

STATE OF NEW YORK

COUNTY OF WARREN

TOWN OF BOLTON

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

Absent: None

Pledge of Allegiance – Owen Maranville

PUBLIC HEARING: *None*

REGULAR MEETING: Supervisor Gabriels called the regular meeting to order at 7:05 pm. *Announcements:*

Supervisor Gabriels noted the recent passing of Philip R. Lamb and asked all present to observe a moment of silence as a tribute to the former Town Councilman (1980-1991).

The Bolton Chamber of Commerce will be holding its 2<sup>nd</sup> Ice Fishing Contest on Saturday, February 17, 2007 in Veterans Park.

NYS DOT proposes to replace a culvert on Route 9N 1.6 miles north of the County Route 11 intersection beginning May 1, 2007 and to complete it before Memorial Day 2007, weather permitting – an alternating traffic signal will be in effect for that timeframe.

Meal Site Menu is available in the Town Hall.

There are now 2 Town of Bolton website addresses: [www.town.bolton.ny.us](http://www.town.bolton.ny.us) and [.townofboltonlanding.com](http://.townofboltonlanding.com).

*Presentation:* Conceptual Plans for the Conservation Park Building

Kevin Kershaw, Conservation Park Building Committee Member, said that after several meetings they have come up with a conceptual design consisting of a building with the interior dimension being 40 feet by 80 feet with an attached kitchen roughly 20 feet by 20 feet. They have allotted square footage for the bathrooms and a covered deck (facing the pond) and an open deck (on the south side). On the front of the building will be a foyer, which will have handicap entrances and possibly bathrooms in the basement on the pond side. The project will meet all of the necessary codes, but the Town will need to have an architect to draw the plans.

Supervisor Gabriels asked if the people who have worked on this represent a broad selection of community residents and Kevin Kershaw said yes, it is a cross-reference of different people with different ideas for the project and they had four possibilities and with the input provided, they have all agreed on this proposed plan.

Supervisor Gabriels asked where the proposed parking location is and Kevin Kershaw replied by saying that they propose to eliminate the parking in the front and to locate the parking on the north side in the woods, because they are trying to keep the field free and they propose to start the building from where it is now and going to the north.

Councilman Saris asked if there is a concept for where to go from here. Kevin Kershaw said that if they get the TB's blessing in moving forward, the next step would be to go to an architect who can step in to design the building, come up with a plan for the engineering, etc. Councilman Saris asked if that is something the group would shop for and Kevin Kershaw responded by saying yes. Their plans are to interview at least three architects, get their costs, a design, and then come back to the TB with the submissions before hiring anybody.

Councilman Saris asked if it is accurate that some architects base their fees on a percentage of the construction costs and Kevin Kershaw said yes, some do, but maybe they can hire somebody who could get them to the point where they can put the project out to bid. Councilman Saris asked if all of the structural details would be included and Kevin Kershaw said yes, all fire code and handicap code will have a heavy play in this building.

Councilman Andersen asked if a Lincoln log building or "packaged building" would be feasible and/or help defray the cost. Kevin Kershaw responded by saying that: they have since eliminated the log concept since it would have been more expensive and less efficient than a stick building. Lincoln Logs will give you a design, but they really need an engineer and an architect, which could be one in the same, to locate the building on the site with the elevations within specifications for the project. He knows positively that Lincoln Logs can't do that, because it is beyond their capabilities. With a stick-built building they can make a good building with an Adirondack design that is energy efficient.

Code Enforcement Officer Mitzi Nittmann said the current design would accommodate 213 people (15 square feet per person) as a seated/dining type building. We went through some records today and Carl Schoder's septic design could be expanded to 120 people, but he might be able to make it to 150 people. Kathy Simmes said that the new septic with the expansion is for 150 people. M. Nittmann said that it is possible that they might have to downsize the presented project, because they cannot have a septic system big enough to accommodate 213 people.

Councilman Saris said that he understands there are some things you can't exceed based on building and fire codes, but seeing that this is a Town of Bolton structure, he asked if there is any reason the Town of Bolton can't say that the septic system is a maximum of 150 people so the Town says that maximum capacity is 150 people, even though the building is larger and Counsel said yes, you can say that. Councilman Saris said that the maximum capacity of a Town building is dictated by the Town of Bolton and it doesn't mean the building can't be built larger. Kevin Kershaw said that there is no sense building this small and the intent should be to build this looking into the future for the Town of Bolton to grow into, which is why they came up with a large open design.

Counsel said that the other variable mentioned of outdoor bathroom facilities allows this building to have that mix of multi-purpose use, so you are still not capped at 150 people and shrinking the building, because that is your septic system—you have those other facilities. Supervisor Gabriels said that as a financial officer, shrinking the building would need to be considered because a larger building is going to cost more. Kevin Kershaw said they would not know costs until they have a plan.

