

Town of Lyme
April 8, 2009
Public Hearing Considering Wind Farm Moratorium
6:15 P.M.
Regular Monthly Town Board Meeting
6:30 P.M.

Supervisor Aubertine called the Public Hearing to order at 6:15 p.m. Present at tonight's Hearing: Supervisor Aubertine, Councilmen, Schreib, Johnson, Madill and Countryman, Assessor's Roswell Gotham and Marsha Barton, Planning Board Chairman, Paul Norton, ZEO Dave Rush and approximately 30 others.

Clerk Wallace Read The Public Hearing Notice As Follows:

Please Take Notice that the Town Board of the Town of Lyme, shall conduct a Public Hearing on Wednesday, April 8, 2009 at 6:15 p.m. at the Town Offices located at 12175 NYS Route 12E, Chaumont, NY to consider a Local Law to enact a moratorium for six months, for Wind Power Generating Facilities on applications or proceedings of applications for Wind Power Generating Facilities to allow the Town Board to consider and implement sufficient regulations.

Supervisor Aubertine stated the following ground rules for the Public Hearing:

- Address remarks to the Town Board only.
- No person will speak a second time until everyone who wants to speak has spoken.
- The five-minute rule will be enforced.
- The Town Board is here to listen, not necessarily express its own view or opinions.
- No person has the right to demand an answer to a specific question from a member of the Board. All such questions shall be directed to the Supervisor.

This Hearing is not being held to debate questions. We are here to listen to your opinion on the proposal before us tonight. We want your advice and help in coming to the proper conclusion on the matter concerning which the Hearing has been called. If you are in favor of the proposal, simply tell us and give us your reasons why; and likewise, if you are against.

Don Metzger – Three Mile Bay Resident – Year around resident and registered voter in the Town of Lyme, thanked the Town Board for permission to speak. He wished to share his observations and concerns surrounding St. Lawrence Wind and the Supplemental Draft Environmental Impact Statement for the proposed St. Lawrence Wind Power Project in the Town of Cape Vincent and Town of Lyme, Jefferson County, New York. Mr. Metzger had concerns with the fact that the Town of Lyme does not have local control and that the Town of Cape Vincent is the Lead Agent of the project and asked why this is being allowed. He spoke of the big multimillion-dollar project of overhead lines reaching nine miles, from the Cape Vincent substation and ending up on the bank of the Chaumont River.

He stated that he is not commenting on the project but the manner in which the Cape Vincent Planning Board presented it to the Town of Lyme. He has some concerns with the fact that this was presented while we had a moratorium in place. He would like the Town of Lyme to think more in terms of being Lead Agency. Mr. Metzger thanked the Town Board for working on this project diligently and trusts their good judgment. In closing, he wished them well on future endeavors.

Bruce Kingsley – Point Peninsula – requested the Town Board to relax its requirements on small privately owned windmills. Supervisor Aubertine read Mr. Kingsley’s letter that reads as follows:

“The total Moratorium was designed for commercial windmills. Caught up in this Town’s dispute are the landowners that have an opportunity to have their own electrical generator on their own acreage. I would put up a 10 to 20 KW wind turbine in a heartbeat given today’s economy. Mr. Kingsley has 700 acres and his farms electrical needs could utilize a turbine of its size. The 100’ tower, noise, and distance from other landowners would not be a problem. The only other objection would be visibility from the water on Point Salubrious. If visibility remains an issue this would be grounds for discrimination. This total moratorium could go on for several years with the legal court appeals. My farm meets the requirement to maintain a farm status. Talking with Mr. Schreib he stated the Town needed the ordinance to be in place so the Town could regulate installation of windmills. Using this analysis, I would need a Town ordinance to put up a wind turbine to pump water for crop irrigation. This analysis borders again on discrimination. I’m, confident the industrial has enough background to install privately owned wind turbines. We don’t need a Town ordinance that would dictate the blades be painted with “non-reflective paint”, and just how do we determine “minimize adverse visual impacts from public viewing”, etc? The Town doesn’t require an ordinance to put up cellular towers. We don’t need an ordinance right now for small privately owned wind turbines.

