

## Town Board- Minutes February 6, 2008

### State of New York

### Warren County

### Town of Bolton

**Present:** Supervisor Kathleen Simmes, Councilmen Owen Maranville, Robert MacEwan, Jason Saris, Councilmember Deanne Rehm, Town Counsel Michael Muller and Town Clerk Patricia Steele.

**Absent:** None

Supervisor Simmes called the meeting to order at 6:30 pm.

**Pledge of Allegiance:** Councilman Jason Saris

Moved to enter into executive session. Councilmember Rehm moved, seconded by Councilman MacEwan. All in Favor. Motion carried.

Moved to adjourn executive session and enter regular meeting. Councilmember Rehm moved, seconded by Councilman MacEwan.

**Regular Meeting:** (Began at 7:05 pm)

Announcements: There is a benefit for the Ralph Brown family on Friday at BCS from 4 to 8 pm.

**Public Hearings:** None

**Public in Attendance:**

- John Bowe 4H Team Leader gave a brief presentation and provided handouts about 4H and what they can do in the community. He gave the history of how 4H came about and where the program is today. He described the benefits to both the youths participating and the community. The 4H program is for youths aged 9-19, and the Clover Bud program is available to youths age 5 (in kindergarten) to age 8. Supervisor Simmes asked if Bolton has a 4H group. John Bowe stated that currently they have some members from Bolton, but no 4H program and would love to have one.
- Public Information meeting to continue discussion of amendment to Ordinance #28 that was adopted December 4<sup>th</sup> for Sawmill Bay 5 MPH zone

Following letters against amendment to Ordinance #28, regarding Sawmill Bay : RPI, Steve & Pat Ferguson, NYS DEC Green Island, Kim & Chad Waters, Kristen & Walter Hogan III, Michele Hoffmann, Ray Villeneuve, LG Kayak, R. Todd, Peter Rosenthal, Andrea & Kevin Barnhart, Walter Rehm, Russ Ferris, Lori Gianquitto , Joyce Snedeker, Harris Elder, LGPC and Joseph Schneider. Region 5 NYS Encon Police and the Waterkeeper, Chris Navitsky.

Comments from the public

Ike Wolgin, Lake George Kayak Co., spoke previously at the last meeting. He stated that he is concerned due to the congestion in the Sawmill Bay area. This area is a great launching point for no-octane craft, canoes and kayaks and the 5 mph zone allows people to get into their craft, oriented to the lake and position

themselves out of the way of other boaters. He is requesting that the TB consider an alternative to the zone or rescinding the adopted zone returning it to the original zone.

Supervisor Simmes stated that she has provided copies of the map indicating the old and new zones and the wording of the old and new ordinances.

Tim Hendricks, DEC, is also opposed to the new 5 mph zone and requested that the TB reconsider the ordinance that was recently adopted. He stated that he is concerned 1) for safety and 2) about damage that could occur to their boats as well as others in that area. He stated that some of their docks, including their gas dock, would be rendered useless in busy times, such as shift changes. He stated that DEC has had similar issues in other towns and presently are working on a new policy that could change the entire 5 mph zone in all towns. The change would involve Towns consulting law enforcement and the Lake George Park Commission before changing the 5 mph zone. And in recent years they have not honored any requests for changes in the 5 mph zone. Councilmember Rehm asked if he was aware of the public hearing held in December. T. Hendricks stated no and if they were, they would have sent someone there to represent their concern. Councilman Saris asked if he had any problem with the change to the south side of the bridge in Bolton Bay. T. Hendricks stated no, because 1) it is wider than the other bay with a little less traffic and 2) they have covered the main concern which is the beach.

T. Hendricks stated that he is also concerned that the new line is diagonal which makes it more difficult for the law enforcement of the 5 mph zone and that it would be easier if it could be at least straight across the bay. Councilman MacEwan asked T. Hendricks to locate the DEC docks on the map. T. Hendrick requested that if the TB would like to shorten the zone on the north side, that they at least cover all of the DEC docks so that they can have easy access to their boats and the lake.

S. Andersen stated that he was in support of the new 5 mph zone. He stated that being in the business, he has listened to boaters complain for years about how long the 5 mph zone is. He noticed letters of opposition from the NYS Encon and Lake George Park Commission and wondered how many accidents and enforcement actions they have had in this zone. He stated that the TB looked at protecting both beaches and on the south side made it bigger to protect the entire beach. He stated that the Board looked at the docks located in this area and found that there are very few that would be affected. They looked at the kayak issue and noted that in its entirety, it is a pretty big zone and kayakers will still have ample opportunity for use of this area. He feels the number of public complaints about the inconvenience of the size of the zone outweighs the few that are opposed. He stated that with regard to having to access docks or pump gas at docks out of the zone, that there are plenty of other spots that have to deal with this issue. He feels that if you ask anyone that lives or stores their boat on the lake if they would like to be included in the 5 mph zone, the majority, if not all, would say yes for added protection. He stated that when he was on the Board and making this decision, the Board tried to look at this as a whole; are they trying to do a lot of good for a lot of people, or a little good for a few people. From a safety point of view, he stated that he would be interested in seeing some statistics from the law enforcement to back up their letters. Councilmember Rehm stated that in that regard, they would not have expected there to be problems because of the presence of the 5 mph zone. S. Andersen stated that if they go way back that has not been an issue in that area. He stated looking at enforcement laws; it is not just 5 mph 100 ft from shore, but from another boat. There are 6 different organizations and they have 17 patrol boats and looking at their budget for Lake George, he feels they could certainly do a better job of enforcement if there is an issue.

Councilmember Rehm stated that she found with most of the letters were from individuals that have a personal vested interest. However, they received a letter from the Darrin Fresh Water Institute in which their letter stated personally, for their operation it would be better to have the zone reduced as the Board set forth in December, but from a safety standpoint they were absolutely in favor of the zone remaining the way it was. She stated that in her mind as a decision maker, safety comes before inconvenience.

Councilman MacEwan asked S. Andersen if he would support a modification to the line on the north side. S. Andersen stated no and feels that the zone needs to be as short as possible.

Z. Gabriels stated that he is in support of the new zone. He agrees with S. Andersen about the inconvenience in the size of the zone. He feels that expansion of the zone would work against the use of the lake and public access to as much of the lake as possible. With regard to safety, they could look at every possible aspect and they need to draw a line somewhere. He agreed with S. Andersen's comment that everyone would love to be included in the zone to protect their dock and boat. He commented that when it is windy, Mother Nature creates more waves than any boat that is traveling by will do and the bouncing of individuals boats could mean that they have not properly tied their boat up or their dock needs to be modified to be able to tie the boat up correctly. He remembers the zone being much closer to the bridge and it was expanded due to the congestion at the bridge. He feels that regardless of speed, if drivers are not cautious of swimmers or other boaters accidents can happen even at 5 mph.

Z. Gabriels stated that he is also concerned with the DEC's lack of willingness to changing the 5 mph zones and their dismissal of the authority of municipal home rule. Current law states that it is under municipal law and handled at the municipal level. He stated that if DEC wants to change that law, it is a real question for municipal home rule and feels the TB should stand up for municipal home rule and keep the control of those 5 mph zones at the local level where they belong.

