

LDC – Minutes May 25, 2005

Bolton Local Development Corporations

Present: Ron Alcan, Scott Andersen, Richard Bartlett, Buck Bryan, Henry Caldwell (Lake George Land Conservancy), Alexander G. Gabriels III, Robert MacEwan, Jason Saris, Lynn Schumann (Lake George Land Conservancy)

Absent: LDC Counsel Michael Muller

REGULAR MEETING

Z. Gabriels called the regular meeting to order at 4:35 pm.

**EXECUTIVE SESSION: None**

**ANNOUNCEMENTS:**

- Even though there may be three (3) or more Town board members in attendance at the LDC meetings, the NYS Open Meetings Law bars members from discussion and certainly deciding any Town Business. Z. Gabriels said the LDC meetings are for LDC issues only.

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**PUBLIC IN ATTENDANCE:** There was no public in attendance.

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**COMMITTEE REPORTS:**

Saris: None

Alcan: None

Bartlett: None

Bryan: B. Bryan provided the Weekly Report of the Financial Analysis Committee to all LDC Members and Town Board Members in attendance.

Gabriels: None

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**OLD BUSINESS:**

Regarding the discussion with Lake George Land Conservancy as a possible intermediary with NYSDEC for the Nororwal Acquisition, Z. Gabriels introduced Lynn Schumann, Executive Director of the Lake George Land Conservancy (LGLC), presented her with materials regarding the nature of the proposal and said he asked her to attend the meeting to discuss what the LGLC's interest would be as becoming an intermediary if the NYSDEC doesn't come through.

L. Schumann said (1) she presented the information she had previously received to the Conservancy Stewardship Committee of the LGLC, (2) the Conservancy Stewardship Committee of the LGLC felt it would be beneficial for her to speak with the LDC and (3) she is here to discuss the options. Z. Gabriels said he called Stu Buchanan's office at 4:00 pm today with an inquiry of the status of the letter of commitment from the NYSDEC and was told by Stu's secretary that (1) the verbal agreement was made between the NYSDEC and the LDC at the May 4, 2005 LDC meeting and (2) the LDC should be receiving something in writing soon. L. Schumann said in her discussion with Stu Buchanan, the NYSDEC had made a commitment of up to \$2 million dollars, to be determined by the appraisals. R. Bartlett said his information is (1) that there is a concern in the NYSDEC regarding coming up with a value of the

property and the development rights and (2) the land by Sagamore Road was not finalized on May 4, 2005. B. Bryan said the development rights have a value to the NYSDEC. Z. Gabriels said the LDC asked for the NYSDEC to make an appraisal on the linear foot dockage.

B. Bryan said (1) John P. Keating, Assistant Superintendent, Bureau of Real Property for the NYSDEC, was given a tour of Norowal Marina by Mr. Lamb, (2) Mr. Lamb and Mr. Keating had a discussion which resulted in Mr. Keating saying (A) the money has been approved and is there, (B) he understands that an agreement has been reached between the LDC and the NYSDEC on Region 5's requests, including one side of dock three, (C) an agreement letter relative to the \$2 million is being written by the NYSDEC and should be ready by early July, once received by the LDC, it will need to be signed and returned, after which, it will go to the NYS Controller, who issues a check, (D) there is a possibility for a letter of intent from the NYSDEC to the LDC, (E) NYSDEC knows the value is there and (F) he has never seen a matter like this move so fast.

L. Schumann said (1) John Keating is new and she has not worked with him yet and (2) what he has submitted holds weight, since he is the NYSDEC Assistant Supervisor, Bureau of Real Property, it is her guess that he has the authority to do this and she asked if the above items from B. Bryan were what John Keating said or Mr. Lamb's interpretation to what John Keating said. B. Bryan said the items were what Mr. Lamb told him transpired in his conversation with John Keating.

