

TB Minutes March 6, 2007

STATE OF NEW YORK  
COUNTY OF WARREN  
TOWN OF BOLTON

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

Absent: None

Pledge of Allegiance Rob MacEwan

REGULAR MEETING: Supervisor Gabriels called the regular meeting to order at 7:04 pm.

Announcements:

NYS DOT proposes to replace 9N culvert 1.6 miles north of County Route 11 intersection from May 1, 2007 and complete before Memorial Day 2007.

Meal Site Menu is available in the Town Hall.

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

Barbara Orton, Warren County Public Health presented the Pandemic Flu Plans/ Emergency Plans and gave an overview of the services the organization has to offer the community along with a handouts detailing their efforts.

Public in Attendance:

Meredith McComb said that she would like to address being presented with a verbal ruling that came about at the end of the last ZBA meeting in that she should not visit a site with anybody else. They don't have the right to visit the site, and she doesn't have the right to take someone else with her—that she can agree with. She felt that Counsel was suggesting further that she not have anything to do with the two people named by name—Kathy Bozony, who is the land use coordinator for the LGA or Lake George Waterkeeper Chris Navitsky: Counsel now says there is nothing against socialization, although the appearance of impropriety has become so great a concern that it just seems to top nearly everything, even trying to get information. Information is the basis of decisions and it should be and is disclosed and reviewed in public meetings. If anybody has any accusation about somebody making a decision based on secret information, knock your socks off—that's not what she believes is at issue here. She asked if it is a matter of perception of lack of bias.

Counsel responded by saying: as he recalls it, at the last ZBA meeting, K. Hoopes came up with and posed the question for a legal opinion. The question was twofold, first Counsel recalls that K. Hoopes said that M. McComb had spoken up at other meetings (PB meeting) with respect to her opinion (which she is entitled to) on a particular matter that is pending before the PB and the ZBA and if that is appropriate. Counsel said that he answered K. Hoopes' question by saying that we are all guided by the principle that we must appear to be impartial and that if M. McComb speaks her opinion (again, which she is entitled to do in any of these public forums) that she has in a sense, stated the case that she is an advocate for or against a project, which in Counsel's opinion, it serves then the best interest in the Town of Bolton that when M. McComb is asked to vote on that application in her capacity as a ZBA member, she would be appropriately recusing herself, because she has either advocated for or against that project. As a member of the ZBA, that is M. McComb's choice in terms of to speak in any public forum for or against a project, but once you sit on the board and you are asked to vote impartially. Counsel understood and agreed with

K. Hoopes' point that it does give the possibility of the appearance of impropriety. He did not say that it is an actual impropriety, that is not the standard they are judged by, likewise he feels that his answer to K. Hoopes' question is that no, it would not be a good idea for M. McComb to speak for or against an applicant's project in any form and then take her seat as a ZBA member and vote on their project for or against it; note that Counsel did not say that M. McComb is prejudiced or that she has preformed an opinion or that she wasn't going to give the applicant a fair hearing. Counsel is saying that M. McComb crossed the line in terms of what constitutes the appearance of impropriety.

M. McComb said that: she didn't characterize what she was saying as her opinion, she characterized it as having gone to the APA and asked for their map that they based their determination that the project was non-jurisdictional on. She found material discrepancies between that map and Lake George. Counsel said that he wants to make sure that whatever M. McComb had to say pertained to an applicant's project and it was either favorable or unfavorable to it. He understood it to be unfavorable and he thinks the applicants expect M. McComb will fairly vote when she takes her seat as a ZBA member, which was his concern. M. McComb said that: in the staff notes Counsel said he wanted to make it very quickly apparent to one applicant that there was a problem with his application. She wanted this material to get to the PB and didn't see any other way to get it there. She took it to Zoning Administrator P. Kenyon first to show her the map discrepancies and to her (McComb's) mind Mr. Simonson is disadvantaged because he is pursuing this line and spending more and more money on the application and if it is a fact, then the board should consider it. If Counsel feels that being unbiased is the same for a ZBA member as it is for a juror in trial, she would disagree and ask the TB to very seriously consider the implications of this. There is a lot of support for finding ambiguity and if one does, that is a clear legal issue that is resolved in favor of the applicant, but this appearance of impropriety is being carried beyond liberty and justice for all to stifle input on things.

