

STATE OF NEW YORK  
COUNTY OF WARREN  
TOWN OF BOLTON

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

REGULAR MEETING

Supervisor Gabriels called the regular meeting to order at 7:00 pm.

Pledge of Allegiance - Councilman Andersen

*Announcements:*

- State agencies are still reviewing the Town's proposed joint acquisition of NoRoWal Marina
- Warren County Youth Coalition is holding a Heart Healthy scavenger hunt on Saturday, January 8 from 1-3 pm at the Town Hall
- (Cub Scouts) Pinewood Derby will be held on Saturday, January 15
- Meal site available
- Town of Bolton website addresses: [town.bolton.ny.us](http://town.bolton.ny.us) and [townofboltonlanding.com](http://townofboltonlanding.com)

*Public in attendance:*

- Bill Gates of the Bolton Historical Society (BHS) addressed the Board, indicating that the museum is running out of room. He noted that he received a call from a gentleman in Albany who wished to donate the original blueprints for the Villa Marie Antoinette, but there is no room to display them at the museum. There is also a need for a climate-controlled room for some of the more sensitive items. The BHS has been contemplating expanding the museum outward toward the back of the structure, and simply wished to bring the idea to the Town to address any concerns before moving forward.

Supervisor Gabriels asked if the intent was to keep the expansion within the confines of the lot, or rather to extend onto the adjacent Town property (Rogers Park), as the library had done when it expanded. He questioned this because at the time of the library project, there was a deed restriction on the Rogers Park property requiring the Town to get permission from a living descendant, who has since passed on. Mr. Gates indicated that while they are not certain until architectural drawings are done, they envision the building going at least up to the property line and would like the option of expanding it into the adjacent Town lot if it seems more appropriate for the design that is eventually decided upon. Supervisor Gabriels noted that the sewer line for the public restrooms in Rogers Park runs along the back of the museum quite shallow underground.

The Board was receptive to the idea and indicated a willingness to discuss the matter in the future, noting that review by various Town boards (PB & ZBA) may be necessary.

John Gaddy, representing BCS, addressed the Board thanking Highway Superintendent Tim Coon for reducing the lighting at the highway garage. He also asked the Board to allow environmental science student Mike Quigan to work on a project to create a vegetative buffer between the metal pile at the transfer station and the nearby stream. Mr. Quigan would come up with a proposal, which Mr. Gaddy hopes the Town would implement and allow the science class to be involved with. The Board indicated support of the idea.

Stephanie Mason, speaking also on behalf of her husband Doug Houghton, requested the Town have the County review the speed limit on Federal Hill Road, as they feel 55 mph is too fast for the residential portions of the roadway. Supervisor Gabriels indicated he would pass the request along to the County.

#### Correspondence:

- Memo from Miller, Mannix, Schachner & Hafner LLC re: Greenmeir-Hubbell illegal subdivision
- Notice of violation from DEC re: nitrate levels at the Sewer Plant
- Notice from the Algonquin Restaurant informing the Town of their intent to alter their bar, pursuant to the requirements of the ABC Board
- Notice from WC Administrative Clerk Joan Parsons that the IRS standard mileage rate has increased to 40.5¢ per mile
- Note from Hwy Superintendent Tim Coon that he believes the value of the surplus 1988 F-800 Ford single axle dump truck is between \$3,000-\$5,000
- Letter from Patricia Cushing expressing interest in being appointed to the Bolton Recreation Commission
- Letter from Town Counsel Muller to Supervisor Gabriels and Assessor Dave Rosebrook re: Peebles vs Assessor, Town of Bolton settlement offer
- Certificate of Designation for Board members/elected officials attending the NYS Association of Towns meeting in NYC in February
- Copy of correspondence between BCS Attorney Monica Duffy and Counsel re: Rainbow Beach tax certiorari case
- E-mail from David Cummings asking the Board to reconsider the amount of the civil penalty levied against him for undertaking construction on a hunting camp without obtaining the proper permits, a situation which he felt was an honest mistake on his part, as he misinterpreted the wording of the zoning ordinance
- Letter from Mr. Schmidt asking that the Town waive the penalties (\$2,000) assessed against him for not paying his tax bill on time, which was a result of his billing address being changed without his knowledge
- Copy of Engineer Carl Schoder's analysis on the C&D ramp at the transfer station
- Letter from Atty Gary Bowich representing the Donohues on Mohican Hill Road re: an ongoing runoff problem, encouraging the Town to willingly consult with DEC to resolve the problem

