

LDC – Minutes
September 1, 2005

Bolton Local Development Corporations

Present: Ron Alcan, Scott Andersen, Buck Bryan, Alexander G. Gabriels III, Jason Saris and LDC Counsel Michael Muller.

Absent: Richard Bartlett

REGULAR MEETING

Z. Gabriels called the regular meeting to order at 4:39 pm.

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.

CORRESPONDENCE:

- Z. Gabriels said (1) the Bolton LDC received a resume from current Norowal Marina Dockboy, Tom Moseman, (2) copies have been made and are ready for distribution to BLDC Members and (3) there have been no decisions yet by the BLDC on positions available and any positions to be filled by the BLDC will not be done on a first come first serve basis.

- B. Bryan submitted a letter to all BLDC Members and into the record from William Billand and Family regarding the Norowal acquisition.

COMMITTEE REPORTS:

Alcan: Treasurer's Report: None

Bartlett: None

Bryan: B. Bryan provided his Weekly Report to all LDC Members and Town Board Members in attendance, several items were discussed during the meeting in addition to the two reports shown below.

Financial and Organization Committee: Revised estimates of the I&E Statements are pending.

Regarding BLDC 501(c)(3) status, B. Bryan said (1) he met with Paul Curtis and one of his assistants on August 31, 2005, (2) per this meeting, he supplied answers to questions on the application for the 501(c)(3) status, (3) the BLDC may wind up with a 501(c)(4) status, because that classification seems to suit the BLDC's situation better and (5) the application has been submitted for to the IRS for 501(c)(3) status.

Regarding Conflict of Interest Policy, B. Bryan (1) said at the aforementioned meeting, Paul Curtis said the BLDC needs to have a Conflict of Interest Policy established to satisfy the requirements of the IRS, (2) provided a sample Conflict of Interest Policy for BLDC Member and Counsel review and (3) asked if Counsel will work on a draft Conflict of Interest Policy for the BLDC. Counsel said he will have the BLDC Conflict of Interest Policy in draft form

to submit at the next BLDC meeting scheduled for Thursday, September 8, 2005.

Gabriels: None

Saris: None

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OLD BUSINESS:

Regarding the NYSDEC Appraisals, Z. Gabriels said (1) Les Eggleton, DEC Bureau of Real Property and Eric Stropp, Vice President of Pomeroy Appraisal Associates, Inc. were on site Thursday, September 1, 2005 at 10:00 am and all went well, (2) the 2nd DEC appraiser, Al DeFrey, of McGrath Appraisers, is under contract and will be on site in the near future and (3) he is impressed because he was told that appraisals don't usually occur until Conservation Easements are signed. B. Bryan asked if the BLDC could get an updated time-line from the DEC and Z. Gabriels answered by saying he will contact Ron Montesi. J. Saris said Bolton Landing Marina said two appraisers were there regarding the recent sales of local marinas and the appraisers also went to Mooring Point.

Regarding Glens Falls National Bank, Z. Gabriels said (1) Glens Falls National Bank Appraiser Neil Cherkosley will be meeting with him next week and he will be providing Mr. Cherkosley with the requested updated map, the legal descriptions and the contract and (2) David Kaiser of Glens Falls National Bank reported orally to him that Tom Hoy and Glens Falls National Bank will hold to the interest rates (5.5% for 20 years) until November 1, 2005 and written confirmation to that effect is coming in the mail.

Regarding getting information to the public, B. Bryan said (1) the BLDC has a problem with getting information to the public, (2) he was asked by Wayne Smith and Deanne Rehm as to why the public had not been regularly informed as to the actions of the BLDC, (3) the BLDC needs to make a better effort at getting information to the public, (4) he suggests the day after a BLDC Meeting that the meeting agenda gets posted on the Town of Bolton websites and

then the minutes get posted as soon as possible thereafter and (5) he suggests the BLDC immediately answer the questions from Janet French. Z. Gabriels said the BLDC meeting agendas can be posted the day after the meeting, but will need to be proofed first. B. Bryan said he'll draft a reply to Janet French regarding her questions in her letter to the editor in The Post-Star then send it to Z. Gabriels to have the reply posted on the Town of Bolton websites. J. Saris said the reply letter should go to Counsel first, before posting. Counsel said he wants to make sure all of the terminology is correct. B. Bryan said (1) he will reply to Janet French's letter, (2) send the reply to all BLDC Members, (3) then Counsel will review the reply and submit it to Z. Gabriels for posting on the Town of Bolton Websites. Z. Gabriels said all avenues will be used, except bulk mailing, to get the BLDC reply to this particular letter distributed.