M. McComb then handed out a copy of a Mark Schachner piece that came out in 2005 and pointed out that it looks very official and says at the bottom that "...this is solely the opinion of the author and not endorsed by any government agency..." and said yet it is forming the basis of the syllabus for a course to be taught to all Planning and Zoning Board members. Things have gone so far in Mr. Schachner's firm, as Miller, Mannix, Schachner & Hafner are counsel to Chester, Corinth, Fort Edward, Greenfield, Hebron, Horicon, Indian Lake, Lake George, Newcomb, Queensbury, Warrensburg, Argyle and the city of Saratoga Springs Planning Board (her source is the speaker biographies at the Saratoga Planning Conference, presumably presented by Mr. Schachner); Mr. Schachner, in this piece, characterizes legal free speech "out-of-school, inappropriate, whispered, improper, popularity contests, under cloak and privacy..."—not technically illegal per se—again and again there are insinuations about it. If Counsel (Mr. Muller) has come around to the mind that any perception of impropriety is so onerous and cannot be counteracted by the board members' conduct in the meeting and perhaps voting record—she and all board members are being asked to look over their shoulders and second-guess if they can have this conversation. This is a small town and when someone comes in to give evidence in Zoning Hearing they are not sworn. She asked one time to hear more about the reasons behind a decision P. Kenyon made and she (McComb) was told that would be inappropriate because the Zoning Administrator having ruled now will have a hearing on it; P. Kenyon speaks up sometimes, but she (Kenyon) also holds herself above things; she (McComb) is not taking an issue with this in terms of how P. Kenyon construed it; the first half of K. Hoopes' was about recusing herself from the ZBA consideration of the Simonson project and lastly, she (McComb) asked why Counsel didn't ask her to do this before she spoke on it at the last meeting.

Counsel said that; he wants to emphasize that M. McComb has the absolute right to voice her opinion in a public forum as she does here and as she did at the PB; with respect to whatever it is M. McComb said, which he doesn't entirely recall everything. M. McComb asked about Mr. Simonson's application, M. McComb has that absolute right; the Schachner item M. McComb just handed to the TB and asked them to read is what he (Counsel) actually gave to M. McComb and all of the ZBA and PB members, as he thought Mark Schachner wrote a good article. It raises the issue and perhaps in some cases, ire, but M. McComb can speak and he (Counsel) would never stop her when she stood up at the podium at the PB

meeting. At the ZBA meeting he didn't tell M. McComb to recuse herself on the spot because it is curative. That is that M. McComb turns to Mr. Simonson when he returns to the ZBA and she is to say to him that "Sir, as you may recall, I spoke against your project and if you wish I will recuse myself and if you wish not, I feel that I can offer you a fair and impartial vote..." and then Mr. Simonson controls the issue.

M. McComb asked if it is true that Mr. Splonskowski's appeal of P. Kenyon's ruling of the same property involved in the same issue, so she should have also recused herself then so as to not taint the record and Counsel said yes, that is closely aligned to it.

Counsel said that he believes he didn't bring up the second part of the question that K. Hoopes raised because he has no personal knowledge of this. K. Hoopes' characterization was that M. McComb went to Mr. Simonson's property as she is entitled to go there because there is a signed consent that Mr. Simonson has signed as part of his application to inspect the Simonson project. She went with Kathy Bozony, who is the spokesperson and advocate for the LGA. Counsel indicated to M. McComb that it was not in the impartial best interest to be on the project site with a person who is an advocate against that project and indeed she is against it. She is an advocate—he (Counsel) just wouldn't want M. McComb as a member of the ZBA being held to the possibility that the impropriety lies in the fact that she is collaborating with an LGA representative. He did say that it is best not to do that (1) for the impropriety and (2) for the fact that the permission to be on Mr. Simonson's property and at his project is specifically given to M. McComb and not to bring Kathy Bozony along. She has no permission to be there. The applicant controls whether he feels M. McComb can be impartial and fair in her voting on the matter—that's how you neutralize it.

M. McComb questioned the standard of the appearance of impropriety on if it is legal, because Mark Schachner says that it is not found in any regulation. Counsel said that he agrees with Mark Schachner and it comes down to that he, Mark and any municipal attorney would encourage board members not to do that. M. McComb asked if that is valid even though it is legal and said that she concedes that Kathy Bozony doesn't have a legal right to be on Mr. Simonson's property and she doesn't have a right to take her there and asked if not talking to an advocate only applies to her.

Counsel said that he is not saying that M. McComb cannot talk to, associate or socialize in any way with Kathy Bozony. He has highest regard for Kathy Bozony and for Lake George Waterkeeper Chris Navitsky. M. McComb can also discuss issues with them and talk to them on the phone personally and go see them if that is part of M. McComb's ambition as a Zoning Board member in forming her opinion. M. McComb said that if they are clear that seeking out information from advocates is not improper as long as it is brought into the open meeting and disclosed is a reason for voting, she thinks that is what they have been doing by and large. Counsel said that is correct.