Hopefully the Board will take this view into consideration and the results will be favorable for the small private owners of wind turbines. We still have the Zoning Board of Appeals as a check and balance. I will be calling all of the Board Members to personally talk about this matter to get your viewpoints.”

Julia Gosier - Empie Road, Three Mile Bay – concerned with the idea of having another moratorium. Why is the public not being kept apprised of what is going on? Read from a copy of a legal memorandum from 2001 or 2002. New York State Department of State regarding Town and Village’s having to deal with ugly cell towers and the invasion of vistas.

Bert Bowers – 11869 Academy Street, Chaumont – Is in favor of an extension of a moratorium on Wind Turbine Development. It is extremely important that we extend the moratorium on wind development for at least six months. The Law developed by our Planning Board, guided the views expressed by a majority of our residents in a Town – wide survey and several Public Hearings were presently held in abeyance by a legal challenge

brought by a small group who seem to feel that BP's executives should be permitted to determine the future of the Town of Lyme. We vigorously disagree that any group of outsiders, particularly those motivated only by profit and greed should be permitted to influence, in any way, the future of this community.

BP has already shown its disregard for our community by hiring a public relations firm from Saratoga Springs to organize a group of citizens in a campaign to malign the work of our Planning Board and to publicly attack individual Planning Board members. It is BP that has decided, for the sake of its greed, to divide and poison the political debate in Lyme and the surrounding Towns.

It is essential to protect the Town of Lyme from such ruthless attack by multinational corporations until we have a sensible zoning law in place to shield our citizens from the physical effects of converting the rural areas of Lyme into an industrial facility. The advocates of wind power have complained that our proposed setbacks are "too restrictive." Let us remind you that in Europe, where there has been far more experience with industrial wind power than in the US, required setbacks from areas where humans dwell have been set at a minimum of 1.5 – 2 kilometers or roughly a mile to a mile and a half.

We understand there has been some discussion about modifying the moratorium to permit private wind turbines to be placed. We would caution against this as the law, developed by our Planning Board, was designed to regulate both private wind turbines and industrial size turbines. This was done in recognition of the fact that there might be cases where it would be difficult to categorize such turbines. It would be both time consuming and difficult to separate out from the law that was developed, those provisions that might be required only for private wind turbines. We believe that any consideration of wind turbines in the Town of Lyme should be prohibited by a moratorium until such time as we have enacted a Zoning Law acceptable to the majority of our residents and taxpayers.

Chris Johnston – Water Street – Chaumont – Has been active during the moratorium being a member of the Village Planning Board and regularly working with the Town Planning Board, on a survey that was recently sent out to the Town residents. Twenty – eight percent of the surveys were returned and they are waiting for the results from the County. This is the first step of many to actively do something toward the moratorium. Mr. Johnston is in favor of supporting the moratorium.

Richard Freshour – Every week there is new information on health and safety issues regarding the wind turbines. We should continue to keep the moratorium extended until the current court case is decided. Mr. Freshour is in favor of the extension of the moratorium.

A Motion was made at 6:50 p.m. by Councilman Countryman and seconded by Councilman Johnson to close the Public Hearing. Five ayes. Motion carried.

Supervisor Aubertine called tonight's Regular Monthly Meeting to order at 6:50 p.m.

Supervisor Aubertine contacted Attorney Gebo and asked his advice regarding the exclusion of private wind towers. Mr. Gebo responded with the following:

“You have asked whether the current public hearing you are going to have on the extension of the moratorium could exclude private wind towers as you have a few requests from individuals to build individual towers. I would note that the small individually owned towers or small WECS are dealt with separately within the proposed local law. They are separately defined on page 4 of the local Law as, “a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of on-site power or reduce on-site consumption of utility power.” There are a whole series of regulations in the law, which was proposed in Article 4 that deals with regulations for these towers.

If you wish to exempt these from the current moratorium extension, you could do so by simply including an exception in the language for the moratorium using the definition of small wind energy conversion systems. However, I would be careful in doing this in as much as the Town does not have any enacted regulations governing these. Remember the local Law which contained those regulations was not appropriately passed according to Judge Gilbert and is, therefore, not in effect at this time.”