Supervisor Gabriels asked if excavating the foundation would be something the group would be looking for Town of Bolton forces to do and Kevin Kershaw said that they are not that far out yet, but it would defray the cost, because somebody will have to do it.

Councilman Maranville asked if the project includes storage and Kevin Kershaw said that they don't have storage on the plan. That would be something they would consult with the architect on. Councilman Maranville asked where the existing kitchen cabinets would be stored during construction and Kevin Kershaw said he does not know. Kathy Simmes suggested they be stored at the Highway Dept. and Supervisor Gabriels said they would talk to Highway Superintendent Tim Coon about it.

M. Nittmann said that it is important to remember that once an architect or engineer comes in with a layout of the building to code, that the proposed dimension of the building may change. Supervisor Gabriels said that this is a conceptual design of certain parameters at this point and asked if Kevin Kershaw is looking for TB approval on the conceptual design. Kevin Kershaw said yes, he would like for the TB to agree that they like the design, which would then enable the group to start interviewing architects. Councilman Maranville asked if the design includes a basement and Kevin Kershaw said yes.

## RESOLUTION #23

Councilman Andersen moved, seconded by Councilman Saris, to give the Conservation Park Building Committee the Town Board's blessing in moving forward with architects and engineers on this project and to have the committee come back with more detail and prices for further project review. All favorable. Motion carried.

Supervisor Gabriels asked if the final decision on an architect/engineer would be a Town Board decision and Counsel said yes. Kevin Kershaw said that they would bring the bids from those they interview to the Town Board for their approval/decision.

Public in Attendance: None

### Correspondence:

Notice that the APA's Local Government Day will be held at Saranac Lake on March 21-22, 2007. The Bolton Book Club had their monthly meeting at the beginning of January 2007 at the Senior Citizen Center and expressed their appreciation on the interior of the Senior Citizen Center. Correspondence between Atty. Walter Law and Supervisor Gabriels regarding a piece of property. Post-Closure Monitoring Package from CT Male Associates, which was done 4<sup>th</sup> Quarter 2006. Notification from Steven Preuss that there is a vacancy on the Recreation Commission, as Russ Ferris has submitted his letter of resignation to Steven Preuss, which will be forwarded to the Town Board.

Notification from Robert Parotta that the MCM Restaurant Corp. intends to renew the Liquor License for the Contessa Restaurant.

Letter from the Schroon Animal Hospital that because of space limitations and the safety of the staff and family, they are no longer able to take in any stray animals from the towns, but they will be able to take stray animals requiring medical attention.

Notification from Atty. John Ray, representing Mayfair Development, regarding the Mayfair Resort Transportation Corporation agreement. Counsel said he has seen it, it is very satisfactory and if it is the pleasure of the Town Board to act on it, they can do so tonight.

Correspondence from Carl Schoder regarding action on the Rogers Park Town Pier and stonewall there.

Correspondence on naming a road "Christian Way."

Letter from Dan Nichols of Blue Water Manor regarding problems. Mr. Nichols sent copies to The Chronicle and the Lake George Mirror.

Copy of The Lake George Eagle for February which had a nice write-up on the developments up at the school, particularly with regard to the development of a 5+ acre parcel of land to be donated by Rolf Ronning for school ball fields.

Notification that the Marketplace Steakhouse is reapplying for their liquor license for the coming year.

Notification that Canoe Island Lodge is reapplying for their liquor license.

Correspondence from Atty. Walter Law on the issue of Jim Pepper and Sally Swetland regarding stormwater running down Cherry Avenue.

Voluminous correspondence from Town Counsel to the NYS Office of the Attorney General on the Dept. of Labor vs. Town of Bolton.  
E-mail from Lori Jordan on making sure the Little League field is in operation for the spring.  
Notification from NYSDEC Division of Lands and Forest indicating they will be over this spring to look at their property on which they have a conservation easement.  
Correspondence from CT Male on the developments that are taking place on the sewer project—replacement of the three pumps at the south station with two larger upgrades within the next 60-90 days.  
Material from National Grid on storm safety, storm damage trees and priorities for power restoration.  
General information from the APA.  
Indication from NYSDEC that a temporary revocable permit issued to the highway on an annual basis.  
Notice from the APA that the 5-year Milfoil Control Program has been granted for 2007 through 2011.  
Public Notice of a minor project – a two-lot subdivision being created for a single-family dwelling on the corner of Wall Street.  
Correspondence from Agnes Nolan – inquiries to TB and Town Counsel.  
Correspondence from Nace Engineering and replies from Alex Rhodes of CT Male representing The Pioneer Village Water District.  
Documentation on negotiations on the water extension to The Pioneer Village Association received from Town Counsel.