Supervisor Gabriels said that ethics is a complicated issue. M. McComb agreed and said that when you hear that list of towns represented by one lawyer who is a counsel to people who are suing over zoning rights and to applicants before boards, she would consider his perception of lack of bias on it. Supervisor Gabriels said that at some point this issue will be handled by higher courts than the TB, with some ethical ruling being rendered, and the question of ethics is permeating our entire state's society at this point. M. McComb asked if bias and the perception of bias goes so far that she has sat at two PB meetings that told two other applicants that they could not build down there. One wanted to build a house down there and the other wanted to build up top, and each time, the sticking point was if the sewage could be moved off the property to the leech field without encroaching the wetlands and she told other people as an official member "no" and if they had seen the map on what was presented was Mr. Simonson's APA approval, she thinks that provides grounds for reversal for Mr. Simonson if he does succeed. Counsel said that they are better served here by not discussing anything about Mr. Simonson's merits of his application. Supervisor Gabriels agreed. M. McComb thanked the TB for their time and for establishing that board members can seek out information wherever they wish as long as they disclose it in the

meeting. Counsel said that is absolutely accurate.

Richard Kudlack, representing The Property Owners' Group, said that property owners are concerned that when they signed the authorization form, because it gave certain board members, employees of the town and their agents the right to enter their property, but what happened here was completely out of line and the group would like the Town of Bolton to make a strong statement to board members that they can't bring advocates or people that aren't authorized onto private property. Counsel responded by saying that he wants to assure that it has been corrected, he doesn't think it was intentionally done, and he thinks by oversight, however it came up, when K. Hoopes asked the question and M. McComb got his (Counsel's) answer, there is no wiggle room in his answer. The Property Owners' Group expectation is absolutely correct and ZBA members, PB members, the Zoning Administrator, the Code Enforcement Officer, the Town Supervisor—should not bring any other people down that are not authorized to be there. All TB members said they understood and agreed.

Richard Kudlack said that they expect any of the board members to be impartial and open-minded when they come before boards for hearings and what happened here was that M. McComb appeared before the PB expressing her personal opinions, M. McComb brought an advocate to the site—aiding and abetting trespassing, and then she felt comfortable sitting before the ZBA hearing that case—he thinks she already expressed her bias previous to that and should have recused herself. Counsel said that his recommendation is still out there in that needs to be asked of the applicant and on the Splonskowski interpretation, he (Counsel) missed the boat on that as not seeing it as exactly being the Simonson issue—he didn't see that conflict as controversial thing—he apologizes for that and he thinks M. McComb's presentation was that she was speaking against Simonson—not the interpretation. M. McComb said that when she spoke on Mr. Splonskowski's appeal she spoke on behalf of Mr. Simonson's position in that case, because she felt that Mr. Simonson's position was accurate and defensible and she defended Mr. Simonson's interest every bit as vigorously.

Richard Kudlack said that the appearance of impropriety is that M. McComb went before the PB and expressed her opinion, she didn't recuse herself from the ZBA, she brought an advocate to the site and she was then the sole dissenting voice with the advocate's position—the appearance was that the LGA almost owned a ZBA member. M. McComb asked which vote she was the sole dissenting vote on because since September she has only voted against the majority once. Richard Kudlack said it was at the last ZBA meeting. M. McComb asked what it was she supposedly voted against, because she certainly didn't vote against the majority in the only issue concerning Simonson before the ZBA and this is “he said, she said.”

There were no additional public comments on this or any other matters at this time.

Correspondence:

Notification from Steve Preuss of the Rec. Commission regarding their meeting to consider a candidate to replace Russ Ferris, who resigned.

Letter of resignation from Steve Preuss effective the end of this month as Rec. Director.

Letter from Patricia Martin encouraging the TB to take actions to get a local pharmacy.

E-mail from Carl and Nancy Kluck, they are currently in Texas and are using the Town websites to keep informed on town matters by reading the minutes.

Letter from Bolton Free Library thanking the TB for its financial contributions this year and also submitted their proposed parking plan.

E-mail from Tim Hendricks regarding help he received at the transfer station and appreciation for Highway Dept's work.

Correspondence from Counsel regarding progress on the covenant restrictions for Rogers Park.

Indication from NYSDEC that they would like to attend the next BLDC meeting to discuss their participation in the coming year.

Project permit from the APA; installation of a pond to serve a previously authorized single-family dwelling

on East Schroon River Road.

Correspondence from John Gaddy seeking information on the usage of salt in the Town of Bolton in recent years.