Regarding the NOP (Norowal Operating Plan), B. Bryan said B. Bryan said the NOP is pending and all financials will be updated mid-September.

Regarding the MOP (Marina Operating Plan), Z. Gabriels said he left a message for Ron Montesi and is waiting for a reply. Counsel said (1) the financials and operations are part of the MOP, (2) the MOP document that came from the DEC seemed like a model that was not based on a marina, (3) he asked Scott Abrahamson for a working Marina Operating Plan, so the BLDC can generate it as the DEC wants it, (4) the DEC wants to see that the development rights are relinquished and doesn't want to see the BLDC as a signatory and (5) he is being cautious on fitting the BLDC details into the DEC model.

Regarding Education and Outreach, Z. Gabriels said (1) the BLDC still has a public relations problem, (2) the problem with the FAQ brochure sent out was that it had the BLDC listed on the outside and Norowal on the inside, so he thinks the public didn't see Norowal and threw the brochure out without reading it—the BLDC can't make people open the brochures, but can make it more apparent that it is regarding the Norowal acquisition on the outside of future materials, (3) many people said they didn't receive the brochure, but the BLDC paid for it and it was delivered bulk mail to all Bolton and Diamond

Point residents and (4) people who did read the brochure said the information provided made the situation clearer.

R. Alcan said the BLDC should have two public meetings regarding the Norowal acquisition, because people want more answers. Counsel said that is a good idea, but the BLDC needs to be ready for differences of opinion. J. Saris said the more information the BLDC can get out before a public meeting the better, because then the public can ask questions and R. Alcan replied by saying (1) it's too late for that, (2) the BLDC is at a cross-roads here, (3) a lot of people don't know anything about the Norowal acquisition and (4) he strongly suggests the that BLDC conducts two public informational meetings.

B. Bryan said he is okay with either option. J. Saris asked if the Town Board would need to be present at the proposed meetings and R. Alcan said yes, there will be questions the BLDC can answer and there will be questions the Town Board can answer.

RESOLUTION #19

R. Alcan moved, seconded by Z. Gabriels for the Bolton LDC to schedule two public informational meetings regarding the Norowal acquisition. Motion Tabled until next week's meeting based on the following discussion.

Z. Gabriels said he is not sure of scheduling for the proposed meetings. Counsel asked the BLDC to wait one week on this item until the BLDC has more information from the DEC, because there will be a fair amount of questions on those issues and the BLDC will look deceitful saying it cannot disclose any details on the Conservation Easement. All BLDC Members were in agreement in waiting until next week's meeting

NEW BUSINESS:

Regarding Hurricane Katrina, Z. Gabriels asked the BLDC Members for discussion on the impact on gas prices and the short-term and long-term implications. B. Bryan said (1) per his conversation with Buzz Lamb, the last serious gas shortage did not affect Norowal Marina business at all, (2) per his conversation with Dan Behan Jr., his gas sales were up this year, (3) people borrow to go on vacation and he feels they still will, (4) people who own boats have more disposable income than the average resident, (5) gas prices could affect the BLDC and the BLDC needs to be aware, know its gamble and keep an eye on it and (6) gas prices are a multifaceted problem based around petroleum.

J. Saris said (1) in the past, Bolton has been somewhat recession-proof over other areas, (2) vacationing in Bolton has always been somewhat economical, (3) gas prices are an issue for the tourist community as a whole—not just Bolton and (4) anyone who chooses not to vacation has been replaced—it is shifting. Z. Gabriels said the tourist economy used to be dependent on weather and asked if the gas price issue is enough for the BLDC to back off on the deal. B. Bryan answered by saying no, the BLDC needs to look at the most increase in revenue it can accomplish and needs to be focusing on fees for next year.

Regarding pricing for 2006, B. Bryan asked if the BLDC is prepared to start working with Buzz Lamb on next year's pricing and Z. Gabriels said he hasn't raised the question. J. Saris said the BLDC should ask Buzz Lamb, but he may not be interested. B. Bryan said (1) the BLDC should look at a 10-15% increase on parking and a 10-15% increase on docking and (2) the BLDC should open dialogue with Buzz Lamb on next years fees now. Z. Gabriels said (1) it is an elasticity question, (2) prices being up will drive people away and (3) the BLDC fees need to be in the middle of the market. B. Bryan said there will be public complaint if the BLDC fees are under the market, but not if they are leading the market.

