

**Town of Lyme**  
**July 30 , 2010**  
**Emergency Meeting of the Town Board**  
**12:00 Noon**

**Supervisor Aubertine called today's Emergency Meeting to order at 12:10 p.m.**

**Present at today's meeting:** Supervisor Aubertine, Councilmen Johnson, Bourquin and Councilwoman Harris, Attorney Mark Gebo, Highway Superintendent Pat Weston, Water Board Chairman Marsha Barton, Kris Dimmick and Gregor Smith of bernier and Carr, Mickey Fiacco (contractor at Lyme Central School) Chuck Bliven, Dick Nagel and Roz Gotham.

Today's Emergency Meeting was called due to concerns with the agreement that the Highway Department and Mickey Fiacco of Fiacco Construction Company had with regard to the exchange of services between the two.

Before the Town Board addressed the business between the Highway Department and Fiacco Construction there was some a discussion in regard to the construction of a new water line extension to a property on the Cheever Road owned by Steve Hall and Jon Lennox. The gentlemen had built a home on the property prior to finding a good water source. Well drilling proved to be fruitless and they were in hopes of the Town working with them so that municipal water could be provided to the property.

Chris Dimmick and Gregor Smith presented some different scenarios that could be possible for running the water line to the property. After looking at the options presented by Bernier and Carr the Town board felt that as much as they would like to help Mr. Lennox and Mr. Hall they are not in a position to be able to do so at this time. It seems that with the information given here today that the Town would have to come up with approximately \$100,000.00 to complete the service line to the Lennox/Hall property.

Attorney Gebo indicated that the would give Steve Hall some direction on what it would take to create his own water district.

**Exchange of Services With Highway Department**

**Attorney Gebo** stated that there may be some issues over bartering that is going on where the Town is exchanging some services for use of some equipment with a private contractor. This raises several issues:

1. There is a question of what type of transaction this is. The Town simply cannot make a gift of its services, labor or equipment to a private individual. In this case, this is not what I understand is going on. What Mr. Gebo understands is going on is how the Town is, in effect, paying for the use of a private contractor's equipment and, perhaps, materials. This should somehow be documented in a written agreement so that it is clear that there is an exchange going on of equal value. Mr. gebo stated that this is commonly done between Towns and Villages. When projects are going on, Towns and Villages will often swap and share equipment and even labor. However, when it is done with the private sector, it has different connotations and should be documented in some sort of contractual type setting.
2. To the extent that the machinery use and / or materials exceed certain thresholds, there may also be the need to comply with the procurement policy of the Town which would require items over a certain amount to bid or for the Town to seek quotes on them. Attorney Gebo is not sure of the value of the services in this situation to know whether it meets or exceeds any of these thresholds.
3. Since it is a contractual matter, which would bind the Town, it is something that should have the Town board's blessing before it goes ahead.
4. there may possibly be some insurance issues which may need to be addressed. The Town should check with our insurance company to be certain that the Highway employees are covered while using a private contractor's equipment and that the Town is covered when it is providing labor or materials in exchange for this.
5. Finally, Attorney Gebo feels that there may be some clarity needs to be provided. What if a piece of equipment the Town is borrowing from the private contractor breaks down while using it? Who is responsible for the repairs? What if there were an accident with a piece of equipment? Who will be responsible for the accident and how is insurance covering this? The same could be true when the Town is doing work or providing



materials to the private contractor in exchange for the use of his equipment. These issues should be addressed in whatever written agreement we are coming up with.

6. In this case, we are also dealing with the situation after the fact. The Town Board should consider satisfying what has already occurred.

Attorney Gebo also stated that the agreement should be specific as to the exchanges between the two parties and specify that services will be exchanged without the need for monetary compensation.

**Councilman Johnson** feels that the Town needs a procedure in place for this type of situation and that no deals will be made without the knowledge of the Town Board. Warren wants to be certain that the Town does the right thing every time.

**Attorney Gebo** suggests that the Town make amendments to the procurement policy.

It is estimated that the Town has received approximately \$16,048.05 worth of services from Fiacco Construction while in return the Town has provided approximately \$3,785.28 in services.

The Town of Lyme has agreed to :

Use the Highway trucks and men to haul brush from the Lyme Central School soccer fields to the Town Quarry on the corner of NYS route 12E and the Moffet. Road.

Fiacco & Riley agree to:

- 1) Ditch-witch for ball field water line.
- 2) Excavator use for ditch work.
- 3) Give the Town 3 concrete drain boxes with pipe.
- 4) Dozer has moved the dirt in the quarry.
- 5) Bobcat with milling machine for Swamp road and village Streets to repair low spots in the blacktop.
- 6) Giving the Town 1- - 20 loads of topsoil.
- 7) Use of roller on Town ball fields.
- 8) Use of multiple pieces of equipment.

The Town of Lyme Highway Employees that will be operating any of Fiacco and Riley's equipment have been fully qualified on that particular piece of machinery.

Should any mechanical problems arise, each party will be responsible for repairs of their own equipment.

***RESOLUTION 2010 – 92: Motion by Councilwoman Harris and seconded by Councilman Bourquin supporting the exchange of services between Fiacco and Riley and the Town of Lyme with the amended changes suggested by Attorney Gebo. Four ayes. Motion carried.***

### **Transfer Site Power Supply Problem**

The town has received three estimates on some work that desperately needs to be addressed at the Transfer Site in regard to the electric box.

Bids were submitted as follows:

Doug Rose	\$1085.00
Bach Environmental, Inc.	575.00
Tim Clafin	1127.00

***RESOLUTION 2010 – 93: Motion by Councilman Bourquin and seconded by Councilman Johnson accepting the bid from Bach Environmental, Inc. in the amount of \$575.00 for the installation of a 200 AMP Load Center at the Town Transfer Site. This includes all material and labor for the following items:***

- *New 200 AMP 40 circuit breaker panel*
- *New load wire between meter channel and breaker*
- *Re-use of existing breakers*

***Any additional requested work by the customer at the time of the above work is not included in this quotation, and will not be done without a proper proposal for any other work.***

***Four ayes. Motion carried.***

***A Motion was made by Councilman Bourquin and seconded by Councilman Johnson to adjourn today's meeting at 12:55 p.m.***

*Minutes Respectfully Submitted by*

*Kim Wallace*

*Town of Lyme Clerk*