

**TOWN OF NORTH HARMONY  
PUBLIC HEARING AND SEQRA LOCAL LAW NO. 1-2011  
AMENDMENTS TO ZONING ORDINANCE  
MONDAY, 3/14/2011, 7:30 PM**

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<b>SALLY P. CARLSON, SUPERVISOR</b>	<b>PRESENT</b>
<b>RALPH WHITNEY, COUNCILMAN</b>	<b>PRESENT</b>
<b>ART THOMAS, COUNCILMAN</b>	<b>ABSENT</b>
<b>FRANK STOW, COUNCILMAN</b>	<b>PRESENT</b>
<b>DICK SENA, COUNCILMAN</b>	<b>PRESENT</b>

**OTHERS PRESENT:** Gary Ryan, Highway Superintendent; Dave Stapleton, Attorney; Dave Lloyd, Stormwater Planning; Jay Gould, Legislator; Pat Rice and Louis Rieg, Planning Board; Brad Lawson, Zoning CEO; Betty Ryan, Clayton and Helen Emick, Penny Best, Deputy Town Clerk

**Mrs. Carlson opened the hearing at 7:30 PM.**

**Mr. Rice** said the Planning Board has made the recommendation to modify the Zoning Ordinance so that the law is more clear and enforceable. Proposed changes to the ordinance are as follows:

**North Harmony Zoning Amendments**

February 8, 2011

**Section 202 of the North Harmony Zoning Law – Definitions**

- 1.) Delete current “*Accessory Building or Use*” definition.  
Replace with “*Accessory Structure or Use* – A use or structure which is subordinate and accessory to the principal structure on the same lot and is used for purposes customarily incidental to those of the principal use or structure. No accessory structure shall be altered or otherwise modified in a manner that would make it a dwelling unit, as defined by the North Harmony Zoning Law, and is not allowed to be located in a front yard.”
- 2.) Modify “*Garages, Private*” definition. Replace “A secondary building...” with “A secondary structure...”
- 3.) Modify “*Lot*” definition. Replace the term “building” with “structure” throughout definition.
- 4.) Modify “*Storage Structure*” definition. Replace “...shall be less than 150 square feet with larger structures considered to be customary accessory uses.” With “...shall be less than 150 square feet and twelve (12) feet in height, with larger structures, such as a private garage, bathhouse, private swimming pool, private toolhouse, children’s playhouse or a noncommercial greenhouse and other customary accessory uses, to be considered as accessory structures or uses. Storage structures less than 150 square feet shall be limited to one per lot.
- 5.) Modify “*Yard, Front*” definition. Replace “...to the lake, the front yard shall consist of the land area between the primary structure and the public or private roadway serving the property.” With ... to the lake, with a public or private roadway between the primary structure and the lake, the front yard shall consist of the land area between the primary structure and the public or private roadway serving the property. Where no such roadway exists between the primary structure and the lake, the front yard shall consist of the land area between the ordinary lake shoreline and the primary structure.

**Section 401 of the North Harmony Zoning Law – Single-family Residential (R1) District**

**401(B) Uses By Right**

- 1.) Remove “Storage Structure (over 140 sq. ft.)

**401(D) Uses Requiring No Permit**

- 1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

**401 (E) Area Standards**

- 1.) Remove “Feet from street edge” from chart titles.

**PUBLIC HEARING**

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Section 402 of the North Harmony Zoning Law – Duplex Multi-family Residential (R2) District

402(B) Uses By Right

1.) Remove “Storage Structure (over 140 sq. ft.)

402(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

402 (E) Area Standards

1.) Remove “Feet from street edge” from chart titles.

Section 403 of the North Harmony Zoning Law – Multiple Family Residential (R3) District

403(B) Uses By Right

1.) Remove “Storage Structure (over 140 sq. ft.)

403(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

403 (E) Area Standards

1.) Remove “Feet from street edge” from chart titles.

Section 404 of the North Harmony Zoning Law – Multiple Seasonal Residential (R4) District

404(B) Uses By Right

1.) Remove “Storage Structure (over 140 sq. ft.)

404(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

404 (E) Area Standards

1.) Remove “Feet from street edge” from chart titles.