J. Saris said the dock space available at Norowal Marina (1) is premium, provides security and gives access to the Town of Bolton, (2) doesn't compare with dock space rented somewhere else and (3) should be some of the highest valued and priced dock space on Lake George. B. Bryan said he got two quotes from local marinas for 2006 dock and mooring fees at \$150/foot with a minimum of 25' and \$125/foot with a minimum of 26' and asked what the BLDC which rate the BLDC would use. J. Saris answered by saying (1) he does not feel only two examples are representative of the pricing for the market and (2) his initial reaction without any further information would be for the BLDC to go with \$150/foot.

B. Bryan asked if he could open the dialogue with Buzz Lamb on 2006 pricing and said if the BLDC is going to rent 50 dock spaces, it needs to start renting them now or have a plan in place to rent them as soon as the deal closes. Z. Gabriels said (1) his understanding is that Buzz Lamb is always under the average market pricing and (2) the BLDC would be taking a more aggressive stance. J. Saris said (1) the BLDC will not have trouble renting dock space – it won't be an issue, (2) in looking at it at a business point of view for docking and parking, the BLDC can either raise the price to make more money or lower the price to increase volume, (3) there is a business formula that shows if fees are raised by a certain percentage, there would have to be a certain percentage of loss of business to not be ahead, (4) the BLDC has to look at if raising parking fees by \$5 would result in a loss of business, (5) the BLDC's goal is to create as much lake access as possible and if the BLDC raises rates too much and loses too much business, then it will be counter-productive. B. Bryan said the BLDC needs to push the market as much as it can and R. Alcan said the BLDC can't go too high or it will lose customers.

Z. Gabriels said (1) gas prices will be unknown with the affects of Katrina and (2) the BLDC is a not-for-profit and its goal is to keep public access, so while the BLDC will need to pay bills and debt, it also needs to keep its goal of public access in the forefront. Counsel said (1) there needs to be sensitivity of the BLDC to its purpose of this project, (2) everything needs to be done by the BLDC to keep the marina public and (3) he can't imagine any empty dock space on Lake George.

B. Bryan said (1) the first major month for the BLDC is December 2005 with bills already due and (2) he doesn't want the BLDC relying on the money currently in the bank to pay the bills and asked if the BLDC should ask Buzz Lamb to send out docking solicitations earlier for 30 spaces, so all of that money is in the bank for the anticipated bills. J. Saris said (1) giving current customers first right-of-refusal is the right thing to do and (2) the BLDC needs to be very careful about how it goes about any other available spaces in making sure everyone is aware of any open spaces and figuring out a way to offer the spaces fairly. B. Bryan said the BLDC can advertise available dock spaces at boat shows and J. Saris responded by saying (1) part-time or full-time residents need to have a shot at spaces too, (2) he also believes that Buzz Lamb has a waiting list and (3) the BLDC needs to decide whether to go with a waiting list or make sure Town of Bolton residents have a shot. R. Alcan said Buzz Lamb does have a waiting list.

B. Bryan said the BLDC needs to move expeditiously into Marina Management. R. Alcan said the BLDC needs the state commitment. B. Bryan said the BLDC can't get a state commitment until the Conservation Easement is figured out. M. Muller said (1) he is working on the Conservation Easement and (2) he keeps asking the state and is waiting for a reply.

B. Bryan said (1) he asked Water's Edge and Lake George Camping Equipment Company what their deal is with using Norowal Marina, (2) per his conversations with Wayne Smith, he was told that Buzz Lamb has allowed Lake George Camping Equipment Company to use the Norowal Marina launching ramp for free and (3) he asked both Smith and Waters to submit written request to continue their use of the marina—both said they will. Counsel asked what the two establishments currently use Norowal Marina for and B. Bryan answered by saying one stores boats and one docks. Counsel said the BLDC needs to determine whether these two establishments are commercial launch entities or rental outfits. B. Bryan said they'd need to be labeled as commercial. All BLDC Members agreed that commercial launch entities should be part of the MOP and business plan.

Regarding Season Passes, J. Saris said (1) season passes need to be available to everybody—every member of the public, (2) if you have a weekend boater who launches each weekend of the 10 weekend season, a Season Pass could save money, and (3) the BLDC needs to make sure the Season Pass rate is reasonable. B. Bryan said (1) there will be no free rides and (2) by law, the BLDC cannot give special rates to locals and (3) Albany-Schenectady-Troy and north will buy Season Passes.

Counsel said Season Passes is a creative way of giving locals an opportunity. J. Saris said Season Passes are also a way to manipulate the cash flow and B. Bryan said Season Passes would enable the BLDC to bring in summer launch money earlier. J. Saris said if the BLDC shows significant savings to the Season Pass holder, then it would be worth it.

