for payment under contract C006305 - LGWC and Plan for the Future. All favorable. Motion carried.

RESOLUTION #289

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

The Board discussed the request from Recording Secretary Melanie Quigan for the Town to purchase a laptop computer to aid her in preparing PB & ZBA meeting minutes. She also requested eliminate the task of transcribing minutes from her regular office duties, as it has become increasingly difficult to transcribe in the busy atmosphere of the Planning Office. The Board felt that the laptop was an effective aid. It was understood that discussions would be held as to how to proceed with minutes preparation outside of the office hours.

RESOLUTION #290

Councilman Andersen moved, seconded by Councilman MacEwan, to proceed with the purchase of a laptop in an amount not to exceed \$1,500. All favorable. Motion carried.

The Board indicated initial support for Tim Coon's request to use the highway garage to hold a hunter safety course.

RESOLUTION #291

Councilman White moved, seconded by Councilman Saris, to grant the request of Peter French and Gail Street to use the Dula parking lot on the Sat - Mon, July 2-4, Sat & Sun, August 13 & 14 and Sat & Sun, Sept 3 & 4 for the Arts & Crafts Show. All favorable. Motion carried.

Councilman Saris moved, seconded by Councilman Andersen, to adjourn at 10:50 pm. All favorable. Motion carried.

Transcribed by:

Respectfully submitted by,

Melanie Quigan
Recording Secretary
12/21/04

Kathleen Simmes
Town Clerk