

**Town of Lyme  
March 11, 2009  
Regular Monthly Town Board Meeting  
6:30 P.M.**

**Supervisor Aubertine called the Town of Lyme's Regular Monthly Meeting to order at 6:30 p.m. The Meeting was opened with a Prayer and the Pledge of Allegiance. Present at tonight's meeting: Supervisor Aubertine, Councilmen Madill, Schreib, Johnson and Countryman, Bookkeeper Tom Bowie, Superintendent Parker, Assessor Marsha Barton, and approximately 35 others.**

**Officer Reports**

**Superintendent's Report – Tom Parker** stated that the Highway Department was still in “winter mode”. Councilman Countryman told Superintendent Parker to start using the gasoline from the tank that is located at the Highway Department more frequently than the fuel depot, due to the current pricing.

**Supervisor Aubertine** – Thanked Clerk's Morrow and Wallace for all the extra research they did to provide the required information needed to complete the Annual Report for 2008.

**Supervisor's Report – Tom Bowie** – Provided the Town Board with a copy of the 2008 Annual Report, referencing revenues, expenses, fund balances and areas of concern.

Mr. Bowie also presented the Supervisor's Report for February 2009.

***RESOLUTION 2009 – 32: Motion by Councilman Schreib and seconded by Councilman Madill accepting the February 2009 Supervisor's Report as presented. Five ayes. Motion carried.***

***RESOLUTION 2009 – 33: Motion by Councilman Schreib and seconded by Councilman Johnson assigning Councilmen Madill and Countryman to review Justice books for the Annual Audit Requirements. Five ayes. Motion carried.***

***RESOLUTION 2009 – 34: Motion by Councilman Countryman and seconded by Councilman Schreib renewing the CD for \$160,613.00 with Citizens Bank for a period of six (6) months at a rate of 2.25%. Five ayes. Motion carried.***

The Town Board Members discussed the possibilities of moving certain funds to the Watertown Savings Bank and trying to determine which accounts would remain at the Citizen's Bank. All Board Members were in agreement to have the money placed in accounts where it would make the most revenue for the tax- payers.

***RESOLUTION 2009 – 35: Motion by Councilman Countryman and seconded by Councilman Johnson tabling the discussion as to what***

*accounts they would like to transfer over to the Watertown Savings Bank from the Citizens Bank. Five ayes. Motion carried.*

### **Clerk's Report**

Total State, County and Local Revenues for the month of February 2009 were \$8,838.03.

KIMCO has reported that the price for scrap metal has decreased to \$35.00 per ton. This is down from the previous rate of \$40.00 per ton.

**Councilman Schreib** recently had a conversation with George Perkins regarding the number of residents that are making excuses for not purchasing their Transfer Site Permits. There have also been some residents who are not willing to place the new permits on their windshields. If the permit does not block the drivers view it should be all right. Ideally the Board would like to see them on the passenger side rear window. Supervisor Aubertine will submit an article to the Lyme Light and the newspaper in regard to the Transfer Site Permits. The Town Board is behind George and his attendants 100%.

***RESOLUTION 2009 – 36: Motion by Councilman Countryman and seconded by Councilman Madill accepting Abstract #5 in the amount of \$20,382.41. Five ayes. Motion carried.***

***RESOLUTION 2009 – 37: Motion by Councilman Countryman and seconded by Councilman Johnson accepting Abstract # 6 in the amount of \$208,541.81. Voucher # 149, in the amount of \$4,718.00 for Overhead Door, was removed from the Abstract and will be paid at a later date. Five ayes. Motion carried.***

***RESOLUTION 2009 – 38: Motion by Councilman Schreib and seconded by Councilman Johnson approving the installation of overhead doors measuring 16' x 14' and 6' x 7' to the new addition, that will house the compactor, at the Transfer Site. Five ayes. Motion carried.***

***RESOLUTION 2009 – 39: Motion by Councilman Madill and seconded by Councilman Countryman approving the minutes submitted by Clerk Wallace for the Town Meetings of January 27 and February 11, 2009. Five ayes. Motion carried.***

### **Assessor's Report**

**Marsha Barton** reported that the Assessor's have been working on the preparation of the 2009 Tax Roll.

### **Municipal Water Board Report**

**Water District # 5** – The Water Board is still waiting for some of the easements to be returned. Bernier and Carr will do probing and then it will be ready to go out to bid.