PUBLIC IN ATTENDANCE:

From the public, Susan Volkmann asked what projection short-falls exist and B. Bryan answered by saying that this would be in the first few months of operation where the BLDC will have mortgage payments without revenue, which is the way it works with any new business.

Susan Volkmann said all along the BLDC has said it will not have parts and service and asked if the BLDC has changed its position on this matter. J. Saris said he has not changed his position on the matter. B. Bryan said (1) the BLDC has not made a firm commitment on anything, (2) he was approached by a man who proposed concessioning the whole operation and he asked the man to submit a written proposal and (3) the BLDC has not ruled anything out and is looking at all options, as it should.

Susan Volkmann asked if the Conservation Easement is a document from the state listing what it wants and Counsel answered by saying (1) it binds and permits the property in perpetuity and (2) a good reference is a recent article in Adirondack Life on conservation easements. B. Bryan said the Conservation Easement is in place to limit development and provided Susan Volkmann with a copy of the referenced article. Counsel said (1) right now, anyone can develop according to local zoning codes and (2) the state wants to make certain in writing that the marina property won't be developed.

Susan Volkmann asked what the status of the November 2005 closing is and B. Bryan answered by saying (1) it is very frustrating, because it is all contingent on the DEC, (2) the banks and the BLDC are all waiting on the DEC and (3) the BLDC has been told by people within the DEC that this process is moving very quickly for that organization. Susan Volkmann asked what would happen if it goes past November 2005 and Counsel answered by saying (1) each month he asks Buzz Lamb's attorney for an extension and (2) there was verbiage in the contract where if at any time the seller was unsatisfied, he could end the deal, but he could also continue to extend the deadlines. B. Bryan said as far as guarantees, he doesn't feel there are any, but he BLDC has done its best.

Susan Volkmann said it is very difficult for her on a personal level not knowing what's going to happen and asked if the BLDC will acquire current employees when it closes on the marina. Counsel that the BLDC will acquire the stock of the corporation assuming specifically enumerated debts set forth in the contract and the BLDC is not committed to assuming all corporate indebtedness or all existing contracts, including employees and employee contracts. Susan Volkmann asked who terminates the employees and Counsel answered by saying that is Buzz Lamb has not done it then he supposes it would be up to the BLDC. B. Bryan said the BLDC has requested all current Norowal Marina employees submit a resume to the BLDC. Susan Volkmann said no job descriptions have been made available, so the employees don't know what jobs there are. R. Alcan said the BLDC does know how many hours they need covered and the money for salaries, but they are not sure of all of the positions—possibly a manager, an assistant manager. B. Bryan referenced the NOP and said (1) tentatively the BLDC is looking at a

marina manager, a bookkeeper/clerk, dock personnel, cashier and information staff and parking personnel, (2) pay scales are currently being put together, (3) this is not to say these are all of the available positions as this NOP is a work in progress—it is not finalized, but continually changing and is subject to change. B. Bryan provided a copy of the draft job specifications to Susan Volkmann. R. Alcan reiterated by saying that the NOP and the draft job specifications are just a work in progress and still needs to go to the BLCD Board for review, comments and a vote.

From the public, Deanne Rehm asked if the BLDC has a bank account and Z. Gabriels answered by saying the BLDC opened a checking account about two weeks ago.

Deanne Rehm asked if the BLDC's incorporation was sometime in March and Counsel said yes.

Deanne Rehm asked if there is currently a contract between the BLDC and the Town of Bolton and Counsel answered by saying no. Deanne Rehm asked how the BLDC can spend money and asked if the bed tax money was transferred without any contract. Counsel said the Money transferred to the BLDC is restricted and limited in nature to its uses. Deanne Rehm asked if the Bolton Town Budget was amended to show the appropriation and Z. Gabriels said a resolution was made. Deanne Rehm said she would like a copy of the resolution.

Deanne Rehm asked if it was correct that the Bed Tax check was made to the Town of Bolton, then the Town of Bolton issued a check to the BLDC and Z. Gabriels said that was correct. Deanne Rehm asked how the BLDC could write the check for the earnest money on a Town of Bolton account and Z. Gabriels said the check was noted that it was for the BLDC.

