

Bedford Hills, New York
March 2, 2010

The first meeting for the month of March of the Town Board of the Town of Bedford was held on March 2, 2010 at the Town Offices, 321 Bedford Road, Bedford Hills, New York. The meeting was called to order at 9:08 P.M. by Supervisor Roberts.

Present: Lee V. A. Roberts : Supervisor
Peter Chryssos : Councilman
Francis T. Corcoran : Councilman
Chris Burdick : Councilman
David Gabrielson : Councilman

Lisbeth Fumagalli : Town Clerk
Nancy Tagliafierro : Town Attorney
Amy Pectol : Receiver of Taxes
Joan Gallagher : Director of Personnel
Ed Collins : Chief of Police
Kevin Winn : Commissioner of Public Works
Jeffrey Osterman : Director of Planning
Marcy Marchiano : Asst. to Supervisor

and approximately six (6) residents/observers.

APPROVAL OF CLAIMS

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED, that the following claims for 2009 be allowed for payment from their respective funds,

	2009
General Fund	\$ 12,180.01
Highway Fund	7,191.87
Special Districts:	
Bedford Village Memorial Park	5,863.95
Bedford Hills Memorial Park	6,138.08
Katonah Memorial Park	5,258.37
Capital Projects	<u>45,133.43</u>
	\$ 81,765.71

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED, that the following claims for 2010 be allowed for payment from their respective funds,

	2010
General Fund	\$ 59,409.62
Highway Fund	38,836.93
Consolidated Water District	6,406.91
Cedar Downs Water District	27.00
Farms Water District	160.06
Old Post Road Water District	175.94
Special Districts:	
Bedford Village Memorial Park	2,385.91
Bedford Hills Memorial Park	3,106.95
Katonah Memorial Park	2,645.55
Bedford Hills Lighting District	412.30
Capital Projects	<u>23,320.37</u>
	\$ 136,887.54

PRESENTATION – Shared Services Grant Program to cover “Pangoo Cloud Platform”

Robert Elliott, David Coe and Stacy Hobson from IBM appeared before the Town Board to discuss this proposal that would allow for the integration of software applications within a municipality in order to reduce the manual work being performed by the staff in the various departments, as well as allow for sharing of IT operators with other municipalities in order to reduce costs. Ms. Hobson did a power point presentation to illustrate this for the Town Board. She pointed out that the IBM platform would provide the benefits of integration and communication and that the Town of New Castle was leading the effort for the application for this grant that would be of no cost to the Town of Bedford for two (2) years.

The Board will revisit this program once the Town of New Castle votes to move forward.

CORRESPONDENCE

1. Bedford Fire Department request to hold Memorial Day parade on Monday, May 31st and their annual parade on Friday, July 30th.

On a motion by Mr. Corcoran, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board does hereby grant approval for the Police to assist the Bedford Fire Department with traffic control for its Memorial Day parade on Monday, May 31st and its annual parade on Friday, July 30, 2010, as per the request dated February 16, 2010 from Peter Aquilino, 2nd Assistant Chief, Bedford Fire Department; and

BE IT FURTHER

RESOLVED that the Police Chief and the Commissioner of Public Works will meet with the Fire Department to determine the needs from their departments.

OLD BUSINESS

1. Special Use Permit – Blue Dolphin Diner (from 2/16 meeting).

This matter had been carried over from the February 16, 2010 Town Board meeting agenda.

Present on behalf of the applicant was attorney, Thomas Antonecchia, who explained that they had received approval from the Planning Board that would expire in December 2010. He added that they were requesting for the same time frame so that they would have a full year of outside dining with liquor service. He pointed out that they would like to have liquor service only on the side of the restaurant. There was a discussion concerning the Town’s liability relative to the location of the front steps, which are on Town property and the recommendation from the Town Board that this should be taken into consideration should an application be submitted to the Planning, Zoning or Building Departments for any modifications to the building.

On a motion by Mr. Burdick, seconded by Mr. Corcoran, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that if the Blue Dolphin Diner, located at 175 Katonah Avenue, submits an application to the Planning Board, Zoning Board or Building Department for any structural changes or modifications to the building, it should be noted that the entrance to the restaurant is located on Town property and this should be taken into consideration by the appropriate department during the review of the application.