R. Bartlett said he is concerned with the timeframe, to which L. Schumann responded by saying when NYS is spending more than \$350K, it needs two appraisals. R. Bartlett said assuming the LDC has \$2.5 million financing from a lender and have to close by November 1, 2005, he asked if the LGLC would have a means to get \$2 million? L. Schumann asked if the LDC would be able to provide and buy the whole property for \$4.5 million, then get reimbursed the \$2 million by the NYSDEC and she said (1) because it is a marina and not conservation land, the LGLC cannot go to the Land Preservation

Fund, (2) she has the authority for lending up to \$1 million, then it goes to her superiors for higher amounts, (3) one problem is that the LGLC does not feel confident in bringing \$2 million to the table if it would be a second lien on the property and (4) the clearest way would be for the LGLC to buy the marina and simultaneously execute an agreement with the LDC and NYSDEC, so the LGLC would hold the marina until financing came through. R. Bartlett said that idea is not impossible. B. Bryan asked the LGLC's thoughts on if the LDC would be able to have Mr. Lamb hold the paper on half of the deal, to which L. Schumann responded by saying that is another idea the LGLC had as well. H. Caldwell asked if there is an opportunity for a tax deal and L. Schumann answered, if Mr. Lamb sold the marina to the LGLC and determined the selling price to be a bargain price, then there may be tax benefits to the land. R. Bartlett said the LDC will be acquiring stock and upon closing, will have to immediately dissolve the corporation. B. Bryan asked if the LDC would own the property if it is acquiring the stock and R. Bartlett answered, no, the property would be owned by the corporation. Z. Gabriels said (1) he is only aware of one appraisal at \$4.48 million provided by Mr. Lamb, which is an appraisal of stocks and (2) his understanding is that Mr. Lamb had offers in excess of that amount, but turned them down, probably because he wants to work it out with the LDC. J. Saris said Mr. Lamb would prefer not to hold paper, but has gone to great lengths to keep the offer open to the LDC. Z. Gabriels asked about the possibility of the LGLC considering giving \$1 million and the LDC would look into finding a second financier and J. Saris said another option is that while the LDC can't get \$4.5 million on its own, maybe it could get \$3.5 million. R. Bartlett said the bank is only considering a \$2.5 million loan to the LDC and B. Bryan said that figure went before Glens Falls National Bank's Board today. L. Schumann said (1) the LGLC does not usually finance conservation lands and (2) she will discuss the matters presented with the LGLC tomorrow. H. Caldwell said the Bolton Town Board, PB and ZBA also have to be convinced and persuaded.

L. Schumann asked if the gas tanks are in-ground, to which Z. Gabriels answered, yes, and environmental analysis was being performed by Jarrett Engineering as part of the LDC's due diligence. L. Schumann said (1) regardless of the amount it will be borrowed by national and (2) it would probably be acceptable for the LGLC to borrow up to \$1 million without a problem, but anything higher would be under scrutiny.

L. Schumann asked who would run the marina, to which Z. Gabriels answered, (1) the LDC would run it and hire employees and (2) an operational plan is available for review. L. Schumann asked if experienced personnel would be running the marina and B. Bryan said yes. J. Saris said the LDC will not be providing boat maintenance or the mini-store, but will be providing pump out and other services for a fee.

L. Schumann asked what the assets of the corporation are, to which R. Bartlett answered, (1) the LDC is buying the corporation with plans of liquidating all inventory, and (2) the LDC will be providing boat launch and retrieval, docking, parking, pump out and winter storage. L. Schumann asked that if the hypothetical closing date is November 1, 2005, how is the LDC generating money, to which R. Bartlett answered, any liquid assets that don't pertain to the services to be provided for a fee by the LDC will be sold. S. Andersen said it is important for the LGLC to know that when the LDC buys the corporation, the checkbook comes with it. Z. Gabriels said (1) there is also an income stream from winter storage and (2) the LDC has not figured out monthly payments with the bank at this time. B. Bryan said he is very close to having the computerized figures for the first 12 months of operations on a month-by-month basis completed.

Z. Gabriels said for L. Schumann to call the LDC if she or the LGLC has any questions or needs an LDC Member to speak to the LGLC Board. L. Schumann said (1) she has a meeting scheduled with Stu Buchanan on June 2, 2005 to discuss the Norowal Acquisition and one other project, (2) in speaking with NYSDEC, she feels LGLC is who they would reach out to for funding. L. Schumann and H. Caldwell both left the meeting at this point. S. Andersen said he would still like for the LDC to solely go with the NYSDEC for the Norowal Acquisition.