RESOLUTION 2009 – 50: Motion by Councilman Schreib and seconded by Councilman Madill enacting a local law extending the Moratorium for Wind Power Generating Facilities on applications or proceedings of applications for a period of six months to allow the Town Board to consider and implement sufficient regulations. Five ayes. Motion carried.

Bob Thomas – County Legislator – Made reference to the County's Summer Youth Job Program for individuals between the ages of 14 and 24. There are full-time employment opportunities for the summer and most positions do not require nights or weekends. Applicants must meet program eligibility requirements to be considered for employment. Apply at The Workplace or call 782-9252 to receive an application in the mail. You may also download the application from the website at: www.jefflewisworkforce.com.

Michelle Bariteau – Lyme Central School Odyssey of the Mind Coach –

The Lyme Central School Earth Trek division 3 Odyssey of the Mind team was awarded 2nd place at the NYSOMA Competition last Saturday and has earned the right to compete at OotM Worlds. They are now busily scheduling fund raising events to pay for the team's transportation to Iowa State University and their lodging and meals while at the competition. They are anticipating the cost will be approximately \$7200.00 for team members: Jacob Spino, Rebecca Simon, Luke Norman, Eric McDermott, Joshua

Lothrop, Ryan Hyde, Coach Bariteau and a male chaperone to participate in this once in a lifetime event.

In seven short weeks they will be leaving for Iowa. It is going to be a busy time packed with practices and fund-raisers; in addition to the fund raising activities they are asking if the Town Board could donate to the LCS Odyssey of the Mind Program to support their efforts. They would appreciate any amount that could be given and thanked the Board for their consideration of the request.

Councilmen Schreib, Johnson and Madill would be willing to donate their own money to the program but are not comfortable with donating tax dollars. They would like to ask Mark Gebo for his legal opinion on this matter.

Councilman Countryman feels what better way to represent our Town than through our young people.

Jim Millington felt that it is inappropriate for the Town Board to use tax dollars in this case and he would also be willing to personally donate.

Town Bookkeeper and Accountant Tom Bowie also felt that, in his opinion, that it is not a good idea to use tax dollars in this manner.

Harry Staudenmayer suggested that pledges be taken during tonight's meeting. A sheet was circulated and several of the people attending the meeting made donations to the Odyssey of the Mind Team.

Julie Gosier feels that this falls under tourism and we would be getting the name of our little Town half way across the Country. The program is very heavily participated in.

Eric McDermott – is one of the team members. He stated that he loves living here. When the team has competed at the state level people ask about our area and he feels that at the world competition there would be a greater opportunity to share some of the finer points of our community.

Larry Comins – County Route 5 – If the Town had a wind project we wouldn't have to worry about \$8,000.00 for these students.

Councilman Countryman – stated that the Town has participated in this before without a problem.

Councilman Schreib – stated that we are working with taxpayer's funds; it is not a good idea. He will make a personal donation himself.

Kenny Winnett - Lyme Central Student – What would the difference be in paying for a banner or helping to pay for the trip?

RESOLUTION 2009 – 51: Motion by Councilman Madill and seconded by Councilman Schreib to seek the advice of Attorney Gebo as to the expenditure of tax payers funds to support the Lyme Central School's Odyssey of the mind program. Five ayes. Motion carried.

There was a five-minute break from 7:15 to 7:20 p.m.

Supervisor's Report

RESOLUTION 2009 – 52: Motion by Councilman Countryman and seconded by Councilman Schreib accepting the March 2009 Supervisor's Report as presented by Tom Bowie. Five ayes. Motion carried.

RESOLUTION 2009 – 53: Motion by Councilman Countryman and seconded by Councilman Johnson approving Abstract # 7 in the amount of \$9,502.50. Five ayes. Motion carried.

RESOLUTION 2009 – 54: Motion by Councilman Johnson and seconded by Councilman Madill approving Abstract # 8 in the amount of \$75,308.43. Five ayes. Motion carried.