Supervisor Simmes asked T. Hendricks when he said no changes to the 5 mph zone did he mean that no one has requested a change or DEC has refused to grant the request. T. Hendricks stated that currently they have one request and they have not granted it because there are too many concerns to address. He stated that changing the zone means adding more 5 mph buoys, which used to be the townships responsibility, but has now become an added cost and concern to the DEC. There are now so many buoys, they are not lit and they tend to get hit. He stated that these were each Town's responsibility, but most do nothing about it and is leaves the DEC to maintain them. He stated that DEC is working towards making the towns more responsible for the 5 mph zone. He commented on the previous zone in the 1960's, stating that the zone wasn't an issue then because the crafts were so much smaller.

Councilman Saris stated that he is in support of the newly adopted zone. He stated that he remembers back when the zone was much smaller and this area was still congested. The marinas that were there then are the same ones that are there now. He doesn't feel that it was all that long ago and things have not changed all that much. He feels that the larger zone wasn't adopted until the 90's and people already were in the trend of larger boats. He feels that this bay has been tested in more modern times and modern conditions. He stated that they should note that there are no objections to the changes made on the south side because they have made great strides to increase safety and protect the beach and that the issues being discussed are about the Sawmill Bay side only. He stated that all of the letters refer to safety and he does not know of any reported accidents that existed before the 5 mph zone was expanded in the 90's. He stated that there are other laws and obligations that apply to boat traffic 1) 5 mph 100 feet from shore 2) they are responsible for any damage done by their wake and 3) reckless operation. He stated that he understands that some of these laws are harder to enforce but it doesn't mean that they can't ask the law enforcement to try. He feels that if these were better enforced, it would solve some of these issues. He suggested that maybe a law enforcement presence could keep things a little safer and they could consider patrolling this area on busy afternoons. He feels that it does take time for individuals to reach areas to gas up their boats and some individuals, such as Dave Waters at Waters Edge may lose business because someone does not want the inconvenience of the additional time. He suggested that they leave the zone as amended and revisit it to see if these items really are issues or not.

Councilman MacEwan asked how far, in feet, the zone has moved on the north side. Councilman Saris stated that if boaters are coming in 100 feet off the Bolton shore the change is minimal. If they are coming in 100 feet off of Green Island shore it is a pretty significant change. Councilmember Rehm stated that she has done some calculations and has determined that the change will take 2 minutes off of a boaters trip through the bay. Councilman Saris stated that was his point, a boater will look at whether it will take 10 minutes or 14 minutes and that could make a difference in where someone decides to get their supplies or fuel.

Councilmember Rehm asked when Ike Wolgin opened Lake George Kayak Co. I. Wolgin replied 1997. Councilmember Rehm stated that she believed that the enlarged zone was simultaneously adopted. I. Wolgin stated that the 5 mph zone was already in place and it really allowed an advantage to smaller boats to enjoy Lake George. He stated that in the 10 years of operation, they are putting in more small craft than ever before, with 4,500 plus people a year. This includes their customers, Sagamore guests and those that they have invited to use their dock.

Councilman Saris stated that the creation of the zone coincided with Bob Weichbrodt building a boat house there. He was a Town Councilman and wanted the 5 mph zone to encompass his property and feels that this makes S. Andersen's point that if you were to go just north of where the current line is and ask those property owners if they wanted to be included in the 5 mph zone, most, if not all would say yes.

Councilmember Rehm asked T. Hendricks if the previous 5 mph zone was acceptable to DEC and NYS Encon. T. Hendricks stated yes.

Supervisor Simmes commented that only 1 of the 7 letters received in support came from someone that actually lived in the area versus the majority of the letters in opposition came from people that live in that area. She stated that she agrees with Councilmember Rehm, that safety comes before convenience and would entertain a motion to have another public hearing. Councilman Maranville commented that a lot of the letters in opposition have quite a few individuals that do not live in this area.

Councilmember Rehm asked Z. Gabriels that in his tenure as Supervisor if he recalls, prior to the public hearing in December, getting letters from individuals complaining about the size of the zone. Z. Gabriels stated that mostly he received a lot of comments from individuals in public and has no documentation to substantiate this in the records.

**BOARD DISCUSSION AND ACTION: HOW TO PROCEED. The amendment was already adopted. Do we wish to consider a new public hearing with changes?**

RESOLUTION #30

Councilmember Rehm moved, seconded by Councilman MacEwan to convene a public hearing to re-establish the 5 mph zone in Sawmill Bay to the mouth of Finkle Brook on the Bolton shore, amend the zone to just north of the last DEC boat house on the Green Island shore and to make no change to the Bolton Bay side. Councilmen Saris and Maranville opposed. All others in Favor. Motion carried.

Supervisor Simmes stated that a public hearing would be held at the March 4, 2008 meeting at 7 pm. Councilman MacEwan requested that some law enforcement be present at the meeting. T. Hendricks stated that DEC would send a representative. Supervisor Simmes stated that she would contact the State Police and Sheriffs Patrol.

**Zoning Issues before TB**

1. Harold Raven zoning violation: Building a deck without a permit. This is an expansion of a non-conforming structure that the ZBA sent to the Town Board. We have an APA letter regarding the apparent violation on the Harold Raven property. They wish to be kept informed. Procedure.

Counsel stated that the TB has a Stipulation that is agreeable to Zoning Administrator P. Kenyon, Code Enforcement Officer Mitzi Nittmann and property owner Harold Raven which contain the following facts:

- o Mr. Raven has acknowledged that there have been decks built without permits.

- There are some permits on record for this property, but none exist for deck improvements.
- Some decks encroach in setbacks, the required 30 ft sideline setback is 26 feet and the 100 ft shoreline setback is at 0.
- The zone LC45 would require a site plan review for any development.
- The APA has jurisdiction over any development of the parcel.
- Any grant of any variance for a shoreline setback will be directly referred to the APA.

Counsel stated that Mr. Raven and his attorney are present to acknowledge that they have signed the Stipulation. He stated that with respect to the alternative remedies, they are available in the code (Counsel provided copies) and can assist them in deciding on how to proceed.

Ben Pratt, representing Harold Raven, commented that one important fact in the Stipulation that was not mentioned is that the decks were built when Mr. Raven's father owned the property and Mr. Raven inherited that property. He was not the owner of the property at time when the violations occurred. He stated that his plan was to ask the TB's mercy since Mr. Raven was not the owner at the time. He stated that he understands that the TB has the ability to establish a fine or whatever the ordinance provides and under these circumstances there are very equitable reasons as to why a fine should not be imposed. He feels Mr. Raven's punishment will be that he has to go back to the ZBA and APA to get these approvals.

Councilman Saris stated that it was his understanding that although Mr. Raven was not the owner he was the contractor on the project. Ben Pratt stated that his client was aware that the decks were being built and participated in the construction. Councilman Saris asked if his client was aware that permits were needed. Ben Pratt stated that his client was not aware of the full process of the project and that he was only present occasionally to help construct the decks. Councilman Saris stated that considering the magnitude of the docks he finds that Mr. Raven should have been aware that a permit would be necessary. Supervisor Simmes asked how many docks had been constructed since Mr. Raven has owned the property. Hal Raven responded none, but some decks needed some improvements or completions. Councilman Saris asked if any of the docks have been added to. Mr. Raven replied no, but they have done additional landscaping and that is how Mitzi got involved. Supervisor Simmes commented that she had been down to see the site and felt that there were some new additions. Hal Raven replied that he has added steps coming off of the dock.

Councilmember Rehm stated that she understood that Mr. Raven was a builder/contractor in the area and wanted to be sure that Mr. Raven was familiar with the permit process. Mr. Raven stated that he was familiar with the process. He stated that when he started the landscaping he didn't think he needed permits because 1) it was on the surface of the ground and would not need permits and 2) he knew that other decks had not gotten permits and he didn't see it as a problem.