Section 405 of the North Harmony Zoning Law – Hotel multiple-family Residential (R5) District

405(B) Uses By Right

1.) Remove “Storage Structure (over 140 sq. ft.)

405(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

405 (E) Area Standards

1.) Remove “Feet from street edge” from chart titles.

Section 406 of the North Harmony Zoning Law – Agricultural Residential (AR) District

406(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

Section 407 of the North Harmony Zoning Law – Agricultural (A) District

407(D) Uses Requiring No Permit

1.) Modify “Storage Structure (over 140 sq. ft.). Replace with “One Storage Structure (under 150 sq. ft.).

**Mr. Lawson** said in Section 202 1.) 2.) 3.) where the law speaks of *building* it will be changed to *structure*.

**Mr. Rice** said Sec. 202 4.) is modified to allow a storage structure of less than 150 sq. ft. and height of less than 12 ft. to be an allowable use in all districts. He said Sec. 202 5.) is modified to indicate that the *yard front* is to be considered the *lake front* side of the property.

**Mr. Sena** clarified that the definition of storage structure of less than 150 sq. ft. is limited to one per lot and not to be confused with a garage or anything else considered being a customary accessory use.

**PUBLIC HEARING**

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**Mrs. Carlson** asked if this means that no storage structures will be allowed on the lake side of lake front property.

**Mr. Rice and Mr. Sena** agreed that is the intent.

**Mr. Lawson** said this makes the definition clear that if the house is on the lakeside of the road and there is no road between the house and the lake then that front yard is the lakeside.

**Mrs. Emick** asked if this means you could have a garage and a storage structure.

**Mr. Lawson** said yes as long as the 25% lot coverage rule is adhered to.

### **SEQRA: LOCAL LAW NO. 1-2011 AMENDMENTS TO THE ZONING ORDINANCE**

**Mr. Stapleton** said that since the town board is making a decision requiring implementation of a local law requiring the modification of the Zoning Law it is necessary to complete a short form SEQRA. He said the SEQRA sponsor and applicant is the Town of North Harmony and the zoning areas affected are Sections 401 – 407.

**Mr. Stapleton** said that after the hearing that was just held the record reflects that the 2/8/11 proposed changes to the Zoning Law are in the definitions and those changes that affect District 401 – 407, the entire town of North Harmony. Mr. Stapleton reviewed for those present the complete short form SEQRA Part I, II and III.

### **MOTION #30 OF 2011**

**MRS. CARLSON MOTIONED FOR A NEGATIVE DECLARATION OF IMPACT ON THE SEQRA FOR AMENDMENTS TO SECTIONS 202, 401, 402, 403, 404, 405, 406 AND 407 OF THE ZONING ORDINANCE. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**Mrs. Carlson adjourned the public hearing at 7:55 PM.**

*Nancy M. Thomas*  
*Town Clerk*

**TOWN OF NORTH HARMONY  
TOWN BOARD MEETING  
MONDAY, 3/14/2011, 8:00 PM**

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**SALLY P. CARLSON, SUPERVISOR**

**PRESENT**

RALPH WHITNEY, COUNCILMAN  
ART THOMAS, COUNCILMAN  
FRANK STOW, COUNCILMAN  
DICK SENA, COUNCILMAN

PRESENT  
ABSENT  
PRESENT  
PRESENT

**OTHERS PRESENT:** Gary Ryan, Highway Superintendent; Dave Stapleton, Attorney; Dave Lloyd, Stormwater Planning; Jay Gould, Legislator; Pat Rice and Louis Rieg, Planning Board; Brad Lawson, Zoning CEO; Betty Ryan, Clayton and Helen Emick, Dan Mangione, Goose Creek Corp.; Penny Best, Deputy Town Clerk

A moment of silence was observed for Councilman Art Thomas who passed away on Saturday morning March 12, 2011.

Mrs. Carlson stated that he was a true gentleman and a pillar of the community whose presence would be deeply missed.

- **PLEDGE**
- **MINUTES**

**MOTION #31 OF 2011**

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE MINUTES OF THE 2/14/11 TOWN BOARD MEETING WERE ACCEPTED AS PRESENTED BY THE TOWN CLERK, UNANIMOUSLY.