*Referrals from Zoning Enforcement Officer / ZBA / BPB:*

Timothy Harrington, 4 Forbidden Forest Lane (156.00-2-28) - extensive tree clearing without a permit—Bolton PB recommendations

Town Counsel said that he has been communicating with Atty. Michael Stafford. He has invited Atty. Stafford to accept the Town's proposal as suggested; Atty. Stafford requested to speak with Code Enforcement Officer M. Nittmann directly on the issues. Counsel agreed and to the best of his knowledge they are making a lot of progress, but he just doesn't have the ability to say they have an agreement at this time.

Code Enforcement Officer M. Nittmann said that Atty. Stafford asked her for a color coordinated map for the remedial areas which are shown as Areas 1-3; Area 1 is a no development zone; Area 2 is the pink section which is an amended part of Area 1; the yellow area, which represents what a building envelope is and the rights Timothy Harrington had for a building envelope at the time of the subdivision—it is not what was built; Area 3 (orange) is the scenic corridor which still stands. She added a fourth zone (black dots), which is basically the area that was disturbed in all of the zones.

Counsel said that he thinks the resolution that is on the table is that there was a no development line that was set historically by the PB and the suggestion there is to let it naturally grow back. The area by the road is the scenic corridor, which requires immediate attention and a planting plan. The thing that stands between those two areas is the area developed, which if Timothy Harrington complies with the code requirements he'd probably be in compliance. M. Nittmann said that she doesn't know how the TB

feels about the individual zones, because there was an amended no development zone. Counsel replied by saying that he and Supervisor Gabriels had a discussion that behind the no development line the area should just be left alone, stop cutting it, so it can grow back. M. Nittmann asked if that refers to the original even though there was an approved amended zone and Counsel said yes.

Councilman Maranville asked if the Bolton PB has given recommendations on this matter and Counsel said, no, not yet. If this is accepted by Mr. Harrington and his attorney, Michael Stafford, attention will be paid to the scenic corridor and it will require that the PB and the applicant agree as to what the planting schedule is, what it consists of, etc. and the PB with the applicant will make that determination. That is the last step. If everything proposed by Atty. Michael Stafford and his client is highly acceptable, then it would be manifested in a written stipulation and presented to the TB for consideration and that would be the final definitive decision for an alternative remedy. The final step would be for the applicant to go before the PB to fix the scenic corridor. There is an aspect of the code that says an applicant is to show what will be spent in restoring the scenic corridor and that may be a meaningful piece of information in terms of the TB's ability to set or not set a civil penalty. It may very well be deferred if Mr. Harrington spends considerable amounts of money to restore trees.

Councilman Maranville asked if National Grid could take trees out and run power poles through this property. Counsel replied by saying that National Grid believes that they can. In the Town of Bolton case regarding Rolf Ronning's property for the Saddlebrook Subdivision, National Grid took the position that all they need is the consent of the county since the county owns the property then a check from the developer once the county consent has been given. Counsel took the position on behalf of the Town of Bolton that it is not so easily understood that National Grid and the county can do that because that scenic corridor still applies wherever anybody wants to put a pole. When that was challenged, the challenge was that municipalities couldn't regulate utilities. That is an old law and it is not entirely true anymore, that is that a municipality can regulate a utility if it is reasonable and not prohibitive. He told Rolf Ronning to go to the PB to see if any relief could be accorded him if the facts were right and the PB decided that the facts in Rolf Ronning's case were right, that his investment would be considerable and that the PB exercised its discretion in saying that the 5-6 poles requested would be fine there. The scenic corridor needs to say that it shall be a requirement unless a variance is obtained and that a variance may be obtained for extraordinary expenses or something like that. Right now the Town of Bolton lost a little segment of what was protected.

Councilman Maranville asked if the tower is something the PB should consider again and Counsel said yes, perhaps they should, but ordinarily he has not personally observed where the PB gets into a crisis that they can't approve a project until they are sure some power will be able to go in, in fact, the PB did approve Rolf Ronning's subdivision only to find out later on that he wasn't getting power. Zoning Administrator P. Kenyon said that she spoke with Mike McCarthy from National Grid and was told that National Grid will not review a subdivision plan if a town's PB does not approve it. Counsel said the question is if the Bolton PB gives consideration to the possibility that somebody is busy subdividing land into lesser lots and there may or may not be any power. The Bolton PB rarely gets into where applicants are going to get the power from. P. Kenyon agreed and said that it was discussed with this subdivision and the applicants said power would be coming from someplace else. The PB does touch on this issue briefly at meetings. Counsel agreed and said that he has not seen it hold any applicants up and P. Kenyon agreed.