**Point Salubrious** – Bernier and Carr is preparing a report on the proposed Phase 1. It should be available soon.

**Water Facility** – Problem to be discussed in Executive Session.

**Quotes to Inspect Water Tower** – Bill Scarpicchi has two quotes and is preparing a report on his recommendation.

### **Three Mile Bay Cemetery Report**

**Julie Gosier** received a letter regarding a possible bequest to the Three Mile Bay Cemetery.

Julie has researched and made arrangements for the purchase of an industrial weed eater at Cheney's. Tom Parker will have it picked up and put on the Highway Department account. Funds should be transferred from the Cemetery Supervisor's expense account to cover the cost.

The Highway Department has serviced the riding lawn mower and miscellaneous equipment belonging to the cemetery.

Julie has received a check for \$200.00 for a cremains burial later this spring.

Julie requested that the Town Board do something about hiring a mowing / maintenance caretaker at the Three Mile Bay Cemetery; Terra House would like to be considered for the position again. The season starts May 1<sup>st</sup>. There has been some discussion addressing the number of hours needed to properly maintain the Cemetery. Julie feels that they may need to have the Caretaker work 60 hours per month, rather than the 45 that had previously been suggested. Last year they worked over the designated 45 hours per month, but it was a wet season.

Karl Savage has given an informal estimate on the vault repairs that are needed. Julie stated that you could see day light from the inside. The vault was built in 1942 and to her knowledge, has never had any repairs made to it.

Councilman Schreib has a replacement estimate and a bid on repairing the roof.

Supervisor Aubertine thanked Norm for taking care of the Cemetery estimates and also thanked Jim Millington for being the Clerk of the Works for the construction project-taking place at the Transfer Site.

### **Planning Board**

**Boo Harris** – Last night the Town and Village Planning Boards had a Joint Meeting. Five hundred and sixty-four Community Survey's were sent in, that was 26% of those that were sent out. Those surveys were given to Andy Nevin from the Jefferson County Planning Department and they hope to have the results before their next meeting.

The Chairman of the Planning Board is a rotating position; a motion was made by the Planning Board recommending Bert Bowers and Paul Norton as nominees for the Chair position. Boo and the rest of the Board feel that they are equally qualified.

**Police Chief Leo Wilson** submitted to the Town Board a written report for January and February 2009.

### **Youth Committee**

**Charlie Mount** – The basketball program is wrapping up for this year, March 24<sup>th</sup> will be baseball sign ups at the school. The Teen Centers are doing well. They will be holding a can drive next month for the kids to earn money to replace some of the old equipment.

The girl's first softball game is May 28<sup>th</sup> and the boy's first baseball game is May 13<sup>th</sup> or 14<sup>th</sup>.

The program is looking for three coaches for the girl's softball teams.

Supervisor Aubertine reminded Superintendent Parker that the ball field needs work.

### **ZBA**

**Ernie Brister – Chairman** - The ZBA held their monthly meeting March 4<sup>th</sup> 2009. They met with David Brennan, a representative from Verizon Wireless to discuss a new site and structure for another cell tower in the Town of Lyme. Progress was made and another meeting or two will take place before a Public Hearing will be held. They will keep the Town Board informed.

### **New Business**

#### **Assessor's Positions**

**Supervisor Aubertine** - On February 13, 2009 the Town Board received a final report on the collaborative property tax administration program from the Jefferson County Real Tax Services. This report looked at several options for providing the assessment function. The report looks at changing to a County wide assessing unit, several coordinated assessing programs, contracting with the County for all or part of the assessing function and or staying with the current assessing structure. It is apparent that Jefferson County is seriously considering assuming control of the assessing administration of municipalities. As a supporter of Local Home Rule, the County desire for control is disconcerted. Page 12 of the report sites the options for assessment administration and key points. All three of the options include key points stating the removal from the Town level. In reviewing the estimated costs to the County, all of the options quote the additional costs to the County for implementation of the three options. Obviously these costs will be passed down to the taxpayer.