- **ANNOUNCEMENTS:**
- **PUBLIC COMMENT:**

**HELEN EMICK**

Mrs. Emick said she kept seeing notices of changes from Time Warner Cable and asked what type of deal they have with the town and how that impacts user rates. She said the rates are outrageous.

Mrs. Carlson said basically they have contracts that come due all the time. She said they send us notification of what contracts are due to expire and they have to do that in order to satisfy legalities. She said the town has no control over their rates. She said it is the user's option to stay with them or go with another service. She said the town does get a 5% franchise fee for subscribers in the area. She said the contracts are with the companies supplying the network stations. She said users could contact Time Warner and the Public Service Commission to express their complaints with the rates.

- **CORRESPONDENCE:**

1. **CHATAUQUA CO. BOARD OF ELECTIONS – File notice for next general election**

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2. **MICHAEL SULLIVAN – Resolution for reasonable and sensible tuition plan**

Mr. Sullivan asked the Town Board to pass a resolution requesting reasonable and sensible tuition costs at Fredonia University.

## **MOTION #32 OF 2011**

**ON A MOTION MADE BY MR. SENA AND SECONDED BY MR. STOW THE REQUEST OF MIKE SULLIVAN FOR A TUITION RESOLUTION WAS TABLED FOR FURTHER INFORMATION. THE MOTION WAS CARRIED UNANIMOUSLY.**

### **3. YOUTH REC – Grant funding for 2010 received \$1,078.01**

**Mrs. Carlson** said there is a good chance that there will not be a Youth Rec program this year because the Fire Dept. does not want the ball field and pavilion used for a location and there is no alternate facility to hold it at. She said she has spoken to Mark Stow and both Harmony and North Harmony need to discuss whether there is a site in Harmony that is suitable for the joint program. She said there also may be no further funding from NY State for the program which benefits approximately 50-80 youth.

### **4. ANDY GOODELL – Assistance/Contact Information**

### **5. NYS-DEC – Emerald Ash Borer – Batavia 3/22/10 9:00 am – 12:00 pm**

### **6. Don and Donna Nickerson – letter commending Highway Dept. for their work keeping the roads clear this winter**

### **7. WATERSHED NEWSLETTER**

### **8. SOUTHERN TIER WEST – Annual Local Government Conference at Houghton 5/11/11**

- **OLD BUSINESS:**

- **GOOSE CREEK CORPORATON**

**Mr. Stapleton** gave a general statement as to what he feels the statutes of NY State require. He said the Planning Board has spent a lot of time on this. He said there is no application for subdivision; cluster development; or planned unit development approvals. He said there is no specific application in hand from Goose Creek Corp. He said they are asking the board to approve a type of subdivision plat for their entire parcel of land which is many acres and lies mostly in North Harmony but does include land in Busti. He said Town Law requires that any time a plat is going to be reviewed; the town board must refer it by resolution to the Planning Board for review and determination. He said the plat has to be created, signed and stamped by a licensed surveyor. He said the town board then reviews the plat under the statutes which call for review by the Planning Board and the applicant must complete a long form SEQRA for the process. He said the issue the applicant wants to address is the ownership of individual lots for insurance purposes through fire insurance companies. He said Mark Stow had indicated in a 2009 letter that all the septic systems had been tested in 2007 and had passed. He said these are environmental issues that would be considered on a long form SEQRA. He said in his opinion the town board cannot approve anything unless it is in the format that the statute requires and the terms and conditions are complied with. He said he has provided copies of Town Law Sec. 276 to the Planning Board and Mr. Lawson. He said he has been asking for a survey for over a year and has received a map that has boundaries but is not signed or stamped by a surveyor. He said he had

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gone to Chautauqua Co. GIS and gotten map photos of the land showing the property lines with lots of details that have not been addressed at this time.

**Mrs. Carlson** asked Mr. Rice if he had surveys.

**Mr. Rice** said he had received drawings but could not recall if they were stamped.

**Mr. Mangione** said they are not stamped yet due to the great cost but there are written descriptions.

**Mr. Stapleton** said one of the critical issues is the location of the structures within the individual lots which are non-conforming lots. He said another issue is the conditions the Planning Board might suggest for future purposes of the Zoning Board of Appeals looking at the sale of a lot; re-habilitation of the structures and building permits to be granted. He suggested that the surveyor could use the GIS maps and overlay his data on the map to show where structures are. He suggested that a hand written drawing is not acceptable and might open the town up to a law suit.