Letter from John Gaddy regarding the possibility of the Town of Bolton taking over the road in Rolf Ronning's Saddlebrook subdivision - he is opposed.

Notice of NYSDOT resurfacing project as referenced earlier.

Correspondence from Time Warner Cable regarding cost and program changes.

WCDPW that Town of Bolton diesel fuel charge is going up \$.045 per gallon to be paid to the county because of mandated ultra low sulfur diesel fuel being used.

Letter from Tom Torebka requesting to be paid for unused vacation time.

Correspondence from Green Island Associates (The Sagamore) that they will be renewing their liquor licenses for The Morgan, The Caddy Shack, The Pavilion, and an additional bar on The Morgan.

Referrals from Zoning Enforcement Officer / ZBA / BPB:

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

Supervisor Gabriels said that the attorneys are still deliberating on those issues and they have no concurrence yet whether or not they are going to solve this issue by alternative remedy or other means at this point.

Board of Health/Water Commissioners:

Lichtenstein (TMN 157.05-1-40) Septic Variance – To Be Heard Next Month (April) Pending Nace's Engineering Report and Public Notice

Reports:

Councilman Maranville

Office of the Assessor:

During February the office was busy with office and fieldwork. March 1st was Tax Status Day. The Assessor attended the monthly meeting of the Warren County Assessors.

Police Department:

Miles patrolled: 387 miles. Fuel used: 27 gals. Officers investigated 1 security alarm, 1 uniform traffic tickets issued, 2 auto accidents investigated, 1 court security, 1 training day, 19 parking warnings issued, 1 arrest, 1 misc. complaint and 1 NYS Police assist.

Justice Department:

A/R for February 2007: Judge Harry Demarest - 2,610.00. Judge Edward Stewart - \$2,670.00. Total: \$5,280.00. There is an itemized list located in the court breaking down the amounts.

Councilman Saris

Clerk's Office:

Total Local Shares Remitted: \$6,815.97, Total Non-Local Revenue: \$43.27,

Total State, County and Local Revenues: \$6,859.24.

Sewer Dept.:

The Plant took in 4,505,681 gals of wastewater for a daily average of 160,917 gals, all beds are dry. They had 32,000 gals liquid sludge hauled and they have an issue as two trucks are broken down. They may have to consider going to bid on a truck. Money was put in the budget for it.

RESOLUTION #38

Councilman Andersen moved, seconded by Councilman Saris to put specifications together and put it into the paper with bids to be opened at the next TB meeting. All favorable. Motion carried.

Councilman Saris said that Chet Dagles would like the TB to consider either uniforms or clothing allowance to be provided for the Sewer Dept. staff.

#### RESOLUTION #39

Councilman Maranville moved to give Sewer Dept. uniforms they are requesting. There was no second to the motion or vote.

Councilman Saris said that he would like to discuss the Sewer Dept's. specific needs first before voting on the item. Councilman MacEwan said last month the Water Dept. requested uniforms as well and that request should also be taken into account. Councilman Andersen said that he has no problem, but somewhere along the line the TB should adopt a written policy of what they will get and replacement so it across the board equal and equitable. Councilman Saris said he would like to get additional information on each department's needs. The TB consensus was to address the matter further at next month's meeting.

#### Councilman Andersen

No formal reports were given, but Councilman Andersen said that Steve Preuss is leaving the Rec. Dept. and he has done a great job in turning the dept. around including starting the youth program, which has gone over well. He will be missed and tough to replace him however, the Rec. Dept. is in the process of advertising for a replacement.

Councilman Andersen said that he has heard a significant amount of comments regarding Main Street and what the Parks Dept. staff did or didn't do after the snow. To clarify, the day it snowed the Parks Dept. staff tried in earnest to clear the sidewalks three times before they became overrun. At some point given the size of equipment and amount of snow in a given timeframe, the Parks Dept. was at the mercy of the state to clear the snow or waiting for Town Highway to do that with them, and during that time the Parks Dept. staff worked with the Water Dept. staff to make sure all the hydrants were open, assisted Highway Dept. with back streets, parks, library and side roads, and they did in fact stay busy. They got jammed up and it was an unusual event.

Councilman Andersen said that the Highway Superintendent cleaned Rt. 9, which is technically not the Town's responsibility. It is the state's, who told him it would be another two weeks before they would be able to make it to Bolton, so the Parks Dept. staff assisted in that situation. There were five days that they weren't done and given the size of the storm, people need to keep an open mind that you do what you can do and you do it as fast as you can, which he thinks occurred. He has heard several hits on the Parks Dept. staff, which he thinks are unfair given the size of the storm, the size of the equipment available, and the additional projects they were helping out with.