RESOLUTION 2009 – 55: Motion by Councilman Madill and seconded by Councilman Countryman approving the Minutes of the March 2009 Regular Monthly Meeting Minutes as presented. Five ayes. Motion carried.

Assessor's Report – Marsha Barton – The 2009 Tentative Roll has been completed. The amount added to the tax roll is approximately 1.8 million dollars. This amount will change due to Grievance Day changes.

Municipal Water Board Report – Marsha Barton:

Quotes For Inspecting the Three Mile Bay Water Tower – Bill Scarpcechi has received two quotes for the inspection of the Ashland road water tower. Both quotes were over \$1,000.00, so there will have to be an advertisement for bids.

The Town Board TABLED the decision to have the Ashland Water Tank Inspected until they could review all the information on the quotes that Bill Scarpcechi has provided. The board would like to talk with Bill as to why he is recommending the high bidder.

DANC Fee Increases – Notification from DANC has been received that as of April 1, 2009 the water rates will increase from \$3.09 to \$3.64 per thousand gallons. The Capital Charge has decreased from \$15.73 per billing to \$14.54 per billing.

Re-Levy Amounts To Be Added To Water Reserve Fund – a Resolution needs to be made to transfer money from the General Fund for the amounts received from the water re-levy. The amounts are as follows: Water District #2 - \$4,863.00 and Water District #4 - \$1,285.00.

Last Years Deficit – In May, Marsha will be reviewing all deposits and bills for all of the water districts to see if there is any reason for the deficits. She will have a report for the May or June meeting.

DEC Water Bills – There has not yet been any money received from the DEC for payment of their water bill for the property purchased by them in Three Mile Bay. At the direction of the Town Board, should they continue to bill or remove them from further billing? It is obvious they are not going to pay. The Town Board directed Marsha to keep billing the State.

Water Facility Cleaning – Will there be advertising done to hire someone to clean the water facility?

Three Mile Bay Cemetery Report – Julia Gosier –

There was a cremains burial on April 4th, 2009 and Julie received a check for \$200.00. There will be a second burial for the week of April 20th.

There has been a request for a specific gravesite and it will be purchased in the near future.

Julie received a signed affidavit returning one gravesite back to the cemetery for resale.

Planning Board Report – Chairman Paul Norton – Planning Board Members Dan Villa, Boo Harris and Paul Norton, attended the annual local government conference at JCC. There were over 500 local officials in attendance. They attended workshops covering various topics such as Design Guidelines, Are You Ready For Grants? Effective Enforcement of Planning and Zoning Laws and Ethical Considerations and Proper Planning and Zoning decision Making. John Zogby from Zogby International was the keynote speaker. Mr. Zogby's firm deals in research and public opinion polling. The day was well spent.

On another note, the Town and Village Planning Boards will meet jointly with the County Planning Department at our next meeting on April 23rd. County Planning will present their findings from the community questionnaire. All are invited to attend.

Police Report – Written Report From Police Chief Leo Wilson

Youth Committee Report – Charlie Mount – It is a busy time of year for the Youth Committee, they have recently signed up over 100 kids for the baseball and softball programs. Charlie would like to ask permission to buy supplies.

The League Fees will remain the same for this season.

The summer Rec Program will be getting underway again soon. Will they need to re-advertise or can they reappoint those that would be interested in working for the program again from last year?

The Teen Centers are busy. They are looking for some good used couches; theirs has gotten wet and have to be thrown away.

ZEO Report – David Rush – Mr. Rush handed in a complete, comprehensive report of the Zoning Enforcement Office activity that has occurred from January 1st, 2009 through April 8, 2009.

A report was submitted as per Article III, Section 2, Investigation and Report of the Town of Lyme's Unsafe Buildings and Structures Law. A number of properties were sited. Councilmen Johnson and Madill will check the properties on County Route 125 and Councilmen Countryman and Schreib will visit the properties on Fire Road 31.

There have been a total of 12 (twelve) Zoning Permit Applications processed to date.

Councilman Johnson requested ZEO Rush to check the high water mark at the Hall residence and Mr. Rush agreed to do so.