Councilman Maranville asked why a utility company could cut down trees in the scenic corridor but Mr. Harrington can't on his own property. Counsel replied by saying that there is a scenic corridor ordinance that basically says that measured from the county right-of-way (on Mr. Harrington's property) he may or may not do the following, so he (Harrington), as a private landowner, is restricted. It is not a perfect fit. It is a priority issue to be addressed by the Town of Bolton. Supervisor Gabriels said that the utility would use the public right-of-way if they wanted to run a line on County Route 11 and Counsel said yes they would, but he did take the position and tried to construe that scenic corridor as tightly as he could regarding poles. It was weak language in the sense that it wasn't mandatory, but more of a wishful and aspiration type of wanting to achieve this without poles. Councilman MacEwan asked if the power could be run without poles and Counsel said yes, that is the alternative, but Rolf Ronning suggested that was too expensive.

Ron Conover, 4222 Lake Shore Drive resident, said he is wondering about the process, because it was indicated that they are putting poles in Warren County's right-of-way that was approved by Warren County. Bolton is a big part of the county and we have a county representative. It wasn't an act of the county legislature. Counsel said he doesn't believe it was. Ron Conover said that what he suspects it is is that possibly someone in the Warren County Highway Dept. made that decision and it is possible that the person who made that decision is totally unaware of the heritage of the scenic corridor. If this is a corridor that has been applauded by environmental groups and has been used as a replica by other communities, it seems to him the TB should at least do a search to find out who made that decision and if it was an informed decision. While the Town of Bolton does not have jurisdiction over a Warren County right-of-way, in terms of inter-municipal cooperation, they normally respect that integral process, so that these poles don't work their way further up.

Supervisor Gabriels said that Ron Conover makes a good point, most of the time there is good inter-governmental co-operations, but whatever department might have granted this approval never contacted him on this question at all. He doesn't know about other conversations, but he doesn't believe they contacted the Bolton Zoning Office. He doesn't know where the authority might have come from, but he will go find out about that. Counsel said that the applicant made the representation. P. Kenyon said that when she contacted Laura Moore of Warren County Planning and Community Development, they told her that the work order had been granted.

Ron Conover said that the scenic corridor as part of Bolton's Zoning would have been sent to the Warren County Planning Office for review. Counsel said that he agrees that Warren County would have had to approve it. He believes he has written an e-mail to all Town Board members, that ideally it would be wonderful to have a contract or an agreement between Warren County and the Town of Bolton that they would work in concert to protect the scenic corridor that would be perfect. Supervisor Gabriels said that he doesn't feel there would need to be a contract to that effect and he is a little concerned the Town of Bolton hasn't gotten that understanding. P. Kenyon said that she didn't know how to deal with the application since it was on county property, so when she did contact the Warren County Planning Office, she was told that they would not be reviewing the application and that they didn't understand why an application was even before the board, so they totally didn't check. Supervisor Gabriels asked if it is accurate that it didn't go to the Warren County Planning Board and P. Kenyon said yes, that is correct. Supervisor Gabriels said there is still a question as to the proper exercise and the proper authority.

Counsel said that it is possible that the representation that the county did not have an objection was an overstatement and he did realize as well as the Bolton PB did, that Rolf Ronning's representation was that he had everything lined up with the public utility and he was ready to write his check and that Mr. Ronning did specifically say that it was with Warren County's work order.

Supervisor Gabriels said that Counsel is still working on the Harrington matter and TB members will review the documentation provided. Councilman Maranville asked if the height and width of the trees that were cut down by Mr. Harrington were recorded, so the replacement would be adequate. M. Nittmann said they are not, but it is 3 acres of trees to be measured, which she will do if Councilman Maranville would like to help her measure them. Councilman Maranville said he would and added that he didn't know if that would be a factor in the proposal of the planting plan. Counsel said that the Bolton PB would do a very good job in discussing what they want to see on the site by visiting the site and determining what they feel will be adequate to fill the site and he (Counsel) is interested in that once they have an agreement this is put in the Warren County Clerk's Office on record for all future owners. Supervisor Gabriels suggested the Town Board members review today's letter to Atty. Stafford dated 02/06/07 for further recommendation.

Councilman Maranville asked about e-mail correspondence submitted from Mr. DiPalma regarding this property and M. Nittmann said yes, it is a supporting deposition. Mr. Harrington claimed that when he was looking to purchase the property it was already clear-cut or had no vegetation that obstructed his view of the lake and he stated that he was maintaining what he thought he purchased. The e-mail is a deposition stating that Pete DiPalma acknowledges the fact that he was with Timothy Harrington at the time he was searching out parcels to buy and when they looked at this parcel there was no impediment of the view of the lake, and regardless of what any needed approvals were or weren't, it only states that Mr. Harrington believes he was maintaining what he thought he bought—a view of the lake.

Board of Health/Water Commissioners: None

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Reports:

It was noted that Town Dept. reports were received, but the only reports read into the record are shown below. \_

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Councilman Maranville

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Office of the Assessor:

In January 2007, the office worked on daily maintenance, outside fieldwork, visiting properties with building permits to determine their degrees of completion of new construction. The Assessor submitted a

spreadsheet of sales (07/01/06 through 01/22/07) used to determine the assessment ratio between the sales ratios and the current assessments. He visited each parcel sold, took a new picture and checked filed inventory with what he saw at the visits; sale comp sheets are prepared and catalogued on a regular basis.