Councilmember Rehm stated that variances or site plan review would be necessary given the close proximity to the Lake and the zone that they are in. And even without those issues, the work itself, like anywhere in Town, would have required a building permit and she is concerned that even at the initial stages it was a violation.

Councilman MacEwan asked for some clarification of the pictures of the decks and what was considered original decks and new or renovated decks. Mitzi Nittmann described the pictures and decks.

Supervisor Simmes asked Counsel to review their options under the alternative remedy. Counsel explained that the Code discusses 1) criminal sanctions which does not apply, 2) civil penalties and that does not necessarily apply in terms of the structure of the Code and 3) alternative remedies. This explains what they can do as TB having given consideration with what they are confronted with in terms of Code violations. Counsel stated that they can impose and seek conjunctive relief to have it removed, require that it conform to the zoning code, impose a civil penalty in addition to what was provided by Town law and whatever else is appropriate to the circumstance and that they are not looking to have a criminal prosecution or court proceeding.

Councilman MacEwan asked how many violations they have. Counsel stated that on the consent form that each TB member has they have tried to site every section so they dealt with it fully. But in terms of numbers, code compliance specification a) does not meet setback requirements on the side, b) does not meet setback requirement for the shoreline and c) altering anything pre-existing and non-conforming, a variance is needed to make that alteration. Counsel stated that in a general sense, specification c. includes, by logic a and b and therefore would be two violations.

Supervisor Simmes asked Counsel if the Board were to decide to have Mr. Raven remove the decks, which decks could they request removal of. Counsel stated that they would want Mr. Raven to come into compliance, which in Town law says, the property owner has the right to seek the variances. Counsel stated the question is bringing it back to what point, and he would look to the Zoning Administrator to make a determination based on assessment records and all available evidence on the violations that have occurred in the past ten years. Councilman Saris stated that bringing it into compliance might be a moot point because they do not have the authority to grant relief from that and that all they offer is that he brings it into compliance. Ben Pratt stated that they intend to get the relief from the ZBA. Counsel stated that they cannot give him relief on the last part and urged them that bringing it into compliance is the last component to any alternative remedy. Councilmember Rehm asked if the Board was able to seek removal before Mr. Raven seeks a variance. Counsel stated that the TB could propose that, but he and Ben Pratt will look at that section of Town law and he believes that it states that all enforced proceeding shall be stayed by a submission of an application to the ZBA. Councilmember stated that the order for removal has nothing to do with the need for variance and it is clearly for the violation of the requirement to obtain a permit, there is no staying of that action. Counsel stated that all parties could agree that if they built without a permit, it is not in compliance.

Councilmember Rehm moved that the property owner remove all decks, with the exception of any decks that were completed with original construction of the home or with another permit, prior to any other action before any other Board because of the failure to obtain a certificate of compliance.

Councilman Saris commented he would second this motion and that it is consistent with past actions that they have taken. He also stated that in the past they have assessed \$1,000 civil penalty in addition to bringing the property into compliance and posed wondered if they should do the same in this case. This penalty came about because the ZBA was seeing too many projects after they were already completed and the TB was trying to protect the ZBA and to discourage people from this method. Discussion followed.

Ben Pratt stated that they are there as a result of the Stipulation that they entered into. It is contingent upon the TB approval. He stated that he doesn't believe the TB has the ability to seek removal, because if Mr. Raven does not agree, then the Town will have to proceed with that through litigation, where Mr. Raven would have an opportunity to present his defenses. He stated that they could suggest it as a condition to the Stipulation that he remove the decks that were not in the original construction of the home. Counsel agreed that if the Stipulation fails, then the property owner would be in court trying to get the relief sought. Ben Pratt requested that Councilmember Rehm rephrase her motion to say that removal of the decks would be a condition to alternative relief if they were to accept that. Councilmember Rehm agreed. Ben Pratt stated that he prefers that it not be the case, but understands why they have taken that position. He hopes that they consider that as a route under these circumstances because Mr. Raven was not the owner at the time. Councilmember Rehm stated that is why she feels that they should not impose a civil penalty. She stated that this area is in a critical environmental area and all of this construction has rendered the property almost impermeable and she feels getting all of the decking out of there and returning the property to a more natural state, would be best for stormwater management. Ben Pratt stated that since Mr. Raven has owned the property and in the course of improving absorbency and drainage, he has put in landscaping to better this situation. He is concerned that if they remove the decks, they will have to remove the landscaping as well because it will suffer. Mr. Raven stated that the paths and land were contoured and the retaining wall was built because the property was in deterioration and water was running right off the property and he thought he was making an improvement. Councilmember Rehm stated that he would not have to take that out. Mr. Raven stated that it would need to be taken out because it all ties together and into the steps up the hill to the home. Councilmember Rehm stated that if the ZBA does not grant relief he will be required to remove them anyway and the APA will be even less favorable.

Ben Pratt requested that they leave the decks until the ZBA and APA have had their say. Councilman Saris stated that he understands that the certificate of compliance is needed to get a building permit. Counsel stated that according to the Zoning Administrator a certificate of compliance is required for any sort of activity on the property even if it didn't involve a building permit. Counsel requested that the motion be restated for clarification, because there was some discussion of assessing a civil penalty. Councilman Saris stated that he brought up the civil penalty because this was done in previous actions. Although this situation is similar, it is distinctly different as well and the property owner took on the violations at the time of transfer as opposed to committing the violations himself and therefore he does not see a civil penalty as necessary.

### **RESOLUTION#31**

Councilmember Rehm moved, seconded by Councilman Saris that as a condition of the TB accepting the settlement agreement that the property owner, Harold Ravin, Treasure Point Road, tax map # 186.15-1-9, remove all decks, with the exception of any decks that were completed with original construction of the home or with another permit, prior to any other action before any other Board because of the failure to obtain a certificate of compliance. All in Favor. Motion carried.

2. Janet Lehman property on Horicon Ave. has a barn and two shed structures that appear to be in dilapidated and in unsound condition. We have Nace Engineering's report with his recommendations. CEO comments. This is a public health hazard. In order to proceed we need to adopt a resolution pursuant to Ordinance #27.

Mitzi Nittmann stated that other than her report and T. Nace's report, the TB members should have a Warren County letter that coincides with their findings. She is concerned that getting in touch with Janet Lehman could be a challenge, because she does not pick up her mail regularly in Diamond Point, and there is no telephone listing for her.

Supervisor Simmes stated that if it is deemed a public hazard that they would have to proceed and adopt a resolution pursuant to Ordinance #27.

### **RESOLUTION#32**

Councilman Saris moved, seconded by Councilman MacEwan that pursuant to the requirements and provisions of Town Ordinance #27 we take the necessary steps to have the one barn and two sheds demolished and removed from the Janet Lehman residence, 57 Horicon Ave. Bolton Landing, Tax Map #171.15-1-28 and to either stabilize or remove the chimney from the remaining barn and that Town Counsel be authorized to present that, litigate it and obtain the Supreme Court order. All in Favor. Motion carried.

### **Other Zoning Issues**

- Barbara Law house has been removed. We have the contractor's bill in the amount of \$15,600 and Counsel's bill in the amount of \$3402.59. We will send to Barbara Law for payment. Procedure to follow if not paid (timeframe) What if property is sold before these are paid?