ZBA – Ernie Brister – The ZBA held it's monthly meeting on April 1, 2009 at 6:30 p.m. The ZBA continues to work with Verizon on the cell tower Special Permit and we are hoping to be ready for a Public Hearing on May 6th, 2009.

We had two members attend the March JCC workshop and three to four members plan on attending the April JCC workshop.

New Business

Purchase of Mower – Village Mayor, Geoff Donaldson has been asked by his DPW crew to purchase a new mower for the Village. They do have a push mower that is in good working order, but they do not have a riding lawn mower. Mayor Donaldson asked if the Town would be willing to join forces and purchase this item together. He feels that if this item were purchased jointly, together they would see a significant decrease in man-hours allotted to mowing by both the Village and the Town.

Motion by Councilman Schreib and seconded by Councilman Countryman TABLEING the purchase of a mower until we receive more information. Five ayes. Motion carried.

New Entrance – Office Sidewalk – There have been a number of trips, slips and falls on the new entrance to the Town Office; the engineering of it seems to be a problem.

Mike Gillette of Fuller Insurance Company did come and inspect the area and indicated to the Supervisor and Town Clerk that the sidewalk / entrance area looked fine and that the Town would not be held negligent for some recent falls that occurred.

Due to the number of incidents noticed by the Clerk's and the severity of the two most recent accidents, the Town Board agreed that the area of concern should be ripped out and visitors to the building could access by the handicap ramp.

RESOLUTION 2009 – 56: Motion by Councilman Johnson and seconded by Councilman Madill designating that the new entryway steps be ripped out and be replaced with green space. The handicap ramp will be used as the main entry to the Municipal Offices. Five ayes. Motion carried.

RESOLUTION 2009 – 57: Motion by Councilman Madill and seconded by Councilman Countryman gathering all claims made by Jim Golden, in regard to his injuries received from a fall on the entryway steps, and turning them over to Attorney Gebo to see what direction the Town should take in reimbursing Mr. Golden for medical costs, broken glasses and the hospital bill. Five ayes. Motion carried.

Video Meetings - Last month's video recorded meeting turned out very well and he applauded their efforts. Supervisor Aubertine asked that the camera be set up toward the front of the room hoping that might help the clarity of the audio portion of the recording.

Supervisor Aubertine indicated that he was going to speak to the School Superintendent, possibly requesting that we use only one student per meeting, to help keep the cost for recording the meetings to a minimum.

Galloo Island Noise Concern – The Lyme Town Board Members have a concern with the noise that will be coming across the ice and water from the Galloo Wind Farm, once it is in place. With the prevailing winds and the proximity of the Island to areas within our Township, they feel that the noise may reach unacceptable levels for our residents.

RESOLUTION 2009 – 58: Motion by Councilman Johnson and seconded by Councilman Madill addressing a letter to the Town of Hounsfield Town Board and the New York State Department of Environmental Conservation regarding the Galloo Island Wind Project and requesting a “noise level survey” to be conducted on Point Peninsula. Five ayes. Motion carried.

Transfer Site Sign – Councilman Johnson would like to see a new sign at the Transfer Site that would be consistent with the design and logo of the other Town signs.

This discussion will be TABLED until the next Town Board Meeting.

Transfer Site – The project at the Transfer Site is near completion. Councilmen Madill and Schreib will be responsible for the final inspection before the final payment is made.

Old Business

Bank Accounts – Watertown Savings Bank would not charge the Town for checks for any of the Municipal accounts that we would transfer to them. The Town would still be able to order what we are currently using at no cost. Sherry Heaslip, Branch Manager of the Chaumont Bank, provided this information.

RESOLUTION 2009 – 59: Motion by Councilman Schreib and seconded by Councilman Madill transferring all the Town checking and savings accounts currently with Citizens Bank of Cape Vincent over to the Watertown Savings Bank. The Town’s two CD’s will remain with the Citizens’ Bank of Cape Vincent. Five ayes. Motion carried.