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Police Department:

January 2007 was spent reorganizing and equipping the new personnel, there are two patrol days, both with no reportable activity. Both officers spent considerable time in transition receiving firearms certification, obtaining uniforms, meeting with former officers, etc. The department has resumed patrols. They proposed the following mission statement for the Bolton Police Dept. for TB consideration: "The mission of the Town of Bolton Police Department is to provide an exemplary level of service and protection to the residents and businesses of the town and all those who may visit it, work it, or travel through our community. We value the friendly small town atmosphere of our community and strive to preserve and enhance that lifestyle by placing a high priority on providing community-oriented police service in a fair and professional manner." Counsel said the mission statement is fine and it is policy.

RESOLUTION #24

Councilman Maranhville moved, seconded by Councilman MacEwan, to adopt the Bolton Police Department policy mission statement as follows: "The mission of the Town of Bolton Police Department is to provide an exemplary level of service and protection to the residents and businesses of the town and all those who may visit it, work it, or travel through our community. We value the friendly small town atmosphere of our community and strive to preserve and enhance that lifestyle by placing a high priority on providing community-oriented police service in a fair and professional manner." The Town Board will follow with rules and regulations, which will be vastly more detailed. All favorable. Motion carried.

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The Bolton Police Department mission statement will be put on the Town of Bolton websites.

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Justice Department:

A/R for January 2007: Judge Harry Demarest - \$2,762.50. Judge Edward Stewart - \$1,440.00. Total: \$4,202.50. There is an itemized list located in the court breaking down the amounts.

Councilman Saris

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Clerk's Office:

Total Local Shares Remitted: \$7,853.38, Total Non-Local Revenue: \$81.67,

Total State, County and Local Revenues: \$7,935.05

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Sewer Dept.:

The Plant took in 6,350,810 gals of wastewater for a daily average of 204,865 gals. They had to do their samples twice in January because Hudson Environmental had a system failure at their facility and it ruined our initial sample. No violations; all beds are dry except the one in use; 9,000 gals. liquid sludge hauled away. They took samples of dry sludge and are very close to being able to have that hauled away. The dept. has been working on the trickling filter and heater in the Norowal pump station.

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Councilman Andersen

He has no formal reports from the group, but noted that the Recreation Department has a full slate of activities for our community's youth. The Fire Dept. was at Norowal last Thursday evening and while Lake George is frozen there are an awful lot of areas that are traditionally loaded with ice (ex. Northwest Bay) which are extremely thin, so the Fire Dept.'s point is that there is not really any safe area as there is open water in several spots. Please be careful and make sure you know where you are going. Supervisor Gabriels said that the Bolton Fire Dept. did rescue one ice boater and it isn't safe out on Lake George right now.

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Councilman MacEwan

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Water Dept:

Water made: 5,745,337 gals. for a daily average of 185,000 gals. The pond level is still over the spillway. They took some bacterial samples to Queensbury, which came back satisfactory. They helped locate a waterline for the Police barracks. They turned off several water meters for the winter. They had an emergency waterline break on Horicon Avenue. Water Dept. Supervisor John Perry is asking the TB to consider approving uniforms to the Water Dept. employees, because in working with chemicals their clothing is getting ruined.

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Supervisor Gabriels said he believes the I & I (infiltration and inflow) into the sewer system is causing the fractional difference between gallons of sewage and gallons of water and it is a serious problem, but he hopes it is the next step in the sewer improvement project coming up.

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Zoning Dept.:

Permits applied for: 6 certificates of compliance / 1 wastewater disposal permit / 7 variances / 4 site plan reviews / 2 stormwaters / 3 subdivisions.

A/R: \$1,114.79.

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Supervisor Gabriels

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Supervisor's Report:

Total receipts: \$1,926,713.84 and Total Disbursements: \$819,107.77

Warren County is still working on the health and human services building to replace one that was built in the 1930s – the estimated cost is around \$30 million with an alternative of having a private developer potentially build and lease back to the county as a imperative cost benefit analysis situation. There is ongoing discussion of the possibility and viability of raising the sales tax 1%, which would bring in an estimated \$13 million, which certain people think would go directly towards reducing property taxes throughout the county.

Unfinished Business:

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Decide on Consent Order Verizon vs. Town of Bolton Regarding Assessment

Counsel said they are making progress and they are still negotiating an agreeable midpoint equalization rate—part of the mix is that they are attempting to create a settlement that would not involve a school tax refund, which would be advantageous.