**Mr. Rieg** said there is a problem with using the GIS maps as surveys. He said there is a parallax in the way the photos are merged together and you may not get exact positioning on the structures and boundaries.

**Mr. Stapleton** said a surveyor would want to shoot the lines and he has been trying to help the Goose Creek people but is not getting the information he needs. He suggests that the type of application be determined. He said town law requires that if you are going to issue a building permit, the lot it is located on has to be on a public street. If it is not, then the town has to accept that that the lots are on a private easement or driveway and it will accept and allow the CEO to issue a permit coming off a private driveway. He said a roadway ROW may need to be established for possible installment of utilities in the future.

**Mrs. Emick** asked how much of the property is located in Busti.

**Mr. Stapleton** said he did not know, but most of the Busti land is vacant. He said Busti would need to be notified during the SEQRA process. He said he thinks the Planning Board and everyone is in favor of the project but he is protecting his backside as legal counsel to the town. He said the bottom line in his opinion is that a signed stamped survey is needed to move forward.

**Mr. Sena** said what Mr. Stapleton is trying to say is that the town board is not required to take his advice. He said the applicant has given the Planning Board everything they have asked for.

**Mrs. Carlson** said her main concern is in making sure that at some point if sewer lines need to be installed that is a part of the application and provisions are made for them.

**Mr. Rice** asked Mr. Mangione if when the final draft is complete the areas for improvement will be located on the map.

**Mr. Mangione** said he would talk to a surveyor about locating areas for improvements. He said they are trying to model the proposal after the Loomis Bay sub-division.

**Mr. Stapleton** said the day after the map is filed, if the town approves it, there will be an application to the Zoning Board of Appeals (ZBA) to do something. He said they will need to have some direction and conditions for the entire process so the board will know what it can do. He said when Loomis Bay sub-division was approved it was with the knowledge that there are non-conforming lots involved and everything would be kept in the same character and owners would have to file for variances which the Zoning Board could issue. He said those variances are under the authority of the ZBA after the town approves any type of survey or plat.

**Mr. Sena** said the applicant does not want to go through the process of paying big bucks to get a stamped drawing to find out that Mr. Stapleton does not like the non-conforming lots. He asked Mr. Stapleton if he was comfortable with the drawing and lot sizes as presented.

**Mr. Stapleton** said he would not give an opinion as that is not his function.

**Mr. Rice** said he feels the Planning Board is comfortable with the applicant's proposal but he sees Mr. Stapleton's point. He said they had not looked in depth at the roads and the issues of emergency access.

**Mr. Stapleton** said according to the GIS map the roadway entrance encroaches on Kelly O'Neill's property.

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**Mr. Mangione** said it does not and the GIS maps are not very good.

**Mr. Stapleton** said that is why you need a stamped survey map.

**Mr. Mangione** said his map is an actual survey map, it is just not stamped.

**Mr. Stapleton** asked if the surveyor in Buffalo had created Mr. Mangione's map.

**Mr. Mangione** said yes he did and he had come out to the project to do it.

**Mr. Stapleton** said he assumed that the survey would not show every building and asked if the surveyor would certify that every single dwelling was within the bounds of the lot.

**Mr. Mangione** said he could provide a letter from the surveyor to substantiate that.

**Mr. Rice** said one of the main concerns of the Planning Board was that there would be no further development of the vacant land and green space would be maintained.

**Mr. Mangione** said the deed restrictions would include that as had been discussed and recorded in previous Planning Board minutes.

**Mr. Stapleton** informed Mr. Mangione that the town places conditions on a permit or approval and that's different from whatever they do with their deeds relative to how they file at the county. He said the town has nothing to do with their deed restrictions.

**Mr. Mangione** said they are trying to closely model their proposal after the Loomis Bay sub-division across the street.

**Mr. Sena** said he has attended the Planning Board meetings for some time and it was never mentioned until recently that a stamped survey was needed.