- Public notice from APA of a minor project for Marilyn Otto's subdivision on South Trout Lake Road
- Public notice from APA for a major project for the interior renovations at the Sagamore Hotel involving the expansion of the spa by converting the Trillium Restaurant into additional spa area, the enclosure of the Shelving Rock room for year round dining use, and the expansion of the conference center within the boundaries of the existing paved parking area to create additional restrooms and storage/service areas
- Notice from Energy Services Providers, Inc. of possible cost savings by switching providers
- Letter from Counsel notifying of the recent outcome in the Town's favor re: Byers vs Bolton zoning compliance court case
- Letter from Donna Boggs on behalf of the Town's retirees thanking the Town Board for the decrease in their health insurance costs to 25%
- Notice from the Office of the Comptroller that the fines for speeding that were passed by the Albany legislature last year have been repealed
- Several e-mails, mostly supportive, re: the State and Town's joint acquisition of NoRoWal Marina
- Continuing correspondence on litigation by Isle Harbor HOA against Town of Bolton  
ZBA

*Reports:*

Councilman White:

ASSESSOR:

Mr. Rosebrook reports that maintenance of deeds, property transfers and addresses have been kept up to date. Clerk JoAnn Burgess has been assisting the Town Clerk's office with getting tax bills out in the mail. Mr. Rosebrook met with involved parties in the Rainbow Beach assessment litigation, and came up with a proposed course of action. Other tax certiorari cases appear to be headed toward closure. The State has approved a payment to the Town of \$16,675 for the completed 2004 reassessment, which met the highest standards set by the State. Several area towns paid thousands of dollars for the same type of reassessment services that were performed in-house in Bolton.

JUSTICE COURT:

A/R: Judge Demarest - \$2,420. Stewart - \$2,190. Total: \$4,610.

WATER DEPT:

Water made: 5,443,357 gals. Pond level remains of the spillway due to the late fall rains. The Dept had to replace parts on some of the equipment, and assisted at the Sewer Plant while Plant Operator Chet Dagles was on vacation. There are two shut-off valves that have been broken for years and must be replaced (servicing Hondah Cottages and the old Dairy Queen).

POLICE DEPT:

Hours officers worked: White - 80.5, Howse - 85.5, Schroeder - 62. Miles patrolled: 1,183. Fuel used: 120 gallons. Officers investigated 2 criminal reports, 1 found property, 6

security alarms, 5 traffic summons, 3 parking tickets, 1 auto accident, 1 abandoned vehicle, 4 court securities, 1 arrests, 3 emergency medical assists, 4 misc complaints.

Councilman Saris:

TOWN CLERK:

- Total local shares: \$10,455.21. Non-local: \$73.44. Total state, county and local revenues: \$10,528.65.

HIGHWAY DEPT:

- There is a newly adopted policy for local residents' private use of sand at the highway shed. It is not to be used for commercial use or for re-sale. The Town has for years been sanding driveways for senior citizens as a courtesy, and is working on an official policy for the same.

SEWER DEPT:

- The Plant took in 4,955,910 gals of wastewater for a daily average of 159,868 gals. Monthly reports and samples have been completed. 32,000 gals of liquid sludge was hauled away. A motor had to be replaced at the Plant, and a new seal needs to be installed on one of the pumps at the new station.

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Councilman Andersen:

PLANNING OFFICE:

- Permits applied for: 9 certificates of compliance / 7 wastewater disposal systems / 4 variances / 7 site plan reviews / 2 subdivisions / 5 stormwater permits. 100 miles traveled. A/R: \$1,453.40.
- Yearly report for 2004: 173 certificates of compliance / 75 wastewater disposal systems / 55 variances / 44 site plan reviews / 28 subdivisions / 34 stormwater permits. Total fees collected for 2004: \$21,727.73.

CODE ENFORCEMENT:

- CE Officer Mitzi Nittmann's performed 29 site visits, traveling 92 miles.

BUILDINGS & GROUNDS DEPT:

- Keeping up with clearing and sanding the walkways.

RECREATION DEPT:

- Remains very active. Ski bus to Gore Mt. starts this Sunday.