Continuation of Public Hearing from October 3, 2006 on Zoning Code 200-46(10) - Cut & Fill Language Alternative Amendments - Muller/Stern

This item is still pending. Supervisor Gabriels said that Counsel, and Mr. Stern and Lisa Nagle are planning meetings for clarity purposes. Zoning Administrator P. Kenyon said this item has been on the TB agenda for some time. She has an applicant who is on hold on a project and asked how much longer this process may be. Counsel replied by saying that he will complete it as soon as possible, but what has made it a little difficult is that there has been a theory that didn't belong in the Zoning Code at all. It

should have been in the stormwater regulations. Each time he makes a proposal as to what he thinks would be the fix; another better idea comes from another source. When he got the APA involved in it, they had still another idea; tomorrow, if they all agree, that the language would be that the path to get this approved would still require that it go before to the county so that they find the language acceptable and it would also have to go to the APA, which historically, as a matter of procedure they are entitled to have their say, and historically the Town of Bolton waits for them to say something within 30 or 60 days and when they don't say something, he takes the position and advises the Town of Bolton that Warren County and the APA had their chance, but didn't give the Town of Bolton any input. If tomorrow they can agree on the language, it will still be March or April before any changes. He did invite the attorney for the applicant P. Kenyon referenced for his input as to what would fit and the specific case P. Kenyon is talking about is a case where the applicant wants to rebuild on the exact same footprint, but the twist is that he wants to build downward for expansion.

Pioneer Village Improvement Association - Water District Extension - Discussions Ongoing - Not Finalized - Postponed

This item is pending. Supervisor Gabriels acknowledged that he received an email from Atty. Bob McNally with the ongoing negotiation documents for the first time yesterday, which he will copy and distribute to Town Board members for review.

P. Kenyon said that she has an applicant who has submitted an application for a house in Pioneer Village, which includes the stormwater plan and septic plan and the applicant called her and asked her about the well. She is assuming that since Pioneer Village is not in the district yet, that the applicant is entitled to a well on that property. Counsel said that would be a correct assumption, because Pioneer Village is not in the Water District yet and there can certainly not be any prohibition to create a well outside the Water District. Supervisor Gabriels said that P. Kenyon can reprise the applicant that the Town of Bolton has not finished negotiating what may happen in the future regarding mandatory links or tie-ins to the system.

Resolution to Close Highway Garage Capital Project Account (Approximately \$106,000) and Transfer Funds to Highway Fund Account as per Budget

RESOLUTION #25

Councilman Saris moved, seconded by Councilman Maranville, to close the Highway Garage Capital Project Account and transfer funds in the amount of approximately \$106,000 to the Highway Fund Account as per the budget. All favorable. Motion carried.

Pending Items: No action on pending items, however, the following discussions ensued.

Supervisor Gabriels asked about the Rogers Park restrictive easement on the covenant. He believes it will have to go before a Supreme Court Justice at some time and Counsel responded by saying that it is in preparation. He is searching out all of those logical names that could be named as defendants. It has to be served by publication. Supervisor Gabriels said that additional information on the issue of "disturbance" submitted to the TB, but until it changes in the code the Town of Bolton will go by the ZBA's decision.

*New Business:*

RESOLUTION #26

Councilman Maranville moved, seconded by Councilman MacEwan, to approve the CSEA Union Contract as ratified by the Union on 01/25/07 for a three-year period from 01/01/07 to 12/31/09. All favorable. Motion carried.

RESOLUTION #27

Councilman Saris moved, seconded by Councilman Andersen, to allow the Supervisor to execute on behalf of the municipality, the Mayfair Resort Public Transportation Corporation agreement which will be submitted to the NYS Dept. Secretary of State. All favorable. Motion carried.

Select Pam Kenyon as Voting Delegate for NYS Association of Towns Annual Meeting in NYC in Mid-February

RESOLUTION #28

Councilman MacEwan moved seconded by Councilman Maranville, to select Pam Kenyon as voting delegate at the NYS Association of Towns Annual meeting to be held in New York City in mid-February. All favorable. Motion carried.

RESOLUTION #29

Councilman Maranville moved, seconded by Councilman MacEwan, to approve the contract between the Town of Bolton and the Glens Falls Animal Hospital for boarding and disposal of stray dogs at \$12.00 per day for five (5) days retroactive to January 9, 2007 All favorable. Motion carried.

#### RESOLUTION #30

Councilman Saris moved, seconded by Councilman Maranville, to authorize the naming of a private road which is off the east side of East Schroon River Road, 0.1 mile north of County Route 11 and runs north northeast on Skye Farm Property as "Christian Way". All favorable. Motion carried.

#### RESOLUTION #31

Councilman MacEwan moved, seconded by Councilman Andersen, to authorize Town Counsel to defend the Town with regards to the Department of Labor vs. the Highway Department at his normal rate of \$175.00 per hour. All favorable. Motion carried.