According to the report, there are currently 23 assessing jurisdictions within Jefferson County. Five Towns have joined together and formed three coordinated assessment programs, while the remaining 18 assessment jurisdictions employ a combination of sole assessors (14) and three person boards of assessors (4). The Town of Lyme is one of the four Towns with multiple assessors.

It appears the County is considering an option, which would group all Towns into five CAPS (Coordinated Assessment Programs). The Town of Lyme would be grouped in CAP Five with the Towns of Brownville, Ellisburg, Henderson, and Hounsfield. All of these Towns have implemented a sole appointed assessor office.

This November, the Town of Lyme will have one assessor position on the ballot and another assessor has expressed her intention to retire at the end of the year. With the possibility of two assessor positions needing to be filled, it seems prudent at this time for the Town Board to consider it's options. The logical choice in this instance appears to be eliminating the elected assessor positions and implementing the sole appointed assessor position with one office assistant. The New York State Assessor's Association has published a pamphlet listing the benefits of a local Town assessing unit. The NYSAA breaks down the advantages into the following categories.

1. Local Convenience
2. Professional Expertise
3. Accountability
4. Cost

The NYSAA stresses that the property owners should have the convenience of going directly to their Town Hall in order to either discuss their assessment or file a complex application for Real Property Tax Exemption. The lack of availability of the assessor or the related staff in each Town does not seem to be convenient to the public. A sole appointed assessor would allow for increased office hours and additional availability to the public.

NYS has shown a steady decline in the percentage of municipalities retaining three member boards of elected assessors. The main reason for this trend is that assessing property is a profession today that requires training and certification. An appointed assessor has already met the qualifications required. An elected assessor must take the classes and become certified. With an elected assessor the Town could be paying someone for up to four years who will never become certified. The Town of Lyme has already experienced this situation. An elected assessor must achieve basic certification; an appointed assessor must meet basic certification in addition to completing 24 credits of approved continuing training each year. This ensures the Town that the sole appointed assessor will keep current on all assessing practices. With re-evaluation on the horizon a full time sole appointed assessor could devote more time to this process and will also be able to keep the assessment rules up to date by reviewing them each year. Taxpayers would likely have more confidence in the tax system if they could see their administration was highly professional, efficient and equitable.

In addition, a sole appointed assessor has a direct responsibility to the Town Board. Generally, means an overall saving to the Town and leads to better assessing practices and provides consistency to the taxpayers.

The report also states that in some municipalities in NYS the assessor is still an elected position where the winning candidate may or may not have the training required to perform their job to the best of their ability. It states that politics should never enter the assessment office.

The Town of Lyme's policy of advertising and interviewing should facilitate the appointment of the best-qualified candidate. The salary of the sole appointed assessor and the office assistant can be established by the Board in accordance with the abilities and experience of the appointments. In any event a cost savings to the taxpayer should be realized.

With one assessor position up for reelection and another possibly opening up due to retirement, the Town of Lyme could conceivably be relying on two new people who are not certified and may not get certified. Potentially the Town could be paying two people for four years who are not qualified or certified by the state.

***RESOLUTION 2009 – 40: Motion by Councilman Madill and seconded by Councilman Countryman TABLING until next months Regular Town Board Meeting, the discussion of the Sole Appointed Assessor and which direction the Town would like to take concerning the position. Five ayes. Motion carried.***

**Alcohol and Substance Abuse Policy** – Supervisor Aubertine provided the Town Board with some samples of Substance Abuse Policies that he had acquired from various places.

***RESOLUTION 2009 – 41: Motion by Councilman Schreib and seconded by Councilman Johnson approving the utilization of the revised TDS Substance Abuse Policy as the Town of Lyme's new policy, unless there is an existing policy found in the Town's archives. Five ayes. Motion carried.***

***There was a ten-minute break called at 8:00. The meeting was called back to order at 8:10 p.m.***

**Supervisor Aubertine** took a moment to introduce and thank Mrs. Lisa Blank, the technology teacher from Lyme Central School and two of her students, Zach Tyndall and Ryan Siesto, for providing the video recording services for tonight's meeting.