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Councilman MacEwan:

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TRANSFER STATION:

- A/R: \$6,095. Lisa French reports a continuing problem of people depositing garbage/debris at the transfer station when it is closed, so Councilman MacEwan has asked Ms French to keep a daily log. The Police have been asked to monitor the area.

Supervisor Gabriels

**SUPERVISOR:**

☐ Total receipts: \$354,123.92. Total disbursements: \$550,952.82. Total receipts and disbursements for \$2004 resulted in +\$49,492.86. Warren County organizational meeting is scheduled for Wednesday, January 6, 2005 at 9 am.

*Unfinished Business:*

Correspondence continues between Counsel and APA re: the proposed zoning amendments for which a public hearing was held last month and for which APA continues to provide comments.

Correspondence continues between the Town and the Donohues' attorney, Gary Bowich re: alleged runoff problem from Town property onto the Donohue property. It is Supervisor Gabriels' and Counsel's understanding that Mr. Bowich will be consulting DEC on the matter and setting up a meeting.

Counsel reports that the Nicoletti alternative remedy case has been adjourned on the court calendar until January 26, 2005. Counsel continues to research the applicability of the noise ordinance with regard to this case.

The Town Board met with representatives from Pioneer Village Association on 12/28/04. Pioneer Village Assoc. wants to create a new water district for their facilities. The Board gave conceptual approval to the concept to use municipal water. Pioneer Village will undertake and incur all the legal and financial responsibilities to get water from the termination of our water lines on the north end of town to Pioneer Village for their 40± homes. We are just agreeing to sell water at the same price and same terms as everyone else in the district.

Supervisor Gabriels noted that there were seven individuals who expressed interest in filling the Dog Control Officer vacancy, 5 of whom were interviewed by Town Board members. Councilman Saris feels that Harry Simmes is best qualified for the position given his extensive background with animal care, knowledge of the Bolton Landing area, and the fact that he holds a firearm permit, which is one of the job requirements. It was noted that this is an on-call position (considered neither part-time nor full-time), with no benefits.

**RESOLUTION #18**

Councilman Saris moved, seconded by Councilman Andersen, to hire Harry Simmes as the Town's Animal Control Officer effective 01/04/05 at a yearly salary of \$5517. All favorable. Motion carried.

Highway Superintendent Tim Coon and Supervisor Gabriels have both attempted to contact Midland Masonry to repair the floating concrete pads at the highway garage, to no avail. The matter, which has gone on for more than a year, remains outstanding.

Ritz Contracting has yet to fulfill its promise to make a site visit to the highway garage to address the leaky roof that resulted from the August 16<sup>th</sup> heavy rainstorm that hit the area.

Regarding the referral from Code Enforcement Officer M. Nittmann on Barracks/Smith (alleged construction of a primary residence illegally situated on Smith property by Barracks), Counsel reports that John Barrack visited his office and agreed that he and his brother will obtain a survey from David Bolster, LLS, proving that the structure is not on Mr. Smith's property. Counsel spoke with Mr. Bolster who has indicated that he would provide said survey in mid-February, which will result in either a lot line adjustment between Smith and Barracks if the structure is on Mr. Smith's property, or no action if proven the structure is situated on the Barracks' property.

*New Business:*

Supervisor Gabriels noted that while shopping for the Town's insurance, one of the insurance companies suggested that the Town add to its employee handbook a concept of "employment at will", while another company suggested the Town establish mandatory safety meetings for all departmental employees as a matter of policy to reduce liability. Counsel will look further into the matter and draft appropriate language for the Board's consideration.

Stating no objections, the Board formally acknowledged the notice from the Algonquin Restaurant of their intent to make interior modifications to their bar pursuant to NYS Liquor Authority ABC Law 64.2(a). It was noted that if structural changes were involved, the applicants would be required to obtain the appropriate building permits (including a certificate of compliance from the Town of Bolton). The Board felt that the information in the request was lacking in specifying the extent of the modifications. Supervisor Gabriels will send a letter indicating that the Town has no objections to the proposal.

**RESOLUTION #19**

Councilman White moved, seconded by Councilman MacEwan, to grant the request of Water Tax Collector Kathleen Simmes and Water Superintendent John Perry that water meters not be read in January and that no water usage amounts be sent, but instead water and sewer bills be sent only for the quarterly billing charges (\$25 for water and \$18.75 for sewer), with the exception of Sagamore Hotel and Algonquin, and any others that need specific readings. Meter readings would be done in April and billed accordingly. All favorable. Motion carried.