March 2, 2010 – Regular meeting – continued

On a motion by Mr. Burdick, seconded by Mr. Corcoran, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board does hereby approve a Special Use Permit for the BGLG Realty Inc., d/b/a Blue Dolphin Diner, 175 Katonah Avenue, Katonah, shown and designated on Town Tax maps as Section 49.15 Block 4 Lot 52 in the Central Business (CB) District, for a term to expire January 5, 2011 for outdoor seating on the Town of Bedford property and the consumption of alcohol at the outdoor tables/seating subject to the conditions of the Planning Board by Amendment to Resolution No. 05/10 dated June 23, 2009:

1. The applicant shall add a canvas railing.
2. There shall be seating for no more than 12 seats.
3. There shall be no public address system or music.
4. There shall be no additional outdoor lighting.

BE IT FURTHER RESOLVED THAT

THE applicant shall submit the following documents to the Town of Bedford for review and approval of the Town Attorney:

1. A Certificate of Insurance naming the Town of Bedford as an additional insured.
2. A Hold Harmless agreement signed by the applicant.
2. Request to go out to bid for refuse removal from Crusher Road facility for Cleanup Days.

On a motion by Mr. Corcoran, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board does hereby grant approval for the Commissioner of Public Works to advertise for Bids for the removal of refuse generated from the 2010 Cleanup Days, Thursday, April 29, 2010 to Saturday, May 1, 2010 at the Crusher Road Highway Facility, as per the memorandum dated February 24, 2010 from Kevin Winn, Commissioner of Public Works.

3. Consider extending the scope of work of Rock Crushing Bid with Cavalier.

On a motion by Mr. Corcoran, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

WHEREAS, by Resolution dated July 7, 2009, the Town Board awarded the bid for rock crushing in the Town of Bedford to the lowest, most responsible bidder Cavaliere Industries Inc., 226 Selleck Street, Stamford, Connecticut; and

WHEREAS, by memorandum dated February 25, 2010, Kevin Winn, Commissioner of Public Works requested that the scope of this work be extended,

NOW, THEREFORE, BE IT

RESOLVED that the Town Board does hereby approve extending the scope of work with the rock crushing bid with Cavaliere Industries Inc. by 20,000 tons, at a cost of \$5.10 per ton, with funds existing in the 2010 Highway operating budget for the expense.

On a motion by Mrs. Roberts, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick

March 2, 2010 – Regular meeting – continued

Nays: None
Absent: None

RESOLVED that the Town Board does hereby authorize Kevin Winn, Commissioner of Public Works to advertise for bids for Highway Materials for 2010.

4. Confirm Resolution, findings and decision regarding denial of FOIL request. On a motion by Mr. Corcoran, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

WHEREAS, on December 8, 2009 Kerry Lutz submitted a Freedom of Information Law (“FOIL”) request to the Town Clerk requesting a list of all email addresses which receive email alerts from the Town of Bedford; and

WHEREAS, the Town Clerk and the Town Attorney denied Mr. Lutz’s FOIL request on the grounds that disclosure of such information violates personal privacy; and

WHEREAS, Mr. Lutz appealed in writing to the Town Clerk on December 14, 2009, and the Town Clerk referred the appeal to the Town Board pursuant to the Bedford Town Code; and

WHEREAS, the Town Board scheduled a hearing on the appeal on January 19, 2010 at 8:00 p.m., at which time Mr. Lutz did not appear; and

WHEREAS, as a courtesy to Mr. Lutz in order to afford him the opportunity to be heard, the hearing was rescheduled by the Town Board to February 2, 2010 at 8:00 p.m.; and

WHEREAS, on February 2, 2010, the hearing was rescheduled at Mr. Lutz’ request to February 16, 2010 at 8:00 p.m.; and

WHEREAS, Mr. Lutz did not appear at rescheduled hearing on February 16, 2010, and at that time, the Board considered the appeal on Mr. Lutz’s written submission;

NOW, THEREFORE, upon the arguments heard at the hearing on February 16, 2010 and the arguments and evidence in the record before the Town Board, it is hereby determined as follows:

FINDINGS

1. Kerry Lutz submitted a FOIL request to the Town Clerk on December 8, 2009 requesting a list of all email addresses which receive alerts from the Town of Bedford. Mr. Lutz confirmed to the Town Clerk that was not seeking the information for commercial or solicitation purposes.