#### **Abandoned Cemetery / Ball Field Maintenance Position**

***RESOLUTION 2009 – 42: Motion by Councilman Countryman and seconded by Councilman Madill approving an advertisement to be placed in the Watertown Daily Times for hiring a caretaker to mow the Six Abandoned Cemeteries and, the Morris Track Ball Field from April 20<sup>th</sup> through August 28, 2009. The hourly rate will not exceed \$11.00 (eleven***

*dollars) per hour. Must be eighteen years of age with a valid drivers license. Five ayes. Motion carried.*

***RESOLUTION 2009 – 43: Motion by Councilman Schreib and seconded by Councilman Johnson approving an advertisement in the Watertown Daily Times for hiring a caretaker for the Three Mile Bay Cemetery. Duties will include mowing, trimming, and being available for funerals. Must be eighteen years of age with a valid drivers license. Five ayes. Motion carried.***

### **Parking Tickets**

One of the Town Justices feels that it is not in the Police Chiefs scope of duties to include the parking fine on the ticket. We have heard from Mr. Gebo and the Association of Towns. The Town Board feels that the Justice is wrong. The letter from Mr. Gebo says that looking through his system they had found in January 2005 where they had worked on a Local Law for the Town regarding parking and it mentioned the fines of not less than \$25.00 nor more than \$100.00 for the first violation, a fine of not less than \$50.00 nor more than \$200.00 for the second violation, a fine of not less than \$100.00 nor more than \$250.00 for the third. According to information we have received regulation of the parking of motor vehicles has been delegated to Towns Vehicle and Traffic Law 1660.

The Justice has said that because it is a Vehicle and Traffic Law our Police Chief could not write the ticket under that. We do have a determination here from the Association of Towns that says we can.

Supervisor Aubertine asked the Justice to meet with the Town Board in executive session at tonight's meeting but the Justice had to work this evening.

The Justice has threatened to excuse all those tickets and refund the money to those who have paid fines.

***RESOLUTION 2009 – 44: Motion by Councilman Countryman and seconded by Councilman Madill appointing Councilmen Schreib and Johnson to meet with Justice Robin Curtis and Attorney Mark Gebo to discuss the Local Law addressing the Parking Law on County Route 125. Five ayes. Motion carried.***

**Jefferson County Agricultural Society Request** – The JC Agricultural Society is requesting that we consider including the Agricultural Society as a participating agency for distribution of occupancy tax proceeds for 2009. The Governor's proposed budget has recommended the elimination of fair premium reimbursement for all County Fairs in the State. Although they are working through the legislative process to restore funding it is unlikely it will be completely restored. In this case the State Premium Reimbursement has been \$8,700.00 out of a total premium payout of over \$20,000.00. This makes their request even more critical, as raising gate admissions is not an option and they certainly do not want to reduce premium payments to 4-H

and open class exhibitors. They are respectfully requesting assistance in this endeavor with any funding the Town could provide.

***RESOLUTION 2009 – 45: Motion by Councilman Madill and seconded by Councilman Schreib giving the Jefferson County Agricultural Society the Occupancy Tax the Town of Lyme receives bi-annually, as it is received by the Town, to help support the County Fair. Five ayes. Motion carried.***

## **Old Business**

### **Saint Lawrence Wind Farm Easement**

**Councilman Countryman** read the easement paperwork over three or four times and is completely confused by it. It sounds like we are giving up everything we have.

**Councilman Madill** stated that the easements looks like St Lawrence Wind would be the property owner, it looks as if it were written by them, for them. Once the easement is signed, they become the owner, he does not like it.

**Councilman Johnson** agrees with Councilman Madill; we give away everything that would benefit the Towns people.

**Attorney Gebo** – This proposal does tie up the property for a substantial period of time for a very minimal payment. They have up to five years to access the property as they want to and they would like it all for \$500.00.