Counsel stated that there should be an engineering bill on that as well. Supervisor Simmes stated that Zoning Administrator Pam Kenyon stated that it was not to be included. Mitzi Nittmann agreed stating that when Pam Kenyon goes through the bills, if the Town has initiated some type of site visit from Tom Nace, they usually pay for it. Councilmember Rehm stated that this should be included because it was in the context of an action that they were going to take in Court. Counsel agreed and stated that the ordinance requires it. Supervisor Simmes stated that she would add the bill for Tom Nace Engineering in the amount of \$350. Counsel stated that they should send all of this to the Laws for reimbursement. He continued that if they do not pay, it will be attached to the next Town/County tax bill in January 2009. Supervisor Simmes stated that the property is for sale and what happens if they do not pay that bill before the property is sold. Counsel stated that he would put a notice in at the County Clerk's office as an impediment on marketable title and the Town would be a superior interest on that claim.

- January 30<sup>th</sup> was a Public Informational meeting on the proposed zoning revisions: Meeting was well attended. All issues from public will be addressed by the Committee at their next meeting and another public informational meeting will be set.
- Muriel Crandall: Counsel has filed an Order to show cause on January 16, 2008. The matter was scheduled for February 1<sup>st</sup> at 1:30 p.m. We have received three bids for removal and clean up of the property. Don Kingsley, \$6900, Ellsworth & Sons Excavating, \$14,800 and Fine Home Building \$4750.

### **RESOLUTION #33**

Councilmember Rehm moved, seconded by Councilman MacEwan to authorize the low bid in the amount of \$4750 from Fine Home Building for removal of the structure and clean up of the property belonging to Muriel Crandall, 367 Valley Woods Road, Bolton Landing Tax Map #156-1-48. This resolution is contingent upon the signed consent order from Supreme Court and Fine Home Building submitting the required certificate of insurance and sign a contract. All in Favor. Motion Carried.

- Status of Paglia wall. Counsel was to pursue this matter under Ordinance #27

Counsel stated that the TB has already authorized him to proceed under Ordinance #27 as well as under their powers available to them to protect the health, general welfare and well being of the citizens of Bolton. He stated that it is not a perfect match for Ordinance #27 because 1) it is a structure and in its present condition dangerous and 2) it is a wall that benefits two parties. If they just consider it purely under Ordinance #27, it says that they have the permission to seek an order from the Supreme Court to require demolition of a dilapidated or dangerous structure. This isn't a perfect fit, because there is grass, dirt, etc attached and affected by this wall. And this would involve both parties to have a component in that litigation that would compel them to take action. He senses that there is some concern of this being just a private issue between these two land owners. He stated that it is something they will need to discuss and determine so that he knows what the policy will be. If they get involved and demolish it they will have to take the responsibility of involving the two parties to make sure it is repaired or they can choose to not get involved with private rights of an adjacent land owner.

Councilmember Rehm asked what they would be asking the neighbors to do if they enforce Ordinance #27. Counsel stated that the Court will require that someone take action to insure safety. Councilmember Rehm asked if they would be able to recoup the costs involved. Counsel replied that Ordinance #27 states that they may, but it will be up to the Judge to grant it. Councilmember Rehm stated that she is concerned because 1) it may be just a dispute between property owners and 2) she does not know how they would go about repairing the wall in some reasonable fashion and wonders if they will have repercussions if they step away. Counsel stated that they could have some backlash by stepping away. But if they do so and the wall collapses, the Town has insurance that will protect us on this.

Supervisor Simmes asked if the property owner has responded to any letters sent by the Code Enforcement Officer. Mitzi Nittmann stated no, and his parcel is up for sale. Councilman Saris asked what the worst scenario is if the wall fails. Mitzi Nittmann stated that the wall is within 6 feet of a housing structure and it would fall into this structure with all the earth behind it. The upper neighbor will lose half of his yard and there will be structural damage the property below. Councilman Saris asked if it would affect any public property. Mitzi Nittmann stated no, it is all private and it would mostly affect Mr. Paglia's property. Councilman Saris stated that he feels that this is a civil matter between neighbors.

Councilman MacEwan asked what the difference was between this and the last issue of the dilapidated barns since they are both structures. Counsel stated that this is different because Ordinance #27 is just the removal of the structure and they will also need to remedy the damage that could be caused by the removal. Counsel stated that the TB needs to make a policy decision as to whether this is a private controversy or that Bolton is very interested in getting involved and proceed under Ordinance #27.

Councilman MacEwan commented that Councilman Saris raised the point of children playing in and around dangerous structures and wondered about liability. Councilman Saris feels that the barns or any other abandoned structure would be considered more of an attractive nuisance than the wall. He feels that even if the wall fails, it is far less capable of causing an injury.

Councilmember Rehm stated that she is concerned that if they adopt a policy to get involved they could potentially be dealing with more and more of these issues later on and suggests that it would need to be a catastrophic failure to consider involvement.

Councilman Saris asked Counsel if it would be appropriate or would it expose them to anything if they were to strictly notify the property owners of the potential danger. Counsel didn't feel that it created any liability. He stated that it would need to be a properly worded notice that strictly put these owners on notice and did not indicate any sort of Town responsibility to enforce it. Councilman Saris asked if it relieved them from that responsibility of the Town knowing and not doing anything about it. Counsel agreed and stated that in doing that, they would do what any responsible Town should do, but they would also protect the resources of the tax payers to improve these private party issues. Councilman Saris supported creating a policy of notifying the property owners of the danger or concern in civil situations. This would allow the TB to know how to proceed in these situations, but should by no means go looking for these issues. Counsel indicated that this property is also for sale and that they should be notifying the listing realtor. They will be able to contact the property owner and it will be listed in the property disclosure statement. Councilman Saris agreed with that and to go no further than that.

#### **RESOLUTION #34**

Councilman Saris moved, seconded by Councilman Maranville that with regard to the Paglia wall, owners Rocco and Enrico Paglia, 4623 Lakeshore Drive

tax map #186.14-1-42, it is the policy of the TB that although there is a concern, it is not one that is properly within Ordinance #27 and the appropriate measures to be taken is that Counsel and the Code Enforcement Officer should provide actual notice to Paglia (property owner) and Richard Kober (adjacent owner) as to the circumstances of the material defect and notify the realtor. All in Favor. Motion Carried.

#### **Public Hearings:**

- We still have a **public hearing open**: General applications of the NYS Uniform Fire Prevention & Building Code and the Energy Conservation Construction Code are to be read in conformity with the provisions of this Chapter unless local law, town code or town ordinance in effect specifically authorizes or provides a stricter requirement or specification. This would amend Chapter 125-5D Stormwater & Erosion Control: Chapter 150-3C Subdivision of Land and Chapter 200-8C zoning. The board agreed to keep the hearing open and send to the PB & ZB for their input. **Both boards recommending not using the NYS Uniform Fire Prevention & Building Code and the Energy Conservation Construction code. We need to make a decision to close or leave hearing open.**
- **There is a discussion concerning the possibility of using only the "definitions" from the codes. Is this allowed? If so, would we need input again from the PB & ZBA regarding only using "definitions". Would this require a new public hearing?**

Counsel stated that use of only definitions would be allowed. He stated that neither Board had resounding support. Councilman Saris stated that upon speaking with some Board members he got the impression that they did not quite understand the intent of it. They felt that it was creating another level of bureaucracy as opposed to just being used when our code was lacking. Councilmember Rehm stated that she has spoken with PB Chairman Herb Koster who stated that he did not fully understand the intent of its use and upon further discussion stated that he would be fine with definitions. Zandy Gabriels stated that he agreed with Councilmember Rehm and he too has spoken to Herb

Koster regarding this matter. Counsel stated that his only intent was to provide additional definitions or meanings to Board members, the Zoning Administrator and the Code Enforcement Officer. However, the Zoning Administrator and Code Enforcement Officer would be compelled to use it if it fit within the criteria. They would not be making interpretations from logic but instead from definition and he likes that. Councilman Saris asked Counsel if it would be appropriate to ask the PB and ZBA to reconsider the proposal and to have a TB member(s) be part of the presentation or explanation to these Boards. Counsel agreed that would be helpful and he felt he could change the proposal so that it read "definitions only".