Regarding NYSDEC letter of commitment, Z. Gabriels said nothing in writing has been received to date. J. Saris handed out a draft letter

regarding the Norowal Acquisition to be used by the LDC to start a steady stream of correspondence with the NYSDEC. R. Bartlett asked who the letter recipients would be, to which J. Saris answered, (1) the Governor and NYSDEC Commissioners and (2) Buchanan is doing what he can, but it may not be enough to meet Mr. Lamb's deadline. R. Bartlett said (1) he doesn't know John Keating, but he does hold the NYSDEC position of Assistant Supervisor, Bureau of Properties, (2) it is important that John Keating visited the site, (3) before the LDC starts sending letters, he would like to wait to hear the results of the NYSDEC's May 26, 2005 meeting. Z. Gabriels said his guess is that at the NYSDEC meeting on May 26, 2005, Stu Buchanan will address the NYSDEC reply to the May 4, 2005 LDC meeting and the Norowal Acquisition. J. Saris said his concern is the turnaround time, to which Z. Gabriels responded by saying, Stu Buchanan's secretary told him today that the letter is in process. B. Bryan asked if the LDC can be faxed a copy of the NYSDEC's draft letter of commitment, to which R. Bartlett responded by saying he feels the LDC should wait until Wednesday, June 1, 2005 for receipt of the NYSDEC's letter of commitment. B. Bryan said he is in agreement with waiting until Wednesday, June 1, 2005 for receipt of the NYSDEC's letter of commitment, with the condition that if the LDC does not receive a letter by that date, it will start its letter writing showing the urgency of the matter. R. Bartlett asked if it was B. Bryan's impression that Mr. Lamb was positive on his meeting with John Keating, to which B. Bryan answered, yes. J. Saris said (1) if the LDC will have to ask Mr. Lamb for extensions, it is important the LDC shows it is doing all it can to get to finalizing the acquisition, (2) he doesn't mind waiting until Wednesday, June 1, 2005 to see if the LDC received the letter of commitment from the NYSDEC, (3) he feels the LDC needs to say on top of the NYSDEC, (4) even if the LDC does get the letter of commitment, he anticipates it will say the NYSDEC and LDC have an agreement, but the timeframe will be the same, and (5) the LDC needs to find someone in the state to go to in the attempt to speed up the process. R. Bartlett said (1) in his discussion with Senator Little and Tom Hoy last week, Senator Little said Governor Pataki has expressed interest and is ready to make an announcement to that effect and (2) this is good, but it still won't expedite the appraisal process. J. Saris said (1) he is not sure the NYSDEC fully understands that Mr. Lamb may get to a point where he decides to go somewhere else with his offer and (2) it may help to motivate the NYSDEC by having the NYSDEC take on the task of finding an intermediary for financing, instead of having the LDC looking for an intermediary. B. Bartlett asked if the NYSDEC has authority to do that, to which R. Bartlett answered, the mechanics

will be done by Stu Buchanan, but the decision will be made in Albany. J. Saris said the light bulb needs to come on for the NYSDEC regarding the timeframe for the Norowal Acquisition. R. Bartlett said (1) there has been contact between the LDC and NYSDEC, (2) the LDC needs to wait for the NYSDEC response and (3) the LDC doesn't want a negative light in the public. Z. Gabriels agreed and said any correspondence from the LDC has to be in the right tone. R. Bartlett said the LDC doesn't want to relay the wrong information to Mr. Lamb either. Z. Gabriels said all LDC Members should review the draft letter submitted by J. Saris and come back to the next meeting with their thoughts. R. Bartlett said he would submit a second draft at the next meeting.

### **RESOLUTION #9**

B. Bryan moved, seconded by R. Alcan for the LDC to start a letter writing campaign, if the LDC does not receive a written letter of commitment from the NYSDEC by Wednesday, June 1, 2005, with all LDC correspondence to be reviewed by all LDC Members for content and intended recipients. All favorable. Motion carried.

Regarding Senator Little, Z. Gabriels said he received correspondence from Senator Little on Friday, May 20, 2005 expressing concerns that July 9, 2005 is way too close for NYS action and/or commitment for the Norowal Acquisition.