**RESOLUTION #20**

Councilman Saris moved, seconded by Councilman Andersen, to designate Kathleen Simmes as a representative of Bolton at the Association of Towns meeting in NYC in February, with Donna Boggs as an alternate. All favorable. Motion carried.

Regarding the Town's effort to draft a policy for sanding driveways (only) for senior citizens and disabled Bolton residents, Supervisor Gabriels noted that the Town currently sands approximately 20-25 driveways under this practice. He referred to Ordinance #11, which similarly involves Town exemptions for property taxes based on age and income, as a standard for drafting a sanding policy. Assuming that the Town's main goal was to be covered from any

potential liability, Councilman Andersen wondered if such a policy needed to cover cases such as when the Highway Dept gets a request from the Rescue Squad to sand a driveway for emergency access, regardless of age or disability of the property owner. Counsel indicated there was an existing body of law (called 'danger invites rescue') that covers municipalities in such circumstances. Supervisor Gabriels asked if there were any public comments on the matter at this time. There were none.

Regarding the prospect of purchasing a salt storage shed for the Highway Dept,

Supervisor Gabriels noted that the matter must be addressed soon. Councilman White wondered if representatives from any of the storage shed companies could make a presentation on the best type of shed for the location based on such things as terrain and the Department's budget, etc. In an effort to research costs, Councilman Saris suggested the Board look into whether the plastic dome-shaped units, such as Warrensburg has, are available under State contract. Councilman Andersen felt it was important for the structure to match the architecture of the highway garage, as there was great effort that went into that design to ensure that it blended with the Adirondack setting in which it sits.

J. Gaddy, public in attendance, wondered if the Town might be able to solicit some funding from the Fund for LG or the LGA to aid in this project, as the structure would help with the protection of Lake George.

Supervisor Gabriels noted that the Town would be interviewing this month for an individual to transcribe the Town Planning, Zoning, and Town Board meeting minutes.

Regarding Mr. Schmidt's request to have the late fees waived on his school tax bill, as a result of someone changing his billing address without his knowledge, Supervisor Gabriels noted that Town has no say over fines imposed by the school.

Regarding Mr. Cumming's request to have the amount of the civil penalty imposed upon him reduced based on his alleged innocence and misinterpretation of the zoning ordinance, Counsel recommended that the Town stick to its original course of action, which was consistent with penalties imposed upon other violators. He further noted that if Mr. Cummings strongly feels that he has a case that the zoning ordinance was unclear, his avenue of appeal is through Supreme Court under an Article 78 proceeding. The Board agreed with this position.

#### RESOLUTION #21

Councilman White moved, seconded by Councilman MacEwan, to authorize Supervisor Gabriels to send a letter to David Cummings on behalf of the Town Board declining Mr. Cummings' request for a reduction in the amount of the civil penalty imposed upon him. All favorable. Motion carried.

#### *Public in attendance:*

☐ Bob Weisenfeld asked the Board if a fall stormwater maintenance report for Bell Point Shores had yet been filed with the Town. Supervisor Gabriels indicated one had not been filed with his office as of yet. Mr. Weisenfeld noted that someone had made an effort to make repairs

to the road between the past season's storms. However the steep parts of the road need additional attention.

Supervisor Gabriels noted that Tom McGurl was recently appointed to fill the vacancy on the ZBA left by Fred Ross, who had served on the Board for 24 years. A certificate of appreciation will be prepared for Mr. Ross.

RESOLUTION #22

Councilman Andersen moved, seconded by Councilman MacEwan, to pay the LG Watershed Conference bills. Voucher submitted by Dave Decker on 1/4/05 for \$9,182.89 as approved by K. Millington (DOS), pending availability of funds payable from NYS, for payment under contract C006305 - LGWC and Plan for the Future. All favorable. Motion carried.

RESOLUTION #23

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

Councilman Andersen moved, seconded by Councilman White, to adjourn the regular meeting and enter executive session at 8:15 pm to discuss a personnel matter. All favorable. Motion carried.

Councilman Andersen moved, seconded by Councilman Saris, to adjourn executive session and reconvene the regular meeting and adjourn at 9:15 pm. All favorable. Motion carried.

Transcribed by:  
Melanie Quigan,

Respectfully submitted by,  
Kathleen Simmes, Town Clerk

Recording Secretary 01/18/05