**Councilman Schreib** – At the direction of the Board they requested Councilmen Schreib and Madill to sit down with St. Lawrence Wind. Supervisor Aubertine and Councilman Schreib did sit down with them and went over the entire agreement and to be quite honest he did not get a chance to review this revised option. At the time, Scott and Norm made it very clear that they were not going to have exclusive rights. They would have the right to use it but if BP wanted to bring a line down through they could use it and we were not going to allow them to “sublease” it out. They also told them that the price per linear foot was too low. They had a number of different areas they were asked to revise. Based on what they have before them tonight it does not look like they listened to what they had been told. Again, they were told they would not get exclusive use of the easement. The Town wanted the ability to have as many wind farms as possible to use the easement so the Town could collect as much revenue as possible.

Councilmen Schreib and Madill were directed by the Town Board to continue on with the process.

### **Mr. And Mrs. Ed Gauthier – Point Peninsula - Zoning Concerns**

Mr. Gauthier started out by asking the Town Board, “Why does the Town of Lyme feel they don’t have to comply with their own Zoning Laws?”

The Gauthier’s have provided the Town Board Members with a lot of information of very specific instances, one in particular, over the past seven

or eight months and they still have not been given an answer. His feeling, based on everything he has seen in the Zoning Laws, there is a building sitting next to his house on South Shore Road, that does not meet the 30 foot setback requirements, but the building is in place.

Mr. Gauthier provided the Town Board with the initial Zoning Permit and the additional plot plan. It is the plot plan in which the permit was granted in less than 24 hours and there is nothing on it.

He found out about this because he had spoken to Mr. Rush back in July. Mr. Gauthier told Mr. Rush he was concerned about this building because the Deputy ZEO, Mr. Millington, had gone to the Gauthier's house and knocked on the door on the backside of their house without identifying himself, he just said he was the Zoning Officer. He caught Mrs. Gauthier in her pajamas and bathrobe by coming to their private door. Their garage door was open and the front door was there.

Mr. Gauthier got a hold of Mr. Rush on July 11<sup>th</sup> and told him of his concerns. He was directed by Mr. Rush to write a letter, which Mr. Gauthier did and the letter was hand delivered to the Town Office. It said it was difficult at this point in time to put his concerns in writing since he had not seen a permit or plot plan or anything of that nature. He was advised that nothing had been presented.

When he arrived at the Town Office on the following Monday he found that a Zoning Permit was issued on the 11<sup>th</sup>, the day he spoke to Mr. Rush.

Mr. Gauthier appealed the Permit and ultimately he lost the appeal. The decision was based on what Mr. Gebo had told Ernie Brister, that the Town's Zoning Laws don't cover any type of a building, it only deals with fences on shore front properties. Mr. Gauthier understood that.

His main concern is that there is a building on the actual plot plan the Zoning Officers are dealing with, there is nothing that addresses the mean high water mark, it is shown as it being the shore line. If you are showing the shoreline and need a 30-foot setback, if you apply in April you will not have the same setback as you would in August or September.

Mr. Millington suggested to Mr. Gauthier's son, that the Town uses where the stones meet the grass for a high water mark. If you measured where this building is and where the stone meets the grass it is only 18 feet, not 30 feet.

Mr. Gauthier feels this whole situation has been that the Town of Lyme has not lived up or abided by their own Zoning Laws. That building, as far as he's concerned, is an illegal building and should not be there. He would like the Town Boards opinion on this.

The second plot plan that was submitted to the Zoning Officer does not have the 30-foot setback of the building, it just shows a straggly line for the shoreline, and so you have no idea where the mean high water mark is.

In 2006, the Zoning Officer at that time came by and happened to see the construction going on. He stopped and found out that the people did not

have a Zoning permit so he told them they could not continue with the construction. He further told them they could not put it where they wanted to because it did not meet the setbacks.

When Mr. Gauthier built his house in 1995, the Zoning Officer at that point in time told him he could not build his house unless he had an elevation certificate so he could identify the mean high water mark based upon the Army Corp of Engineers 100 year average. He would have to have a certified surveyor come in to do an elevation certificate. He would then have to measure from that point and go back 30 feet.

If they have to follow the rules, then everybody should have to follow them.