Regarding Paul Curtis, Z. Gabriels said he authorized Paul Curtis to file the IRS 501c3 Application for the LDC, which will be at an additional cost. B. Bryan said (1) his understanding was that it had been done, (2) LDC Counsel said Paul Curtis should do it and (3) it was in the mill as of 05/24/05. R. Bartlett said the LDC is automatically exempt to NYS.

Regarding queries e-mailed to LDC Counsel, Z. Gabriels said LDC Counsel received an e-mail from Matt Steves regarding the survey being completed.

Regarding the legal description, Z. Gabriels said the legal description was faxed to Abrahamson (NYSDEC) and it will be forwarded to the LDC by the NYSDEC when it is received.

Regarding lot lines on PB and ZBA June 2005 Agendas, Z. Gabriels said (1) LDC Counsel will have all the information available, (2) he doesn't anticipate any problems, and (3) he asked who should present the LDC Agenda Items to the PB and ZBA, as there may be a conflict of interest with Michael Muller being both Town Counsel and LDC Counsel. R. Bartlett said someone representing the LDC should be there and Mr. Lamb should be there, to which R. Alcan agreed. B. Bryan said boards like to listen to principals, not attorneys. R. Bartlett said it seems awkward for Michael Muller to be representing both the Town and the LDC simultaneously at those meetings. J. Saris said (1) Michael Muller should not wear two hats at Town meetings, (2) the right thing for the LDC to do is for Michael Muller to represent the PB and ZBA as Town Counsel, (3) there may be a conflict of interest for himself or Z. Gabriels representing the LDC and (4) it may be better for the LDC to get another lawyer to represent the LDC. R. Alcan asked if the PB, ZBA and Town Board are all separate, to which J. Saris answered, yes, but the Town Board appoints PB and ZBA members. R. Bartlett said (1) Z. Gabriels should ask Michael Muller his thoughts on this matter and (2) he has seen plenty of presentations to planning boards and zoning boards of appeals and an engineer has presented for an applicant. J. Saris recommended the LDC ask Van Dusen to present the LDC applications to the PB, ZBA and Town Board. All LDC Members unanimously agreed in asking Van Dusen to represent the LDC at the PB, ZBA and Town Board Meetings and Z. Gabriels said he would see if he could get Van Dusen aboard.

Regarding the extension of contract for 30 days, Z. Gabriels said he knows LDC Counsel asked Mr. Lamb for the 30-day extension, but is not sure of the status.

Regarding the Town Financial draft analysis, Z. Gabriels said (1) B. Bryan picked up eight copies of the pro forma Income & Expense Statement from Paul Curtis of Curtis, Murphy & Jeffreys, (2) B. Bryan hand-delivered one copy of the pro forma Income & Expense Statement to David Kaiser, VP of Glens Falls National Bank on 05/25/05 and (3) the pro forma Income & Expense Statement and other data were to be presented to the Glens Falls National Bank Board of Directors, chaired by Tom Hoy, today (05/25/05).

Regarding David Kaiser, Z. Gabriels said he and David Kaiser will make a tour of Norowal Marina on Friday, May 27, 2005 at 10:30 am and all LDC Members are welcome to attend.

Regarding the Financial Plan to Glens Falls National Bank, Z. Gabriels (1) said in original discussions, David Kaiser gave the LDC a rate of 7.0%, but the actual rate will be 4.5% and (2) asked if the LDC should approach other banks. J. Saris said if the LDC only visits 1 lender, then the impression of due diligence will not be there. R. Bartlett said the LDC should go to TD Banknorth also. R. Alcan said the LDC should go to a minimum of three banks. R. Bartlett said (1) he has no objection to the LDC approaching three banks and (2) he has a sense that Glens Falls National Bank really wants to do it. Z. Gabriels said he will make arrangements and contact TD Banknorth and Bank of America. B. Bryan entered the Bolton Local Development Corporation DBA Norowal Marina Financial Projections for the Years ending December 31, 2006 through 2010 into the record.

Regarding the easement question, S. Andersen said (1) Mr. Lamb moved the line for the air vents for the gas tanks, (2) Mr. Lamb move the line for the road on the property and (3) Mr. Lamb needs information on winter operations.