**Mr. Mangione** said he has attended many meetings and the proposal has been passed from board to board and he has tried to satisfy every request for information.

**Mr. Lawson** assured him that with a project of this size that is how the process works.

**Mr. Whitney** told Mr. Mangione that there are several things that are needed: 1) stamped survey 2) copy of letter from surveyor 3) standard building permit application with supporting documents 4) road widths and provisions for sewer and underground utilities.

**Mr. Stapleton** said the DEC would be notified through the SEQRA process because there is a trout stream located there. He also indicated that Mr. Stow's letter of September, 2009 indicates his opinion that the septic systems had been grandfathered in and the Health Dept. would not be an issue or involved.

### **MOTION #33 OF 2011**

**MR. WHITNEY MOTIONED TO AUTHORIZE THE PLANNING BOARD TO REVIEW THE GOOSE CREEK CORPORATION SUBDIVISION SURVEY, APPLICATION AND LONG FORM SEQRA, AND TO DETERMINE CONDITIONS AND MAKE RECOMMENDATION TO THE TOWN BOARD. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **HIGHWAY BUILDING PROJECT**

**Mrs. Carlson** said there had been a meeting with Rex Tolman and he has contacted Mike Masters to do the survey of the highway property. She said as soon as the weather breaks the project can move forward.

- **VETERAN'S MEMORIAL – LIST OF VETERAN'S**

**Mrs. Carlson** said the Veteran's Committee had met.

**Mr. Whitney** said they had multiple lists of veteran's and they have realized that there are names missing. He said the idea is to have a memorial at Veteran's Park that includes all North Harmony veteran's not Just WWII which is what exists now. He said it will not be just original residents of North Harmony, but any veteran who has lived in the town. He said they are checking into prices but there is a lot of foot work to be done yet.

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**Mrs. Carlson** said there will be a newsletter going out soon that will include information about the memorial and request the names and dates of service of veterans. She said she is not sure how much information (rank, branch, etc.) will be included on the memorial. She said something listing the War served

in and name (similar to the Vietnam War Memorial) has been discussed.

- **ZONING ORDINANCE AMENDMENTS**

- **MOTION #34 OF 2010**

**MR. SENA MOTIONED TO ADOPT THE AMENDMENTS TO THE ZONING ORDINANCE SECTIONS 202. DEFINITIONS AND SECTIONS 401 THROUGH 407 AS OUTLINED IN THE FEBRUARY 8, 2011, DOCUMENT AND RECOMMENDED BY THE PLANNING BOARD. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **“A FERRY TALE” by ART THOMAS**

**Mrs. Carlson** said the final draft of Art’s book had been taken to Falconer Printers on Monday 3/7/11. She said he had picked out the binding and print size and he seemed very happy to have it there. She said the printing should be complete on 4/8/11. The Bi-Centennial committee in Mayville is having an “Ice the Cake” event in the old gym at Mayville School on 4/9/11, and copies of the book will be for sale. She said the cost of printing will be \$6,500.00 and copies of the book will be \$20.00/each.

- **NEWSLETTER**

**Mrs. Carlson** said she hopes to have the newsletter mailed either this week or early next week. **Mr. Sena** advised that the current snow fall for 2010-11 on Butts Road is 203”.

- **RAIN GARDEN – BED TAX GRANT PROJECT**

**Mr. Lloyd** said he has been working with Rex Tolman, Dave Wilson and Betsy Height on the Ashville Rain Garden. He said Betsy is looking at planting plans to go along with Mr. Tolman’s design. He said 2 suppliers for plants will be Brigotta’s and Art Sample. He said planting will be done during the first two weeks of June. He said BOCES Vo-Tech will be helping to do some tree planting at the Cheney Creek Project. He said he is looking into obtaining extra funds for the raised garden at the corners in Ashville and the Bly Hill project. He said the Cheney Creek project seems to be an ongoing problem with the law department at the County. He said they are looking to get amendment papers to carry the project over into this next year and once those are signed they go back to Mayville and a check should be cut for the first \$26,000. He said when the trees and shrubs are planted we will get an additional \$4,000. He said Mr. Ryan has been working at Neits Crest and he has spoken with Mrs. Hobacker and the McClean’s, Mr. Tolman, Mr. Wilson, and Mr. Deere to see if that might be a viable project for funding.