Mr. Gautier stated to Mr. Rush, if legally they could put the structure there and meet the 30-foot setback then he had nothing to say. He had to come down here and take a FOIL request out to find out he had been lied to.

Mrs. Gautier sited page 44 Section 910 of the Town's Zoning Ordinance, Certificate of Compliance, the Town does not have a form for the certificate. They are handed out when the buildings are done but we don't have a form for the individual to fill out when they apply for the permits.

Also the directions indicate that you are to provide two plot plans, not one. It is emphasized in the Zoning Laws that you need to submit two, there were not two submitted.

Why does the Town disobey their own Zoning Laws.

If their only result is to hire a lawyer to resolve this issue, that's what they will do. The Gauthier's did not cause this problem, they only identified it. They should not have to spend their hard earned money to fight the Town to abide by there own laws. You can say what you want to, but the Zoning Officers are hired by the Town Board.

Mr. Rush stated at the meeting last August, Mr. Gauthier and his neighbor should get the elevation certificates so they could know who was in compliance. When Mr. Gauthier gave his to Mr. Rush and told him he already had one and had furnished it with his letter of July 14<sup>th</sup> that was the last he ever heard of an elevation certificate from the Zoning Officer.

It seems to him that to resolve this issue, it shouldn't be him having to sue the Town; it should be the Town hiring a certified surveyor to do an elevation certificate to establish the high water mark.

Mr. Gauthier thanked the Board for hearing them this evening.

***RESOLUTION 2009 – 46: Motion by Councilman Schreib and seconded by Councilman Johnson authorizing Attorney Gebo to review the Gauthier zoning problem. Five ayes. Motion carried.***

**Councilman Johnson** provided the Town Board a copy of the “fisherman parking observation report” completed by Gary Bird, regarding the parking

in the areas of the Chaumont Boat Launch, Chaumont Beach, Chaumont Marina, and County Route 125 for the period of January 28 through February 11, 2009. During that period of time there were 177 vehicles that were legally parked and 122 that were illegally parked.

## **Correspondence**

**Planning for Farms, Food and Energy Conference** – March 25<sup>th</sup> Holiday Inn, Syracuse.

**Letters from Joyce and Gerald Mordan, Pim and Pandy Goodbody, Georgia Borden, Ed and Patti Hughes, Sandy Branski, Joel block, Steve and Diane Rutigliano, Judy McGaughey supporting the extension of the Wind Farm Moratorium.**

**NYS GFOA (Governor's Finance Officers Association) Annual Conference** – Wednesday April 1<sup>st</sup> – Friday April 3<sup>rd</sup>, Albany, NY

**St Lawrence River Board Teleconference** – March 17<sup>th</sup> 7 –8:30 p.m.  
State University, Oswego, NY

**NYS Real Property Report** – Assessment Ratio - Real Property has determined the residential assessment ratio for the assessing unit is 29.84.

## **Resolutions and Motions**

***RESOLUTION 2009 – 47: Motion by Councilman Countryman and seconded by Councilman Schreib approving the letter of support for the Frontier Housing Program.***

***RESOLUTION 2009 – 48: Motion by Councilman Schreib and seconded by Councilman Johnson setting a Public hearing date to consider the extension of the wind Moratorium for a period of six months at the April 8, 2009 Regular Monthly Meeting of the Town Board at 6:15 p.m. To be held at the Municipal Building located at 12175 NYS Route 12E, Chaumont, New York. Five ayes. Motion carried.***

***Motion by Councilman Schreib and seconded by Councilman Johnson to go into Executive Session at 9:47 p.m. for personnel issues.***

***Motion by Supervisor Aubertine and seconded By Councilman Countryman to return from executive session to open session at 10:55 p.m***

***RESOLUTION 2009 – 49: Motion by Councilman Countryman and seconded by Councilman Madill appointing Paul Norton as the chairman of the Town Planning board for the remainder of 2009. Five ayes. Motion carried.***

**Dawn Munk** requested that the Town Board form a Committee.

***A Motion was made by Councilman Schreib to adjourn the meeting at 11:00 p.m.***

*Tonight's Meeting Minutes Respectfully Submitted by*

*Kim Wallace  
Town of Lyme Clerk*