2. On December 11, 2009, Town Attorney Nancy Tagliafierro responded on behalf of the Town Clerk, in writing via e-mail, denying disclosure of the information pursuant to Section 87(2) (b) of the Public Officers Law based on the fact that disclosure of the information would constitute an unwarranted invasion of personal privacy, and also because the Freedom of Information Law does not require a municipality to create a document such a list of addresses.

3. Mr. Lutz appealed in writing to the Town Clerk on December 14, 2009, and the Town Clerk has referred the appeal to the Town Board pursuant to the Bedford Town Code.

4. Mr. Lutz’ written submission included a reference to an opinion (without legal citation) rendered by the Committee on Open Government which opined that when an agency’s denial of email addresses collected for the purpose of distributing information is based upon an unwarranted invasion of personal privacy, “without

more, an agency could not meet the burden of proving that disclosure would cause an unwarranted invasion of personal privacy.”

5. The Town Attorney advised at the hearing that the Town Clerk’s position as the Records Access Officer is that the Town of Bedford’s website, unlike other agencies, contains a statement assuring those who register their email addresses for email alerts that their email addresses will not be disclosed to third parties. Ms. Tagliaferro argued that this assertion of privacy met the burden of proving that the disclosure would constitute an unwarranted invasion of personal privacy since those who register their addresses have an expectation that their email addresses will not be shared with third parties.

Based upon the foregoing, it is hereby

RESOLVED AND DETERMINED that the December 11, 2009 denial of Mr. Lutz’s Freedom of Information Law request was properly denied as an unwarranted invasion of personal privacy pursuant to Section 87(2) of the Public Officers Law and is in all respects affirmed, and the December 14, 2009 of Kerry Lutz appeal is therefore denied.

NEW BUSINESS

1. Discussion of Community House floor repairs.

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board does hereby approve the emergency repair of the floor of the lower level of the Bedford Hills Community House at a cost not to exceed \$4,000.00, based on the proposal submitted by Wayne Fazzinga and as per the memorandum dated March 2, 2010 from James Genovese, Assistant Building Inspector.

2. Set Work Session to consider Construction Management of Water Filtration Plant – March 16th at 7:30 pm.

On a motion by Mrs. Roberts, seconded by Mr. Burdick, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board does hereby set a work session to consider Construction Management of the Water Filtration Plant for Tuesday, March 16, 2010 at 7:30 P.M. at the Town House, 321 Bedford Road, Bedford Hills, New York.

On a motion by Mrs. Roberts, seconded by Mr. Chryssos, the following resolution was ADOPTED

Ayes: Roberts, Chryssos, Corcoran, Gabrielson, Burdick
Nays: None
Absent: None

RESOLVED that the Town Board shall adjourn to executive session to discuss a matter of personnel at the conclusion of the regular meeting.

PUBLIC COMMENT

A resident of Katonah offered her thanks to Bill Heidepriem, Superintendent of Recreation and Parks for the web alerts that were sent out about Town activities during the recent series of snow storms. She also expressed her thanks to Kevin Winn, Commissioner of Public Works for the job done plowing the roads during last weeks snow storm.

March 2, 2010 – Regular meeting – continued

A resident of Bedford thanked the Town Board for all the efforts of the Town employees during last week's snowstorms that left many without power for several days. He asked if the Town's shelters had been opened during the storm and if the Town's Community Emergency Response Team (CERT) had been called in.

The Town Board adjourned to executive session to discuss a matter of personnel at 10:35 PM. The executive session adjourned to the public session at 11:30 PM at which time the regular Town Board meeting was adjourned.

Lisbeth Fumagalli, Town Clerk