Annual Audit Completion – Councilman Countryman examined the 2007 and 2008 Justice Books with Judge Wallace, making certain that all checks and balances were in place. He indicated that Judge Wallace does a good job and that all his paperwork is submitted to and reviewed by the State Comptroller’s Office on a monthly basis.

RESOLUTION 2009 – 60: Motion by Councilman Countryman and seconded by Councilman Madill approving the completion of the Town of Lyme Justice Court’s Annual Audit for 2007 and 2008. Five ayes. Motion carried.

Mobile Seasonal Residency Discussion – Dave Rush stated that the Town Board had established a committee to commence immediately in updating the Town’s Zoning Laws. He feels that they have spent all winter doing nothing and there are numerous issues that need addressing. Mr. Rush is requesting that the Town Board move in a direction that will help him as a Zoning Enforcement Office, to provide accurate and updated information regarding the Zoning Laws within our Township.

The Mobile Seasonal Residency Discussion will be TABLED until next months regularly scheduled meeting.

Sole Appointed Assessor – On March 5th Attorney Gebo sent a letter to Supervisor Aubertine explaining very clearly the Town’s options for changing to a sole appointed assessor. He explained that the Town does have the ability to do this under Section 328 of the Real Property Tax Law.

Changing to a Sole appointed Assessor is an option and is not mandatory. It is accomplished by the adoption of a local law subject to mandatory or permissive referendum. The time period in which to request a permissive referendum on this is forty-five (45) days. The terms of any elected assessors will terminate as of effective date of the law. Accordingly, the Town of Lyme may make this effective at any time. It may be best though to adopt the law well in advance of the effective date to allow for the referendum period.

If the Town of Lyme wishes this could be made a permissive referendum instead of mandatory, in which it would be 45 days. We would have to publish the law once it was adopted and wait forty-five (45) days to see if a petition for a vote was requested. If none were it would become effective thereafter.

After a conversation with Sean Hennessey at the County Board of Elections, he suggested that Supervisor Aubertine should inquire as to the process for conducting a referendum vote. Mr. Hennessey was able to determine that the costs associated with the process would be between \$3,000.00 and

\$5,000.00, if we were to hold a special election, (as opposed to putting it on the November ballot).

One of the main concerns would seem that it would be in the best interest of the potential assessor candidates to know whether they need to have petitions filed in order to be on the November ballot. Petitions need to be filed in July. If the vote for changing to sole assessor is not held until November, this makes the potential candidates work all for nothing if the public approves the change.

RESOLUTION 2009 – 61: Motion by Councilman Johnson and seconded by Councilman Madill scheduling a Public Hearing considering the Town of Lyme changing to a sole appointed assessor position.

Dr. and Mrs. Frederick W. Moore – Fishing Access on Point

Salubrious: In response to the letter that was sent to the Point Salubrious residents on February 14th regarding parking for fishermen during the winter months; the Moores generously offered enough space on their property, to park approximately 25 vehicles.

Julie Gosier – How does it impact “primary status” of the Citizens Bank before we switch all the accounts?

Julie also suggested that the parking spaces in the new parking lot seem extremely narrow and wondered if there was a legal size required for parking spaces. She recommended parking in only one row or diagonally as a possible solution.

Resolutions and Motions

RESOLUTION 2009 – 62: Motion by Councilman Schreib and seconded by Supervisor Aubertine recommending applicant Rick Freeman as the Six Abandoned Cemeteries and the Morris Track Ball Field Caretaker for the 2009 season for a wage of \$10.00 per hour for not more than 39 hours per week. Five ayes. Motion carried.

RESOLUTION 2009 – 63: Motion by Councilman Schreib and seconded by Supervisor Aubertine hiring Paul Kameron as the 2009 Caretaker of the Three Mile Bay Cemetery. Five ayes. Motion carried.

Privilege of the Floor

Bruce Kingsley – Citizens Bank will probably match what ever goes on with the competing banks.

Carl Ulman – There is a trailer parked behind his place that has no permits or no plot plans. Dave Rush, ZEO, has sent three letters, he will be demanding that the gentleman in question be summoned to Court if he does not hear something within the next couple of weeks.

Councilman Johnson made a motion to adjourn at 9:20 p.m.