

Town of Lyme
June 16, 2016
Special Meeting of the Town Board
6:30 P.M.

Supervisor Aubertine called tonight's meeting to order at 6:30 p.m.

Present at tonight's meeting: Supervisor Aubertine, Councilwomen Harris and Gosier, Councilmen Bourquin and Villa, Clerk to Supervisor, Robin Grovesteen, Town Attorney, Mark Gebo, Highway Superintendent Pat Weston and no others.

Three Mile Bay Cemetery Superintendent Discussion

Supervisor Aubertine has received information from Town Attorney, Mark Gebo and the NYS Association of Town's Attorneys regarding the appointment of a Town Board Member to an appointed, salaried position within the Town. This case specifically involves Councilwoman Julia Gosier, who, prior to her being elected as a Town Councilwoman, had held the position of the Three Mile Bay Cemetery Superintendent for a number of years.

The Town has advertised the vacancy of the position in hopes of finding someone to fill the title but there has been no interest. Councilman Gosier has continued with fulfilling the duties of the Cemetery Superintendent and has not received any type of compensation in doing so.

Attorney Gebo feels if the Town Board would like to move forward with the necessary legal procedures in order to appoint Councilwoman Gosier to the position of Three Mile Bay Cemetery Superintendent, it can be done.

Attorney Gebo stated that sometimes it is difficult to fill positions in small Towns; general principals of Town Law indicate that a Town Board member should not be appointed to those positions. The Whitehall Doctrine and General Municipal Law identify this as a conflict, when an appointed figure is in a supervisory position as well.

Attorney Gebo went on to explain that due to these situations, other developments have been made. If the Town can show that it has done its due diligence, as far as making the public aware, there is an open position and they have advertised and put the information out wherever possible. The Town can enact a Local Law to override General Law and appoint one of our own. The appointee would then have to abstain from voting when direct duties of the position or compensation are involved.

The new Local Law would have to recite the things the Town has done to show due diligence and they can then override the compatibility issue. The Town Board has to be satisfied with the process of due diligence, showing they have taken the proper steps to fill the vacant position.

Councilman Villa feels the Town Board should make a greater effort to fill the position before we should overturn the Whitehall Doctrine. Would this Local Law be specific to this position or any that may become available? What about voting for the budget? He feels that it is inappropriate for Julie to be appointed to the position at this point in time. Councilman Villa wonders if we are doing the right thing stating “we can do it but it doesn’t mean it is right”. Without exception, he feels we have to advertise more for the open position.

Attorney Gebo indicated that the Local Law could be specific to this situation and in regard to voting on the budget, he stated that the Town Council votes on their own salaries, this would be no different.

Supervisor Aubertine stated that he has scrutinized all the information he has received on the matter. The Town Board has never overseen the Cemetery operations, they oversee the Cemetery Supervisor.

Councilwoman Harris asked the Town Board to keep in mind that Julie is hard to replace due to her involvement over the years and her passion for the job. The Town Board has received legal advice on the situation.

Supervisor Aubertine feels that conflicts concerning the position would not be frequent or significant. Julie would only have to recuse herself from incompatibility issues.

Supervisor Aubertine stated that since the public interest would be served, the Town of Lyme is a rural area where no other qualified residents are known to exist and that no other suitable candidates can be found for the Three Mile Bay Cemetery Supervisor and since the Town Board does not want the Town elected Councilperson to resign; he would like to make the following Motion:

RESOLUTION 2016 – 93: Motion by Supervisor Aubertine and seconded by Councilwoman Harris scheduling a Public Hearing for July 13, 2016 at 6:25 p.m. to be held at the Town of Lyme Municipal Offices located at 12175 NYS Route 12E in Chaumont, NY. The Hearing will be held to adopt a Local Law to supersede the Common Whitehall Doctrine of Incompatibility pursuant to Municipal Home Rule Law 10 (1)(ii) (a) (1) which grants to local governments the authority to enact Local Laws regarding qualifications of local officers. This Local Law shall supersede the Common Law Doctrine of Incompatibility and the Common Law Whitehall Doctrine with respect to the Offices of Town Councilperson and the Three Mile Bay Cemetery Supervisor.

Roll Call Vote

<i>Councilman Bourquin</i>	<i>Aye</i>
<i>Councilwoman Harris</i>	<i>Aye</i>
<i>Councilwoman Gosier</i>	<i>Abstained</i>
<i>Supervisor Aubertine</i>	<i>Aye</i>
<i>Councilman Villa</i>	<i>Nay</i>

Three ayes. One Nay. One Abstained. Motion Carried.

Union Contracts

Attorney Gebo will send a letter and initiate communications to the parties involved indicating that the Town is ready to begin negotiations concerning the Union Contracts.

Generator Bid

After much time and consideration concerning the generator bids recently received by the Town, the final decision has been reached.

RESOLUTION 2016 -94: Motion by Councilman Bourquin and seconded by Councilman Villa approving the purchase of the generator bid from NYTRIC Electrical Contractors, LLC in the amount of \$9,350.00. The purchase price includes the generator and transfer switch, labor for installation, ten year warranty, materials and shipping. Five ayes. Motion carried.

Highway Superintendent Pat Weston – Seasonal Employee Request for Pay Raise

Superintendent Weston has requested that George Decker, a part-time seasonal MEO be considered for a pay raise to \$16.00 from \$13.75 per hour. Pat would like to keep George Decker on the payroll throughout the summer months, taking the place of Jordan Booth who has recently resigned his position as MEO. George has had several years of experience with NYS DOT and Pat feels that his expertise and work ethic will be beneficial to the Town.

The Town Board is concerned with filling a position of a full time employee and a full time bargaining unit job where there is a possibility the Town could be challenged. If it comes to being challenged they will address the situation at that point in time. George will have to maintain part-time hours and that will be covered under the Town's Personnel Policy.

RESOLUTION 2016-95: Motion by Councilwoman Harris and seconded by Councilman Villa granting the approval of an hourly rate of pay for part-time, seasonal MEO George Decker (only) to be set at \$16.00 per hour. Five ayes. Motion carried.

New Flooring in Municipal Offices

RESOLUTION 2016 – 96: Motion by Councilwoman Harris and seconded by Councilwoman Gosier approving the advertising of bid specifications for new flooring throughout the Municipal Offices. Five ayes. Motion carried.

Superintendent Weston agreed to have his men tear out and dispose of the old carpet.

Upon a Motion by Supervisor Aubertine and seconded by Councilwoman Harris the Town Board adjourned from tonight's meeting at 8:00 p.m. Five ayes. Motion carried.

Minutes of this meeting are Respectfully Submitted by,

***Kim Wallace
Town Clerk***