Regarding the conservation easement, R. Bartlett asked for clarification and Z. Gabriels showed and explained it on the map. R. Bartlett said he got the impression that the NYSDEC is not willing to

leave the Sagamore Road property for commercial development. J. Saris said (1) from the Town of Bolton's point of view, the less the LDC can attach to the marina, the better, (2) it is possible that the LDC wouldn't want to use the Sagamore Road parcel as part of the marina, but have it be open for possible municipal use and (3) one thing the LDC considered is the asset of municipal parking, in having a place close to the marina for parking that would make operating the marina easier. B. Bryan said (1) the LDC needs more parking space and (2) the LDC may want to consider raising some buildings for more parking space.

Regarding marina employment positions, B. Bryan asked who the dock master would be and if the LDC will be asking for resumes, to which J. Saris (1) asked all LDC Members to consider public town resident hiring first and (2) said the person handling the money should not be the same person that is the bookkeeper. R. Bartlett agreed and said there needs to be checks and balances. B. Bryan said he will generate job specifications for the three key positions (dock master, bookkeeper, and cashier) and bring them for review at the next LDC meeting scheduled for Wednesday, June 1, 2005.

Regarding dock master position, B. Bryan said (1) David Kaiser asked him who the dock master would report to and (2) he feels the dock master and the bookkeeper need supervisors. R. Bartlett said the manager of operations will be like a department head and will report to the LDC on a regular basis, but not day-to-day. B. Bryan said there will be times where the dock master will need an immediate decision, to which Z. Gabriels responded, with the Town Board there is a liaison.

Regarding the marina bookkeeping software, B. Bryan said (1) he recommends QuickBooks Pro, (2) the bookkeeper will need training in QuickBooks Pro and (3) Adirondack Community College and CMJ both offer QuickBooks Pro training. Z. Gabriels said maybe the LDC should see what sort of software the Town of Bolton is using first, otherwise, QuickBooks Pro sounds like a good option.

Regarding dock spaces and winter storage at the marina, S. Andersen said (1) Mr. Lamb needs an answer on if the current dock people having first choice is acceptable, (2) Mr. Lamb needs an answer on what to do for the fall, (3) he suggested Mr. Lamb winterize and shrink the boats and all boat customers will receive a letter from the LDC at the time of winter storage notifying them that it is their responsibility to get their own boat out of storage in the spring, (4) Mr. Lamb is very uncomfortable with the idea of not telling people what is going to happen, (5) the current theory is that Mr. Lamb and his crew will ready rental boats when they are taken out of the water and (6) Mr. Lamb is very uncomfortable with other marinas coming in onto the Norowal Marina property in September or October 2005 to winterize boats. J. Saris said Mr. Lamb will be more uncomfortable with other marinas on his property than if he is doing the winterizing himself.

#### **RESOLUTION #10**

B. Bryan moved, seconded by J. Saris to have Mr. Lamb winterize the boats and give letters to customers regarding the self-removal of their boats in Spring 2006 showing an extended removal timeframe, which is to be determined at a later date. All favorable. Motion carried.

S. Andersen said (1) Mr. Lamb wants to know, as soon as possible, if he needs to keep employees through September and (2) the LDC needs to decide if rental boats will be sold as is when taken out of the water or if the boats will be fixed up before being sold. J. Saris and S. Andersen said they both believe it is best to clean to some degree and service all the boats and sell as is when taken out of the water without doing a major overhaul on each boat. Z. Gabriels and R. Alcan said they believe if the employees are on the property, then the marina should have them fix the boats. S. Andersen said the less money the boats are, the faster they will sell. J. Saris said the ability to sell 22 boats is much more difficult then selling th3e 2 or 3 Mr. Lamb normally turns over at the end of a season. R. Alcan said the rental boats should be sold as is.

#### **RESOLUTION #11**

R. Bartlett moved, seconded by R. Alcan to have the rental boats cleaned to some degree, serviced and sold as is when taken out of the water. All favorable. Motion carried.

Regarding the services of the marina, J. Saris asked for all LDC Members to consider whether or not the LDC will be offering the services of a convenience store and the sale of gas, including who it will be run by for the LDC meeting scheduled for Wednesday, June 1, 2005.

**NEW BUSINESS:** There was no new business discussed.

**APPROVE PAYMENT OF LDC BILLS:** There were no bills to pay.

Meeting adjourned at 6:24 pm.

Respectfully submitted by

Jennifer Torebka

Recording Secretary

05/31/05