#### RESOLUTION #32

Councilman Andersen moved, seconded by Councilman Saris, to authorize the return of \$130.00 to Mr. and Mrs. Zager (TMN 186.19-1-25) for two variance applications that were filed, but not required based on Zoning Administrator Pam Kenyon's letter. All favorable. Motion carried.

#### RESOLUTION #33

Councilman MacEwan moved, seconded by Councilman Maranville, to approve moving part time employee Al Dague as a Sanitary Landfill Laborer to a full time position for 40 hours per week at an hourly wage of \$10.45. All favorable. Motion carried.

Councilman Maranville said that Al Dague has exceptional service capabilities at the Transfer Station and it was the first time anyone ever offered to help the Councilman remove garbage from his truck and put it into the compactor, which he really appreciated.

Supervisor Gabriels said that Henry Nittmann may be delegated to work on highway matters or any other matters that come before the Town of Bolton and the probationary period is 90 days after which Tim Coon and TB members will discuss Mr. Nittmann's future position with the Town of Bolton.

#### RESOLUTION #34

Councilman Maranville moved, seconded by Councilman MacEwan, to approve hiring Henry A. Nittmann as a probationary laborer for the Town of Bolton to work under the direct supervision of Bolton Highway Superintendent Tim Coon. A signed employment agreement is on file. All favorable. Motion carried.

Supervisor Gabriels said that he has been told there are some letters of interest to fill the vacant Recreation Commission position and asked if the TB members would like to advertise for additional applicants. Councilman Andersen said that he hasn't seen anything, but as practice, advertising is done for PB and ZBA vacancies and it should be done here as well. The TB members agreed to advertise the vacant Recreation Committee position in the Adirondack Journal and on the Town of Bolton websites.

Supervisor Gabriels said that it was brought to his attention that there were some beaver traps on the Conservation Park property and the beaver dam is an earthen dam with a beaver dam right in the middle of the spillway. Councilman Maranville asked if the trappers had permission to trap on that property and Supervisor Gabriels said that it is not posted. Councilman Maranville asked if trapping is allowed on municipal property even if it is not posted and Counsel said yes. If it is on property that is not posted. Councilman Maranville said that for safety reasons (children, dogs, etc.) he would like no trapping to be allowed in that location. Councilman Saris said that he doesn't have a problem with fishing up there, but no trapping or hunting would be a real consideration He doesn't know how appropriate that location is for those activities.

#### RESOLUTION #35

Councilman Maranville moved, seconded by Councilman Saris, to set a policy that "No Hunting or Trapping be allowed at all Town of Bolton parks and recreation areas, with signage to that effect to be posted on the Conservation Park property. All favorable. Motion carried.

Supervisor Gabriels said that the electric and insulation is in on the new attendants structure at Veterans Park, but \$5,000 needs to be transferred to complete the project.

#### RESOLUTION#36

Councilman Andersen moved, seconded by Councilman Maranville, to transfer \$5,000.00 from #1990.4 to #5650.2 to complete the Veterans Park attendant structure project. All favorable. Motion carried.

Supervisor has asked Donna Farrar, of Whitemore, Downen & Ricciardelli, for a Proposal for Accounting of the Sagamore Hotel's Financial Records for Compliance with Contract of October 5, 1982 and Refinancing Contract of December 5, 1989

Supervisor Gabriels said the TB members should have a proposal before them for the next meeting and because it is an accounting question, the work would not begin before April 15<sup>th</sup>.

Comments of Public in Attendance:

Barry Kincaid, representing the Lake George Property Owners Group, said, he would like to thank the Bolton PB and ZBA for the time they put in on the workshop a couple of weeks ago to resolve the issue of "disturbance" and another issue at the workshop was double work being done in the Zoning Administrator's Office. The PB and ZBA had both recommended that Zoning Administrator Pam Kenyon be put in charge of that office to stop the chaos going on there. He would like to know the TB's position on that and what the status is to resolve that conflict.

Supervisor Gabriels said that to resolve some of that conflict and other matters pending in that office, the TB had an executive session just prior to this meeting to go over a draft analysis prepared for them by ELAN Planning & Design and during the conversation there were some elements that needed to be enhanced, tweaked and revised. The TB tentatively scheduled an opportunity to have ELAN prepare a revised second draft for confidential review by the TB with Counsel in attendance. They will be meeting on this matter on Tuesday, March 6, 2007 at 5:00 pm.

Barry Kincaid asked if the ELAN analysis would be released for public comment before it is acted on. Counsel replied by saying that: he took the position that this is not a matter subject to public hearing, but it is policy. A policy being established with respect to an employer/employee relationship. Although the TB may exercise its discretion and accept comments from the public, frankly, it is not something that requires prior disclosure. That which constitutes policy will be tracked, meaning that it will be collaborately boosted and supported by the structure of the new Zoning Code.