Deanne Rehm asked if the bulk mailing and all other BLDC expenses have come out of the money transferred to the BLDC and Z. Gabriels answered by saying now that the BLDC checking account has been there and the accounting transfer made, the Bed Tax money has not come out and has not been put back into the Town of Bolton account. Deanne Rehm requested a FOIL and said she believes the expenses should be BLDC expenditures—not Town of Bolton. Z. Gabriels said he is not sure if it falls into a specific item, but he asked Donna Boggs to notate accordingly with the understanding that the money was a BLDC expenditure.

Deanne Rehm asked who the signatories are for the BLDC and Z. Gabriels said R. Alcan and himself.

Deanne Rehm said regarding New York State and the Conservation Easement, (1) New York State has done other Conservation Easements where New York State now pays taxes and property owners pay the rest on it, (2) the Conservation Easement from the DEC could also be in place if a private individual owns the property and (3) it is not necessary for the Town of Bolton or the BLDC to own it. Counsel said the Conservation Easement goes with the land, not the owner. Deanne Rehm asked if there was any discussion of private ownership with the state Conservation Easement and Z. Gabriels answered by saying he does not believe the BLDC has had this discussion and (2) this wasn't requested by the Town.

Deanne Rehm said (1) she is concerned, because while the BLDC is made up of great members now, there is no guarantee for the future and (2) private ownership would take care of all the risks. J. Saris said (1) the BLDC did discuss private ownership options, but did not discuss private ownership with the DEC Conservation Easement, (2) while private owners have shown interest in the Marina, none of the interested parties have included a Conservation Easement with DEC as part of their offering, (3) no matter how sincere a private owner may be in their offer to maintain and maximize public access, that offer is only good for the duration of their ownership and (4) the lands that would be acquired and purchase price offered by Mr. Lamb

to the BLDC is quite different than the purchase package offered to other potential private owners.

Deanne Rehm said that both B. Bryan and R. Alcan have said this thing won't pay and asked if the BLDC will need underlying revenue to sustain the operation. J. Saris said (1) that is true only if the cost of debt is included, (2) if a private person buys a marina on Lake George, that person has the value of the property, and (3) without encumbrances, you would have to see what the operation does.

Deanne Rehm said that both B. Bryan and R. Alcan have said that in private hands this thing won't pay and asked if the BLDC will need underlying revenue to sustain the operation. J. Saris said (1) that is true only if the cost of debt service is included in the operating expenses, (2) if a private individual purchases a marina as an investment, assuming they have the money required for the purchase, the investment is secured by the value of the property and the revenue generated by the operation would be considered the return on the investment and (3) without debt service, as an investment, one would just have to see what the operation does.

Deanne Rehm said (1) the government doesn't go into business and (2) once you go down that road with the BLDC as an arm of local government going into business, it won't stop. J. Saris said there are public access sites across the nation. Deanne Rehm said (1) if it were going to be truly public access it would be different, because there would be no business to be done other than cleaning.

B. Bryan said (1) the benefit is that at the end of 20 years when the mortgage is paid then the operation turns into a generator of \$220K for the Town of Bolton and (2) he thinks the \$220K could be used for recreational and tourism in the Town of Bolton.

Deanne Rehm asked if the money from the Bed Tax is going to be used by the BLDC until revenue is coming in and B. Bryan answered by saying (1) current year figures will be available soon and the BLDC will see substantially different numbers, (2) he would love to see the BLDC not use the \$75K Bed Tax money, (3) he doesn't feel the government should be in anything private enterprise can do, but due to the threat of condominiums with private ownership, he feels the BLDC is the way to go and (4) without the use of this marina, two others discussed tonight would probably go out of business.

Z. Gabriels said (1) the BLDC is using the Bed Tax money for tourism reinvestment, (2) he was approached by a group wanting to use Bed Tax money for mosquito control, (3) the argument can be made, but the Bed Tax is so new, (4) he agrees that the long-term management of the BLDC is a concern, but has faith that the people in the Town of Bolton will step up when needed and make it work. B. Bryan said (1) more retirees in the area would be perfect for long-term BLDC management, (2) he would like to see BLDC terms sequenced to bring in new blood every two years, but right now it's not possible, (3) sequencing would then enable the BLDC to choose and select its members and (4) this is not a Town Board, but a Board of Businessmen.

APPROVE PAYMENT OF LDC BILLS: None

EXECUTIVE SESSION:

The LDC Members adjourned the regular meeting and entered executive session at 6:30 pm to discuss the NYSDEC Conservation Easement and contract negotiations.

The LDC Members adjourned Executive Session, reconvened the regular meeting and adjourned the regular meeting at 7:20 pm.

Respectfully submitted by

Jennifer Torebka

Recording Secretary

09/05/05