#### Councilman MacEwan

##### Water Dept:

Water made: 5,499,620 gals for a daily average of 196,419 gals. The department was very busy with the weather variables and keeping up with daily tasks such as keeping hydrants clear and repairing water leaks.

##### Zoning Dept.:

Permits applied for: 8 certificates of compliance / 2 wastewater disposal permits / 2 variances / 4 site plan reviews / 2 stormwaters / 4 subdivisions.

A/R: \$2,485.14.

##### Code Enforcement Officer:

97-page report filed. 44 Miles logged. 2 site visits / 1 notice of violation / 2 inquiry claims / 4 compliance contracts / 1 Code Enforcement Packet / 1 Zoning Administrator packet / 1 trip to NYC for training.

Supervisor Gabriels

Supervisor's Report:

Total receipts: \$168,630.29 and Total Disbursements: \$333,733.55

No stormwater report for February 2007.

Warren County is still struggling with topic of health and human services building and there is a discussion at county level to raise county sales tax, for which Supervisor Gabriels welcomes the community's thoughts on this issue when it comes up for more discussion.

Unfinished Business:

Decide on Consent Order Verizon v. Town Re: Assessment

Counsel said this item is pending.

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

Supervisor Gabriels said that they have been unable to speak with Al Sterne on the definition of "Cut & Fill." Counsel said that Lisa Nagle is also working on it and he will follow-up with her.

Pioneer Village Improvement Association - Water District Extension - Discussions Ongoing Not Finalized - Acknowledge Receipt of Documents from Atty. Stafford 02/05/07 - TB Consideration of Any/All Provisions

Supervisor Gabriels said that the Pioneer Village Improvement Association has presented documents relative to their petition for a water extension. Copies have been provided to the TB members for review. He has some concerns, which he has addressed with Counsel. Right now the billing procedure for all operation, maintenance and debt is serviced by the metered water consumption and it may in the future be based on the assessed valuation of the parcels served by the water district. The TB still retains an option for the current parcels to go back to billing in some way possibly based on assessed valuation, but he wants to make sure if they do they will have the same ability to bill Pioneer Village on some assessed valuation in an equitable fashion across the board.

Pending Items: Were discussed and no action taken.

New Business:

Discuss - Conceptual Sale of Cat & Thomas Mountains to NYSDEC by LGLC - Thoughts - May Have Requirement of Local Approval/Veto Memo of 2/15/07

Supervisor Gabriels said that the sale would put that land back on the tax rolls. The state does pay property taxes or payments in lieu of taxes, where the LGLC being an exempt organization, does not at this time. He would presume if the land was sold to NYSDEC it would go under the Lake George Wild Forest Unit Management Plan and the community and NYSDEC are still reviewing the draft plan.

Councilman Saris said that an unknown would be the public access to that land. Councilman Andersen asked if there are any conditions in the LGLC to the state in terms of public access. Supervisor Gabriels said they just had an informal discussion to bring it to the TB's attention and he doesn't believe that matter was raised at that time. Councilman Andersen asked if additional information is forthcoming and Supervisor Gabriels said that it has just been opened for discussion.

## Consideration of Draft Proposed Local Law #1 of 2007 - Variance Requirements for Any Changes to Pre-Existing/Nonconforming Structures

Supervisor Gabriels said that he asked Counsel to have Lisa Nagle submit the provisions they worked on for nonconforming structures and uses that the Zoning Revision Committee provided to the TB on an earlier basis so the Town of Bolton and TB could review it. The language provided by Lisa Nagle to the TB and Counsel, they have reviewed and are providing feedback on. They are looking to have a public hearing on the matter at the April TB meeting.

Counsel said that he would summarize it in that what is in the existing code and know as \*Article XI, it is a topic that is generally and generically stated as nonconforming uses and nonconforming structures and the attempt in this new legislation is to codify some uniformity so that there is a clear expectation of the property owners and those adjacent to nonconforming uses and nonconforming structures for the opportunity to be heard in public forums or public hearings. Under the topic of nonconforming uses, they are proposing some legislation that defines what constitutes an expansion of a nonconforming use. Nonconforming use is something that is legitimately occurring in a zone, which if it were applied for today would not be permitted, it is grandfathered. The provisions within the proposed local law would address that as well as what happens if the nonconforming use is extended, modified or replaced. The attempt of the new legislation is to allow these matters to be discussed in public forum, meaning that when a person seeks to expand or extend or modify it will be done either by ZBA activity or PB activity in appropriate cases. A different and non-associated topic is nonconforming structures. Structure by which if something that pre-exists the current requirements of the current ordinance and is nonconforming, it is certainly grandfathered, there are again provisions, concerns, so in that respect this proposed legislation suggests that again each and every single one of those matters should be a matter of ZBA review and in some appropriate cases, the ZBA might even refer to the PB for site plan review; and those things that define what a nonconforming lot is and what a nonconforming structure is and what a nonconforming use—those definitions have been streamlined as to specifically direct that a line is drawn as for a particular date; and the clean version will be to the TB in the next two days.