Supervisor Gabriels said that one of the more complete aspects is going to be what he hopes is a more detailed job description for at least two individuals in the Zoning Office. He is not sure if ELAN has gotten to where Kate Person's job descriptions are going to fit in, but it needs to be done and will be a key component in terms of this development they are undertaking.

Barry Kincaid said that he was asking for the paperwork so he could let the Property Owners Group know what was happening in the matter. He knows at those committee meetings that he cannot comment.

Counsel said that of those sections that are written, he thinks there are three missing from the actual proposal and of the seven or eight sections that do exist, are in very raw form and anyone can FOIL a draft ordinance, but they don't have a draft ordinance now. What they have here is a combination of the committee's version of what Lisa Nagle would like to see and her recommendations, which would be quite misleading to anyone who reads it. It is not so much a draft as much as it is organized raw data. Right now a FOIL would not be honored, because at this point it is Lisa Nagle's advice, recommendations and opinions. There will come a time when it clearly constitutes a draft and as soon as that happens, which would be even before a public hearing, anyone would be entitled to it through a FOIL. Barry Kincaid said that this matter is a major interest right now.

Pam Kenyon asked when she and Mitzi Nittmann would be able to review the analysis by ELAN regarding the Zoning Office positions, because it is affecting the office. Supervisor Gabriels answered by saying that the TB is going to review it first and come to some understanding and all agree that what the TB members think ought to be in there is in there by March 6, 2007, if it is agreed to be an acceptable document to all five TB members and to Counsel's approval of the legality of the document.

Dennis Murphy said he sent an e-mail to Supervisor Gabriels regarding a question he had on a complaint he called in back in November 2006 to the Zoning Office that was never acted upon and asked him if he received it. Supervisor Gabriels said that Pam Kenyon gave him the documentation on it and he did read it, but he cannot recall the answer. Pam Kenyon said that she gave the documentation to the TB members. She visited the site on the next day on another matter, and she did give Code Enforcement Officer Mitzi Nittmann a note to go look at this, which she believes Mitzi did. Mitzi Nittmann said she did visit the site.

Dennis Murphy said that he asked because on the 13<sup>th</sup>, it was a Monday morning at 8:30 am, he was told by Pam Kenyon that Mitzi Nittmann wasn't in, but that it would be taken care of and inspected. His complaint is that a track hoe ran along Trout Lake for about 150 feet tearing it up and there was a lot of rain that weekend. He wants to know why it has taken 2 ½ months and no action has been taken yet. On the weekends people have been at that house doing work, there is a new septic system 25 feet off of Trout Lake. He thinks that there is an extensive amount of building being done in Three Oaks Colony illegally that should be addressed. Supervisor Gabriels asked if Mr. Murphy knows the owner's name or the 911 address and he said that he believes the owner's name is Clark. Supervisor Gabriels asked if Mitzi Nittmann is paying attention and Mitzi Nittmann said yes, she is paying attention and that she sent Dennis **Murphy** an e-mail saying that the first time she was aware of this complaint was when he came in to see her. Dennis Murphy said that is correct, but he called it in specifically on November 13, 2006. He took pictures of the area on November 11, 2006, and there was no silt fence put up so everything was washing into Trout Lake.

Supervisor Gabriels said that one of the aspects under intensive discussion on revising the Zoning Ordinance is to establish a formal mechanism and documents so these complaints, which Dennis Murphy has indicated, are filed and the Town of Bolton doesn't lose track of development. He can't go back to November 2006, but Mitzi Nittmann is going up there this week; and he doesn't know what the Town of Bolton does about alleged septic systems, snow covers, etc.

Dennis Murphy feels the matter is very important and can't believe no action has been taken in the 2-½ months since he made the complaint. Supervisor Gabriels said that everybody knows that the water flows down hill and Trout Lake is a major feeder of that and it is also a part of the Town of Bolton.

Councilman MacEwan asked if there was confusion over the complaint. Pam Kenyon said that she doesn't remember getting the complaint—if she did, she would have passed it on to the APA; she apologizes to Mr. Murphy, but she doesn't recall getting the original complaint. Supervisor Gabriels said that he did get copies of the attached pictures, which he printed out, and he forwarded the e-mail with the attachments to several individuals. Dennis Murphy said that the only reason he is bringing this to the TB's attention is because there was work being done at this location again this past weekend. There were no additional comments of public in attendance on any matters.

Approve Payment of Town Bills

RESOLUTION#37

Councilman Saris moved, seconded by Councilman Maranville, to pay the Town bills. All favorable. Motion carried.

*Executive Session:* None

Councilman Maranville moved, seconded by Councilman Saris to adjourn the regular meeting at 9:05 pm. All favorable. Motion carried.

Minutes transcribed by:

Jennifer Torebka

Recording Secretary

02/11/2007

Respectfully submitted by:

Kathleen Simmes

Town Clerk