Councilman Saris supports this proposal because it provides a reasonable and excepted definition and forces the Town to be consistent. Counsel stated that this proposal came about because not only was there confusion that Bolton did not follow suit as the rest of the state in their code, but there were internal conflicts of interpretation in the Zoning office. Councilman Saris stated another way to consider this is if Bolton feels that anything in the NYS Uniform Building Code shouldn't apply to them and they wish to deviate from it, then they should write it down in Town code. Councilmember Rehm agreed and stated that adopting this would allow the Zoning office to operate smoothly. Supervisor Simmes asked Counsel since they have noticed the proposal this way, what would be their next plan of action. Counsel stated that they would send it back to the PB and ZBA and keep the public hearing open and advises that they re-notice the proposal and public hearing. He continued that he will work on the language and attempt to present this again to the PB and ZBA, possibly with the assistance of a TB member.

J. Gaddy stated that the question that was debated on the PB was giving up home rule and at that point they were not willing to go with that, but feels it would be helpful in returning it to the Boards for further explanation. He feels that this proposal would be helpful to have more consistency and would be a positive move forward for Bolton in consistency with the rest of the State.

Z. Gabriels asked Counsel who would this affect and could someone from a previous application challenge this. Counsel stated that the consequences are applicable to the future. He stated that they will use Bolton code first and if nothing can be found they will then rely on the NYS Uniform Building Code for definitions and if it cannot be found in the NYS Uniform Building Code then they will be guided by case law, legal counsel and collaboration of an interpretation that will hopefully be in writing and apply to that case and all future cases that are similar. Councilmember Rehm asked if previous interpretations will not be overruled by the adoption of these definitions. Counsel stated no. Supervisor Simmes stated that she would like to entertain a resolution to send this back to the PB and ZBA for reconsideration. Counsel stated that he could change the language to include ZBA interpretations providing a stricter requirement or specification would also prevail.

## **RESOLUTION#35**

Councilmember Rehm moved, seconded by Councilman Maranville to send the proposal, definitions only to NYS Uniform Fire Prevention & Building Code and the Energy Conservation Construction Code back to the PB meeting on February 28<sup>th</sup> and ZBA meeting on February 25<sup>th</sup> and that someone from the Town Board attend each meeting to assist Counsel in the discussion. All in Favor. Motion carried.

- At 12/4/07 meeting we referred the "not for construction plans" issue to the PB for their input. PB decided plans submitted to board for approval need not be labeled "for construction", However before a permit is issued they will be labeled as such and they will be signed by the Zoning Adm. Our major stormwater permit states: Conclusions of Law. On a major project, the issuance of this Stormwater Management Permit shall require that the Applicant shall provide to the ZA a post-construction certification by a NYS licensed engineer that the project complies with the final approved plans upon which this stormwater management permit was issued.

- Counsel: What is our position with JEHM regarding this decision?

Counsel stated that he is unsure of their position at this time. He has spoken to Herb Koster and agrees that the PB should have all of the latitude that it requires to consider plans and make requirements. The TB should be concerned about the issue but does not feel that they need to take any action. The existing stormwater regulations and permit that he designed has a provision that after completion of the project there is a post construction certification by a

NYS Licensed Engineer stating that it complies with the final approved plans and is concerned that they are not doing this follow-up.

Counsel stated that in the JEHM project, from a presentation standpoint, he felt that H. Koster felt comfortable with this plan because it had adequate information on it. Mitzi Nittmann disagrees because there weren't enough standards on the plan and the Town Engineer agrees. He stated that currently they have not come to an agreement with JEHM, but they are working hard towards a resolution.

Councilmember Rehm asked Counsel about the general process of stormwater. She is concerned that once the plans have been approved, the applicant then returns to the ZA with final construction documents and the ZA signs off on them and she is not an engineer. Counsel stated that from history they have created a very specific stormwater management permit, they go through findings of fact and conclusions of law and hit every requirement in the stormwater regulations and then there is an approval. The final approval only comes after both the PB approval and T. Nace's review of whether it complies and conforms in all respects with the requirements of the stormwater ordinance. He stated that the approved plans from the PB do not change before going to T. Nace, with the exception of conditions that may have been imposed and those conditions are to be reviewed by the ZA. Councilmember Rehm stated that she is uncomfortable with the ZA signing off on the conditions after approval. Counsel stated that is what he is concerned about, because he has yet to see applicants come back in for that review by the ZA and she shouldn't be reviewing them to see if they comply because that should be done by a NYS Licensed Engineer. Mitzi Nittmann stated that if a conceptual plan gets approved and they were labeled "not for construction", when the applicant comes back to get their stormwater permit, the construction plans that ZA uses for the permit now have to be labeled "for construction" and she signs it. Councilmember Rehm asked if they go to T. Nace. Mitzi Nittmann replied that it does not go back after that, but initially all major stormwater projects automatically go to T. Nace. Counsel stated that it should go back to T. Nace and that should be their policy as well as post construction follow-up. He continued that they are in the process of organizing the whole process to make sure all steps are taken to ensure proper permitting of projects. Councilman Saris suggested a flow chart for this procedure so that all Boards were in agreement on how this procedure works. Counsel agreed and stated that he could create a flow chart with both the ZA and CEO, discuss it with T. Nace and then present it back to the Boards. Councilman Saris stated that once the chart is agreed upon, it could be something that they could provide to the applicants as well. Counsel agreed.

## **Correspondence**

- Hudson River Valley National Heritage Area: They are seeking support for the Henry Knox Cannon Trail with restoration of the 30 monuments marking this trail. We have one of the markers at Rogers Park. On December 10, 1775 Knox and his troops spent the night in Bolton. I'll entertain a motion later in support.
- Copy of Warren County Soil & Water update on the LG Basin Reservoir & Sediment Basin Cleanout Program for 2007
- Notice that Canoe Island Lodge, The LG Club, Contessa Restaurant, and Green Island Associates for The Morgan, The Cabana, and Pavilion and for an additional for the Morgan are all renewing their liquor licenses.
- There was a CSEA contract negotiation meeting January 28<sup>th</sup>, 10 o'clock. We are working on resolving the issues.
- C T Male letter with 3 different recommendations for repairs to Town Hall furnace. I called Highland & Co. Inc. when the heat was out on January 28<sup>th</sup>. They serviced the boiler and cleaned it. I also called Thermal Environment. They are the reps for Triad Boiler. They worked here many years ago and told me our boiler is sized correctly. He is going to confer with Highland & Co. and someone will be assessing the heat pumps within each office to determine our problem.