Supervisor Gabriels asked if it is correct that if public comment is heard and favorable and there are no major objections then this could be passed in the very near future. Counsel said that the path would be that he would provide notice to the APA in the hopes they would respond. He would provide a copy to the WCPB to have the referral portion of the general municipal law satisfied, he would have a copy for Town Clerk K. Simmes so she could properly publish it and at the public hearing if it withstands public scrutiny, can be changed on the spot, but eventually it comes down to if it gets changed or is acceptable then it deserves to get voted upon after a public hearing, and it does have a SEQR aspect to it, which he will do as well.

Supervisor Gabriels asked if part of the adoption process would be the appeal of the existing nonconforming and Counsel said yes, absolutely. This \*Article XI substitutes the actual existing \*Article XI. Supervisor Gabriels said that when the Town gets around to looking at the entire zoning package again that is still being worked on it will have the option then to revisit this topic or adopt it as is and Counsel said yes, absolutely. His understanding is that Lisa Nagle is 100% behind this proposal and she said that it would certainly comprehensively be looked at again to see if it is working and also to see if it needs any tweaking before it becomes part of the new code.

Councilman Saris said that he thinks they should move forward with it because it is a vast improvement on what the Town had and he thinks it does a good job in directing things to the boards in not only protecting the rights of surrounding property owners and ensuring that proper notice is given to them and a public forum is held, but he also thinks it also does a good job at protecting the Town because those things get fully discussed and there is a record to show that everything has been considered.

RESOLUTION #40

Councilman Saris moved, seconded by Councilman Andersen to set a public hearing for Local Law #1 of 2007. The hearing will be held on April 3rd at 7:00 p.m. All favorable. Motion carried.

#### Discuss/Adopt Policies/Procedures for Zoning Office as Prepared by ELAN and Reviewed by the TB

Supervisor Gabriels said that prior to this meeting they received a confidential report on policies and procedures for zoning/planning office staff job descriptions. After suggestions to tweak these documents, they are 95% complete. Lisa Nagle has indicated the TB could get clean copies by the end of the week. The TB consensus is that because they are job descriptions they do not need to be adopted formally by the Town Board, but will be recommended to be provided to the Zoning Administrator and Code Enforcement Officer to be discussed with Counsel and TB liaison Rob MacEwan, after which the final documents will be available to the public. Councilman MacEwan asked when the TB would be receiving a clean copy and Counsel said that Lisa Nagle will be working on it tomorrow morning and he would like to have the TB address the matter.

Supervisor Gabriels said that progress is being made, he has consensus from the Town Board that this is a good thing, ELAN thinks it is a good thing and Counsel suggests that at least it represents a good working theory so that the Town's booming real estate industry can proceed in a manner that is in accordance with the Town's Zoning Code, Comprehensive Master Plan and the feelings of the community at heart. Councilman MacEwan said patience is a virtue and he thinks everybody will be happy when it is all said and done. Supervisor Gabriels said that copies will be available for public review as soon as Counsel, Rob MacEwan and the Zoning Office Staff review them.

#### Review Proposed Parking Plan for Bolton Library - As Drafted by JMZ Architects

Supervisor Gabriels said they have two handicapped spaces carved off on the north side of Rogers Park Road on library property and four other spaces that would be on the Town's property on the Rogers Park side toward the lake, and the library is looking for permission and potential resources for this project.

Councilman Saris said that he thinks it would be a good improvement for the library and an aesthetic improvement to have parking in that area and the library doesn't show it on the presented plan, but once this is approved their intention is to come up with a landscaping plan.

Supervisor Gabriels asked about using Town forces for this item and if there are any zoning questions that need to be addressed. M. Nittmann said that she would have to review it and P. Kenyon agreed. Counsel said that regarding the use of Town forces, he is pretty confident it can be done, but he would like to research it further.

Meredith McComb suggested the library group also look into putting in bike racks and Councilman Saris said he would pass on that suggestion.

#### Planning and Zoning Board Members Are Now Required by State Law to Receive Training.

Supervisor Gabriels asked for TB members' consideration for the Town paying for ZBA and PB members' training (4-hours), which is now required by state law. Councilman Andersen replied by saying that he feels the Town should pick up the cost of all training for these board members, as they serve for token dollars. Councilman MacEwan agreed and asked if \$25 is enough of a reimbursement. Councilman Andersen said that whatever courses the state requires and whatever the Town normally pays for travel should be implemented for ZBA and PB members. Councilman Saris said that \$25 might not be enough to cover the training, gas and meals. Councilman Andersen said that whatever the training is and whatever it costs ought to be reimbursed.

Meredith McComb said that there is usually a registration fee to attend a training meeting, which often

includes gas money and a meal to be reimbursed.

RESOLUTION #41

Councilman Andersen moved, seconded by Councilman MacEwan to reimburse all ZBA and PB members at a fee to be determined for mandatory state training. All favorable. Motion carried.

Tom Torebka Has Requested to Be Paid for One (1) Week Unused Vacation. He Has the Time and His Anniversary Date is 3/17/07

RESOLUTION #42

Councilman Saris moved, seconded by Councilman MacEwan to pay Tom Torebka for one (1) week vacation time. All favorable. Motion carried.

Noise Permit - Munson - Bixby Estate - Friday, June 29, 6-10 PM, 4 Piece Combo and Saturday, June 30, 6-11 PM, 8-10 Musicians – Wedding and Reception

Councilman Saris said that in the past the TB has required the applicants notify their neighbors within 500 feet and get their consent if they are going to 11:00 PM.

RESOLUTION #43

Councilman MacEwan moved, seconded by Councilman Maranville to approve the Munson's requested noise permit for Friday, June 29, 2007 from 6-10 PM. All favorable. Motion carried.

RESOLUTION #44

Councilman Maranville moved, seconded by Councilman Saris to approve the Munson's requested noise permit for Saturday, June 30, 2007 from 6-11 PM pending receipt of written permission from neighbors within 500 feet. All favored. Motion carried.

Noise Permit – Albarelli – Woodland Ridge, Saturday, September 22, 2007, 5-10 PM, 6 Piece Combo, Wedding Anniversary

RESOLUTION #45

Councilman Andersen moved, seconded by Councilman MacEwan to approve the Albarelli's requested noise permit for Saturday, September 22, 2007 from 5-10 PM. All favorable. Motion carried.

Accept Resignation of Steve Preuss as Bolton Recreation Director Effective 03/31/07

RESOLUTION #46

Councilman Maranville moved, seconded by Councilman Andersen to accept the resignation of Steve Preuss as Bolton Recreation Director effective 03/31/07. All favorable. Motion carried.

Supervisor Gabriels said that he hopes the Rec. Dept. will provide the TB with potential candidates for the position for next month's TB meeting.

Supervisor Gabriels Has Asked Donna Farrar, Whitmore, Doven & Ricciardelli for Proposal for Accounting of Sagamore Hotel's Financial Records for Compliance with Contract of October 5, 1982 and Refinancing Contract of December 5, 1989

This item is pending.

Sidewalks – Whose Ultimate Responsibility for Snow Plowing

Supervisor Gabriels said that there was a decision in existence from 1952-1976 that was repealed. The

Town is responsible for taking care of the sidewalks now and he thinks the Town forces did a good job in this last storm.

Greg Smith said that the guys do a good job on the sidewalks and keep them very clean. This is the first 3-foot storm we've had like that in 20 years. The state comes through and plows them in after the Town forces have cleaned them. With that amount of snow, you can't keep up. Ultimately all winter long the Town forces do a good job. It is not fair for anyone to complain about them. H. Caldwell said the Town forces do a great job on the sidewalks, but it is the snow-bank removal by the state that is the problem. Supervisor Gabriels said that he knows Tim Coon has helped out with clearing snow-banks as well. H. Caldwell said that he knows it was an exception storm and he appreciates Tim Coon doing it, but there was a time where the snow-banks and sidewalks weren't cleared until after the holidays, which didn't help shopkeepers, so it would be better if they could be cleared sooner rather than later. Councilman Saris said that the problem with that is that even when the Town does it, they have to get the state's permission because it is their domain. The Town can't just take it upon itself to do it. It also has to be done to the state's standard. Doug Houghton asked what would happen if the Town cleared without state permission and Counsel said that if the Town embarked upon it and did it right, but none the less got accused of doing it wrong, the Town of Bolton would have to defend itself.

Public in Attendance:

Meredith McComb said that she would like to have garbage cans available downtown in the winter.

There were no additional public comments on this or any other matters at this time.