- Counsel letter with recommendations and options for the board to consider for the Nolan/Smith/Town of Bolton litigation. Discussion later in meeting
- Time Warner Cable Re: changes to their channel lineups.
- Program update from Cornell Cooperative Extension
- Laberge Group offering assistance for a grant under the Safe Routes to School programs. April 1<sup>st</sup> is the deadline for applying
- Notice from NYS DEC Re: contract C301757 Indian Brook Stream Corridor Improvement Project. We are eligible for an advance payment of \$21,750 for this project, which we have now received.
- Letter from S. Van Kempen Concerning condition of Wall St. from Dickinson Hill Rd. to Warrensburg town line. I called and explained what roads were being addressed this year, and that Wall St. would be on a list for consideration for 09.
- Letter to Bill Lamy: Superintendent of PW Re: WC Federal grant: requesting approval to proceed with design and construction of a new force main under this grant at an estimated cost of \$500,000.
- Adirondack Park Local Government Day Conference: March 15<sup>th</sup> & 26<sup>th</sup>. Registration fee is \$45
- NYS Dept of Encon notification that Jeffery Tennent has renewed a mining permit for property located on Kenyon Simpson property.
- Thermal Associates Maintenance contract for municipal heating systems New contract totals \$3040 Take up under discussions
- NYSERDA is offering a program for Environmental Monitoring, Evaluation and Protection Program: Re: Climate change Funds are available for this There will be a bidders' meeting on February 27<sup>th</sup> in their Albany office.
- Department of State notification that they have extended our contract for the Bixby Beach stormwater.

## **DISCUSSIONS**

- Smith/Town of Bolton dock encroachment.
- Meeting to be set up with the Algonquin, between Town, Sewer Superintendent and Keith Scott to resolve issues.

Councilman Saris stated that he has been in contact with both Keith Scott and Chet Dagles. Councilman Saris feels that they can reach an agreement because the Algonquin is willing to address any issues or problems that they have caused. Chet has indicated that the collection fee has not been raised in a number of years and they are due for an increase and he will provide a recommendation for that increase.

- There will be a meeting between DOT, the LGA, WC Soil & Water and our highway department in preparation of stormwater work to be accomplished on Bixby beach Road. Date to be set.
- Water District Property: This property is between the David Smith Estate and David Rehm properties. Approximately 60 acres. How to proceed: Move forward with timber harvesting or possible sale of the

property with or without the timber. If in agreement to move forward would we need an appraisal as first step? What are the legalities of selling this land? Does it require a referendum?

Councilmember Rehm explained the topography map of the property provided by Dave Rosebrook. She asked Counsel if they would need to have an appraisal done if they offer it to the public. Counsel stated yes. Councilmember Rehm asked if the Town Assessor could complete that for them. Counsel stated yes. She stated that once they obtain the appraisal on the property they can contact Mr. Cipperly and have him give them an estimate on timber value on the property and could offer it either way, with or without the timber cut. She also indicated that on another parcel, wetlands have been indicated and she would like to walk the property in the spring because she still feels that there is a potential building site that has some value to it and would like to talk to the Assessor regarding that as well. Councilman Maranville asked why they would want to sell this property. Councilmember Rehm replied that the water district needs money. Councilman Saris stated that there are two advantages to selling this property 1) being able to put money into their water district and 2) if this land is built upon then the Town receives tax revenue. Councilmember Rehm stated that if the TB is in support of this they will need to public notice it and have a public hearing. She indicated that the Town has approximately \$7,000 in a water district capital reserve fund. Spending this money would require a public hearing and she felt that it may be appropriate to add this to that public hearing and notice for the property.

Z. Gabriels stated that on the timber harvesting piece on the north side there are about 4-5 land locked lots and at one time there was a letter requesting the Town consider an easement. Councilmember Rehm thanked Mr. Gabriels for the information and stated that they should contact those individuals.

- Thermal Associates: Town Hall \$1900, Veterans Park \$260, State Police \$260 Health Center \$620 We have no complaints for work except not happy with work on Town Hall. Contract is up \$130 without the service for Town Hall.
- DOH reminder that the 2007 annual water Quality report is due by May 31, 2008
- You have in your packets policy statements for review and comments
- George Weinschenk has been working with Lincoln Logs on a new building for the Conservation Park. There is a good possibility that we can proceed with a building with the funding we have in place. Would like to pursue the possibility of forming an LDC. Counsel to explain what the procedure to follow and how we can save money.

Counsel stated that he has checked with the Secretary of State and Conservation Park already has a not-for-profit corporation. He stated if they permitted the property to be developed by the not-for-profit corporation, for the stated purposes of the contract, we enter into an agreement. The agreement would provide that the not-for-profit corporation take title to the property with a reverter clause in the deed, which provides that if the corporation collapses for any reason, they have lost their rights in the property and it reverts back to the Town. One benefit would be that the not-for-profit corporation is not required to comply with prevailing wage requirements.

Counsel stated that there are some challenges with having them separate one would be that the Town would be funding a not-for-profit corporation that can receive money that the Board granted to them. These funds would be restricted funds for a limited and defined purpose. The organization needs to run well and cannot be contractually dependent upon the Town to receive money every year and it is up to each TB every year to make that decision.

Supervisor Simmes asked Counsel if he would recommend going in not-for-profit corporation direction. Counsel replied only if this has a purpose and there are willing volunteers, because that it was what they are going to depend upon. Supervisor Simmes asked if there would be any problem with having the project completed with the not-for-profit involved and then once the building was completed, eliminate the not-for-profit corporation. Counsel replied only if that was an honest development, but not if that is the intention of how it will work. Supervisor Simmes stated that she feels they will definitely have the support and volunteers necessary to make this a success, and that it

has only died down over the years because they couldn't go any further. She asked the TB if they would be willing to at least looking into this further.

Councilmember Rehm asked Counsel what would need to be done to move forward. Counsel stated that the not-for-profit corporation has some responsible members that can handle the responsibility that is being passed on to them. If they can find the right people, he can start generating documents that manifest what the TB has in mind.

Councilmember Rehm asked if they would do this through permissive referendum. Counsel stated that the sale to a not-for-profit corporation taking on a quasi governmental purpose is not subject to permissive referendum. Councilman Saris asked if they give the project to the corporation would the Town give all control and decision making to the corporation? Counsel replied that the TB could hold onto some strings, such as having reserved expectations of how the property will be used. Councilman Saris stated that he is concerned that down the road, what control will the TB have to see that the purpose remains as was as originally intended. Counsel stated that they will need to be very precise about their declaration of covenants and restrictions in 2008. He gave the example that if this current board would like to have a community place for community and private functions, but they may not wish for any alcoholic beverages be served, they would say that in the covenants. Councilman Saris stated that the TB is publicly accessible and responsive to the public versus a not-for-profit corporation board is not easily accessed and is concerned that if the public is not happy with how the place is being handled, the TB will be able to do little about it. Counsel stated again that they could put some covenants and restrictions of expectations, but there is no guarantee that they will not run into that type of problem.

Councilman MacEwan stated that they will need to balance the savings in cost against the control given up. Councilman Saris agreed and asked how much they would save by having the not-for-profit complete the project. Supervisor Simmes stated that an estimate for a 100 x 40 ft building (including windows and doors), not including the roof, would be under \$100,000. She said that the roof would be an additional \$20,000. Supervisor Simmes feels that the savings will be large because they will not have to put it out to bid or pay prevailing wage. Councilman MacEwan asked if they could use some volunteerism to aid in the cutting the cost. Supervisor Simmes stated that if they go the not-for-profit corporation route they can use volunteers, but not if the Town builds it. Counsel stated that she is correct. Councilman Saris asked about liability for the corporation. Counsel stated that they would be covered under their own separate policy. Supervisor Simmes stated even in the condition that the building is in, it was very busy this summer and feels that making this improvement will just enhance the value and usage. Councilman Saris stated that he is not disputing the value of the property, but he is just wondering if cutting costs would be worth the loss of control of what happens at that facility. They have looked at previous options and the potential contracts were extremely expensive. Supervisor Simmes is asking is that she be allowed to gather volunteers willing to participate and explore this alternative option. All Board members agreed.

### **Unfinished Business**

Lichtenstein septic variance: Have not heard from the Attorney

### **New Business**

#### **RESOLUTION# 36**

Councilman Maranville moved and seconded by Councilmember Rehm to authorize the Supervisor to sign the 2008 Snow & Ice agreement with Warren County. We will receive \$100,811 for snow & ice removal and sweeping and \$2480 for mowing on all County roads located with the Town of Bolton. All in Favor. Motion carried.

#### **RESOLUTION#37**

Councilman MacEwan moved, seconded by Councilman Maranville to set a public hearing on an amendment to Ordinance #36 entitled Sanitary Sewage Disposal Ordinance **Article II General Provision Section 2.010 Prohibited Acts.**

Subsection B. Amend as follows:

**It shall be unlawful for any person to cause to be discharged, within the Town, any sewage except by systems designed, installed, and approved in accordance with the requirements of this Ordinance. “The change is due our ordinance states you can take to the landfill”.** All in Favor. Motion Carried.

Discussion of 2nd proposed amendment to Ordinance #36

**Section 4.020 A2 REPAIR, ALTERATION, ENLARGEMENT OR EXTENSION OF A SYSTEM**

**Current version** says

A. It shall be unlawful to repair, alter, enlarge or extend a pre-existing individual sewage disposal system except that:

1) Minor repairs and minor alterations may be undertaken without a permit.

(i.e.: pumping out a septic tank.)

2) Major\* repairs, extensions or major alterations may be undertaken pursuant to a disposal system building permit.

\*Major repair – means any replacement or reconstruction affecting the septic tank or at least one-half of the leaching facility of an individual sewage disposal system.

**Proposed: Section 4020 Repair, Alteration, Enlargement or Extension of a system** should read:

A. It shall be unlawful to repair, alter, enlarge or extend a pre-existing individual sewage disposal system except that:

1) Minor repairs and minor alterations may be undertaken without a permit.

(i.e.: pumping out a septic tank)

2) Major\* repairs, extensions or major alterations shall only be undertaken pursuant to the issuance of a permit from the Zoning Administrator, Issuance of such permit shall be conditioned upon a requirement that the system shall be pumped out on a periodic basis of at least one pump out within every five (5) year period. The Zoning Administrator or designated agent shall maintain a calendaring system in order to track and enforce permit compliance.

3) \*Major repair – means any replacement or reconstruction affecting the septic tank or at least one-half of the leaching facility of an individual sewage disposal system

Counsel stated that this amendment will not affect unconventional systems and those will be handled at the PB level with specific conditions that will need to be met. However, this amendment is set forth to create an area in their ordinance, if a major repair or expansion to a conventional system, the Town is going to put that individual on a calendar and require pump outs. Counsel advised the Board that they will need to move forward with a public hearing to challenge any of these issues.

Councilmember Rehm asked if any other local communities have these standards. Counsel stated that he does not know of any. However, they have an idea of what the NYS Department of Health is going to require and he urges Bolton to get on board to find out what works for them before this is handed down. Councilman Maranville stated

that pumping out every 5 years is a short span to have it pumped out and asked if this includes replacement tanks. Counsel replied that this does not apply to existing systems unless they are failing or found to be failing or not in compliance. It also applies to those individuals who need to expand their systems and if it becomes a major repair or extension this will require that this property have mandatory pump outs. Supervisor Simmes asked if there is a repair done because of a failure and it is fixed, why they should require a pump out in 5 years. Counsel replied to be sure that all systems are starting somewhere to make property owners responsible for maintenance.

Z. Gabriels commented that the industry standard for pump out is 3-5 years. Each septic system has a life span and many systems in Town are at the end of their cycle and in need of major repair or modification and the 3-5 year pump out is thought to expand the life span of the system. He stated that with regard to calendaring, they have started that system in the Zoning office. He also noted that there are calendaring systems available in software packages. Code Enforcement Officer Mitzi Nittmann stated that currently they are entering this information into their system, however it needs to be fine tuned and she would like to find something that is geared more towards an alert type system of notification.

### **RESOLUTION#38**

Councilman MacEwan moved, seconded by Councilman Maranville that the TB hold a public hearing on the proposed amendment to Ordinance #36. All in Favor. Motion carried.

### **Section 4.020 A2 REPAIR, ALTERATION, ENLAREMENT OR EXTENSION OF A SYSTEM**

Current version says

A. It shall be unlawful to repair, alter, enlarge or extend a pre-existing individual

Sewage disposal system except that:

1) Minor repairs and minor alterations may be undertaken without a permit,

(i.e.: pumping out a septic tank)

2) Major\* repairs, extensions or major alterations may be undertaken

pursuant to a disposal system building permit.

\*Major repair-means any replacement or reconstruction affecting the septic tank or at least one-half of the leaching facility of an individual sewage disposal system.

**Proposed: Section 4020 Repair, Alteration, Enlargement or Extension of a system** should read:

A. It shall be unlawful to repair, alter, enlarge or extend a pre-existing individual

sewage disposal system except that:

1) Minor repairs and minor alterations may be undertaken without a permit. (i.e.: pumping out a septic tank)

2) Major\* repairs, extensions or major alterations shall only be undertaken

pursuant to the issuance of a permit form the Zoning Administrator. Issuance

of such permit shall be conditioned upon a requirement that the system shall

be pumped out on a periodic basis of at least one pump out within every five (5) year period. The Zoning Administrator or designated agent shall maintain a calendaring system in order to track and enforce permit compliance.

3) \*Major repair-means any replacement or reconstruction affecting the septic tank or at least one-half of the leaching facility of an individual sewage disposal system.

All in favor. Motion carried.

Supervisor Simmes stated that the public hearing would be held at the March 4, 2008 meeting at 7 pm.

### **Resolutions for board to consider**

#### **RESOLUTION #39**

Councilmember Rehm moved, seconded by Councilman MacEwan as follows:

Whereas, the Henry Knox Cannon Trail traces the route followed by Colonel Henry Knox and his men from December 1775 to January 1776 to transport 59 captured artillery pieces from Fort Ticonderoga and Crown Point on Lake Champlain to General George Washington at Dorchester Heights overlooking Bolton;

Whereas, this pivotal event of the American Revolution resulted in the evacuation of the British from Bolton’;

Whereas, Henry Know Cannon Trail Marker #6 in located within the Town of Bolton;

Whereas, the Hudson River Valley National Heritage Area, with guidance and assistance from the National Park Service, will undertake a project to conserve the NYS Henry Knox Cannon Trail monuments;

Whereas, the Henry Knox Cannon Trail monuments are the property of the State of New York;

Now Therefore Be IT Resolved as follows:

The Town of Bolton supports the restoration of the Henry Knox Cannon Trail monuments, and

Grants permission to the Hudson River Valley National Heritage Areas and its agents to complete conservation work on Henry Knox Cannon Trail Marker #6 located in Rogers Park in Bolton Landing, NY.

All in Favor. Motion Carried.