Approve Payment of Lake George Watershed Conference Bills – Voucher Submitted by Dave Decker 03/05/07 @ \$29,803.08 for November and December 2006, as Approved by K. Millington (DOT) and Pending Availability of Funds Payable from NYS for Payment Under LG – Planning for Future Contract C006506

#### RESOLUTION #47

Councilman Andersen moved, seconded by Councilman Saris to approve payment of the Lake George Watershed Conference Bills for the voucher submitted by Dave Decker dated 03/05/07 in the amount of \$29,803.08 for November and December 2006 as approved by K. Millington (DOT). All favorable. Motion carried.

#### RESOLUTION #48

Councilman Andersen moved, seconded by Councilman Maranville, to authorize the Budget Transfers as presented.

#### TRANSFERS FOR FEBRUARY 2007

From To Amount

General Fund

14104 Town Clerk Cont. 14102 Town Clerk Equipment \$ 105.00

31204 Police Cont. 31202 Police Equipment \$ 495.00

71504 Conservation Club 71502 Equipment \$ 315.00

90558 Disability 90408 Workmens Comp. \$ 1.00

14201 Attorney 14204 Attorney Cont. \$36,000.00

All favorable. Motion carried.

#### Other Business

Councilman Maranville said that he received a letter from John Gaddy with a letter from Town Highway Superintendent Tim Coon attached to it, both requesting the Town of Bolton not take over the

maintenance and ownership of the proposed Saddlebrook subdivision road as proposed by Rolf Ronning.

#### RESOLUTION

Councilman Maranville moved, seconded by Councilman MacEwan to oppose Town of Bolton taking over Saddlebrook subdivision road. There was no vote on this matter. The following is the discussion regarding this item.

Councilman Andersen said that out of courtesy to Rolf Ronning, while the Town has a policy for not taking over those roads, the TB left the matter that when Rolf Ronning gets closer to final approvals the TB would review the matter. He thinks the TB has already made an obligation to delay voting on this matter until Mr. Ronning makes his presentation. Councilman Maranville said that now everybody that starts a subdivision will want the Town of Bolton to take over their subdivision road, which would be a huge cost to taxpayers. Councilman Andersen said that he understands that, but it may be that the TB decides not to take it over; in the particular case brought up, while there are a couple of letters against taking the road over, the TB left it with Mr. Ronning that the matter would be left open until he came back with his final presentation before the TB gave him an answer. He feels the TB is obligated and owes Mr. Ronning the courtesy to let him give a final presentation. Councilman MacEwan agreed and said that when they do have that meeting with Mr. Ronning he has specific questions he wants to ask. Councilman Andersen agreed and said since the TB made the agreement to hear Mr. Ronning's final presentation before making a decision on the matter, it should be honored.

Ed Corcoran asked if it was the same subdivision where they are going to put the telephone poles in the scenic corridor and Counsel said no.

Councilman Saris said that his own personal feeling is that he is not supportive of the Town taking it over. The existing roads take a beating in the winter and knowing the Town doesn't really have the budget to put them all in the shape we'd like, he doesn't think that puts the Town in the position to take on new roads until the Town can adequately maintain the existing roads and keep them all in tip top shape. That is not to be critical of the Highway Dept. at all—it is a budgetary issue. They do the maintenance the TB budgets them. The Highway Dept. could fix all the roads if the money was there, but that would be a cost to the taxpayers. He would be very comfortable taking on more roads, but feels the matter should be tabled until they meet with Mr. Ronning for a final discussion on the matter. Councilman Maranville said that he would like for Highway Superintendent Tim Coon to be at the meeting when Mr. Ronning gives his final presentation, before a vote is taken on the matter.

#### RESOLUTION #49

Councilman Saris moved seconded by Councilman Andersen, to table the matter. Four favorable (Councilmen Andersen, MacEwan, Saris and Supervisor Gabriels). One opposed (Councilman Maranville). Motion carried.

#### Approve Payment of Town Bills

#### RESOLUTION #50

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

#### Executive Session:

Councilman Saris moved, seconded by Councilman Andersen, to adjourn the regular meeting and enter executive session at 8:55 pm to discuss litigation avoidance. All favorable. Motion carried.

Councilman Saris moved, seconded by Councilman Andersen, to adjourn executive session and reconvene the regular meeting and adjourn at 9:55 pm. All favorable. Motion carried.

Minutes transcribed by: Respectfully submitted by:  
Jennifer Torebka Kathleen Simmes

Recording Secretary Town Clerk  
03/12/2007

**There is a correction to Article XI as referred to in these minutes.  
ARTICLE IX IS THE CORRECT TERMINOLOGY**