To approve contract with Thermal Associates for maintenance work for \$1140 for service of Vet’s Park, State Police and Health Center only.

Councilman MacEwan stated that he disagreed because he does not feel that they have done a good job over the years. Supervisor Simmes stated that she has not had any complaints about any of the other buildings. Councilman MacEwan suggested asking other companies to provide a proposal. Councilmember Rehm agreed and thought that they should call Highland & Co. for a quote.

Supervisor Simmes stated that she will try to get other quotes.

Authorize attendance at APA Local Government Day Conference. Cost \$45 per person

Councilmember Rehm stated that she was already attending and suggested that they ask a PB or ZBA member since the conference includes a lot of workshops and topics that would pertain to them. Supervisor Simmes asked how many members they should authorize. Councilman Saris stated that the PB and ZBA are required to complete continuing education and feels that it should be opened to any board member that wants to go to possibly assist in fulfilling their requirement. Supervisor Simmes stated that she will open it up to both the PB and ZBA members and that she will formally authorize the attendance at the March 4, 2008 meeting.

CSEA insurance negotiations are ongoing concerning health insurance issues. We are waiting for a proposal from the CSEA for our review.

Supervisor Simmes stated that all members should have a copy of the memorandum of agreement. The agreement is between the Town and the Highway Department and was drafted because of the change in insurance for Town employees for the year 2008. She is hoping that if they can come to an agreement so the Highway Department will not take it to grievance.

Councilman Saris explained that when they renegotiated the contract with the Highway Dept., the Highway Dept. decided to join on with the Town's health insurance policy. Although this is not his recollection of their meeting, the contract says that although the Highway Dept. has agreed to go on the Town's health insurance policy, any future changes need to be mutually agreed upon. He stated that when the previous TB met to discuss their options for health insurance and the TB opted for the lower percent increase in premiums, and in doing so they violated their contract with the Highway Dept. He stated that main difference is that the new policy has a \$250 deductible for each admission to the hospital. He stated that if they want to avoid the grievance process the Highway Dept. is requesting that they be reimbursed for this co-payment. He stated that it is still a cost savings to the Town because of the difference in cost of the two family plans offered.

Z. Gabriels commented that they had these meetings publicly and no one from the Highway Dept. attended either. He stated that they had to make a decision at the end of the year and they were working with only 3 Board members and all had to agree for the majority.

Councilman Saris stated that there are two clauses in the contract that are an issue 1) if there are any changes to insurance it has to be mutually agreed upon and 2) if there is to be any change in insurance, the insurance needs to be as good or better than current coverage. Councilman Saris suggested that they either agree to this resolution to avoid the grievance or have Counsel review the contract and discuss it further. He stated that they have a timeline in which to respond before they proceed with the grievance. Supervisor Simmes stated that the deadline is February 15, 2008. Counsel stated that he has reviewed the contract, which is legitimate and can be held up in a Court of law. The previous Board has a unified recollection of what they thought they agreed upon, which is probably true, but will not prevail over the written word.

Councilman Saris stated that the agreement basically is saying either restore the insurance to the previous policy or provide reimbursement for the co-pay for hospitalization on the new policy. If they choose neither the Highway Dept will file a grievance. Councilman MacEwan asked if they could send this back to the Highway Dept. with an amendment that states the next time a contract comes around, the TB has the right to make the decision without mutually agreement. Counsel replied yes because it will be at the termination of this contract. Councilman MacEwan asked if they could alter the current contract to reflect this. Counsel stated no.

Councilmember Rehm understands Councilman MacEwan concern, because in 2009 the Town may not have the same health insurance and they do not want to lock themselves into paying a \$250 co-pay for hospitalization. She asked if the Town could further stipulate that full reimbursement for inpatient hospital co-pays will continue for as long as this is the health insurance policy that the Town has. Counsel agreed and stated that they could make an amendment.

## **RESOLUTION #40**

Councilmember Rehm moved, seconded by Councilman MacEwan to settle the negotiations with CSEA relative to reimbursement for inpatient hospitalization under the Northeastern New York/Community Blue HMO 203 Plus Health Insurance Plan. The Town of Bolton agrees to provide full reimbursement for every inpatient hospital copay (\$250) that they have incurred or will incur, for every CSEA represented employee and their dependent, where applicable, including all CSEA retirees, and their dependents where applicable. This amendment for reimbursement will only occur under the current health insurance policy listed above. All in Favor. Motion Carried.

Supervisor Simmes feels that it is only fair to offer the same to all Town employees for the year of 2008.

## **RESOLUTION #41**

Supervisor Simmes moved, seconded by Councilman MacEwan to provide full reimbursement for inpatient hospital copay (\$250) that they have or will incur for every employee and their dependent where applicable. This amendment for reimbursement will only occur under the current Health Insurance policy, Northeastern New York/Community Blue HMO 203 Plus. All in Favor. Motion Carried.

Request from CEO, Mitzi Nittmann, to be reimbursed for her camera which she has been using for Town business and is not working. Also to purchase a camera strictly for Town use.

## **RESOLUTION #42**

Councilmember Rehm moved, seconded by Councilman Saris to authorize Mitzi Nittmann to purchase a camera for the Town in the amount of \$324.23 and to replace her personal camera in the amount of \$234.46. All in Favor. Motion carried.

## **Committee Reports**

Councilmember Rehm: Reminded everyone that there will be a drug forum on February 13, 2008. She stated that the Recreation Commission is preparing to hire a new Recreation assistant and starting in March their hours will be Monday through Friday, and no regular Saturday hours, with the exception of a field trip once a month on Saturdays. She stated that they are also working on new policies and updating their recreational plan.

## **Supervisors Report**

**Receipts: \$1,411,933.98      Disbursements: \$843,945.92**

**Sales tax check last quarterly check for 2007 totaled \$598,485.44 This is up \$58,525.81 from last year same quarter.**

**Time Warner Cable franchise fees for Oct thru Dec. Totaled \$7,093.26. This amount has been placed in an interest bearing capital project account.**

At the County I attended two committee meetings on January 30<sup>th</sup> for Occupancy Tax and Tourism. On January 31<sup>st</sup> I attended three committee meetings Employment & Training, Office of the Aging and Youth Programs.

I attended a meeting of joint government entities regarding funding for communities with water & sewer infrastructure. Grants or low interest loans may be available to communities. We will investigate our options.

## **Updates:**

We are moving forward with placing the Parks Dept. in the State Police barracks for the time being until we can decide the best place to build a new facility. State Police will remain in the offices, just giving up the use of storing their vehicles inside. State Police have agreed to move their vehicles to allow us to use the building. Supervisor Simmes stated a few things that will need to be done prior to that move which include 1) National Grid moving the power to that building and 2) they will need to install a separate bathroom.

We are looking at Jeff Tennent's property located off Horicon Ave. for the possible location of a water storage facility and possible other uses. Supervisor Simmes stated that she has walked the property and encouraged other TB members to walk the property 2/22/2008 for their input. She feels that it is a great piece of property, it would be an asset and it could have multiple uses.

Payment of Bills

**RESOLUTION #43**

Councilman MacEwan moved, seconded by Councilman Saris approve payment of the bills. All in Favor. Motion carried.

Councilman MacEwan moved, seconded by Councilman Maranville to adjourn the meeting at 10:43 pm. All in Favor. Motion Carried.

Respectfully submitted by:

Patricia Steele

Town Clerk

Respectfully submitted by:

Kristen MacEwan

Recording Secretary