- **SECURITY LIGHTS AT COMMUNITY BUILDING**

**Mrs. Carlson** said there has been a request for security lighting outside the building. She said since they could not locate Mr. Lupton’s quote, they would table it until next month.

- **MOTION #35 OF 2011**

**MR. STOW MOTIONED TO TABLE THE REQUEST FOR SECURITY LIGHTING AT THE COMMUNITY BUILDING UNTIL THE APRIL MEETING. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

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- **MITCHELL HOUSE**

**Mrs. Carlson** said there are some major problems going on at the town’s rental property. She said the sump pump quit working and the house filled with smoke because the furnace plugged up.

**Mr. Stow** said the Allen's moved out for the night. He said the furnace and hot water tank will need to be replaced. He said the furnace is very old and not repairable.

**Mrs. Carlson** said she had gotten a quote from Northridge in the amount of \$4,569.18 to replace the furnace and hot water tank with gas units. She asked the board how much money they wanted to put into the house and if they wanted to continue to rent it. She said if the board wants to continue to rent it out, it also needs smoke detectors and carbon monoxide detectors. There was general discussion of where the gas line goes through that area; what side of the road it is on and where the markers are located. Mrs. Carlson said she had spoken to Scott Sampson at Chautauqua Utilities and he indicated it would be no problem to run a line to the house.

**Mr. Sena** said the price quoted is very reasonable.

### **MOTION #36 OF 2011**

**MR. SENA MOTIONED TO ACCEPT THE BID OF NORTHRIDGE SERVICES TO REPLACE THE FURNACE AND HOT WATER TANK AT THE MITCHELL PROPERTY AT A COST OF \$4,569.18 AS QUOTED. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**Mrs. Emick** asked if three bids are required.

**Mrs. Carlson** said the procurement policy requires 3 bids for amounts more than \$10,000.00. She said she would call and ask for verbal quotes on the furnace and water heater. A quote was received from Mike Gleason of \$703 to hard wire 5 smoke and 3 carbon monoxide detectors into the Mitchell property. Mr. Lawson said this step will bring the house into code compliance.

**Mr. Lawson** said because it is a rental property, it would probably be a good idea to have them hardwired for liability purposes.

### **MOTION #37 OF 2011**

**MR. STOW MOTIONED TO ACCEPT MIKE GLEASON'S QUOTE OF \$703.00 TO HARDWIRE 5 SMOKE AND 3 CARBON MONOXIDE DETECTORS INTO THE MITCHELL HOUSE. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **DFT WIRELESS SECURITY**

**Mrs. Carlson** said a quote has been received from DFT for security upgrades to the Community Building which includes intrusion and fire systems.

**Mr. Sena** said the quote does not appear to be for a wireless system and he would speak to Don Coe at DFT.

### **MOTION #38 OF 2011**

**MR. SENA MOTIONED TO TABLE THE SECURITY UPGRADES TO THE COMMUNITY BUILDING UNTIL FURTHER INFORMATION FROM DFT COULD BE OBTAINED. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

- **ANDERSON PROPERTY ADJACENT TO REGNER'S**

**Mr. Stapleton** said he has been trying to work with certain lien holders on the property as discussed at the 2/14/11 board meeting. He said he has been unsuccessful because of various interactions between

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competing parties in getting a release of a mortgage lien. He said he has approached the abstract company about the potential of getting title insurance that would insure over the collection of the mortgage out of the premises. He said the mortgage is an older mortgage that has not been paid on for over 6 years and there is

a statute of limitations that prohibits any collection on a debt over 6 years old. He said the title company is willing to insure over that if they have an affidavit from the current owners that no monies have been paid at all. He said if the board wants him to pursue that, there are 2 or 3 more liens that contact will have to be made on in order to get them cleaned off. He said the title insurance is typically \$350-375.00.

**MOTION #39 OF 2011**

MR. STOW MOTIONED TO AUTHORIZE DAVE STAPLETON TO PURSUE TITLE INSURANCE ON THE TOWNS BEHALF ON THE ANDERSON PROPERTY. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **NEW BUSINESS:**
- **REFUND FROM NYMIR - \$1,631.25**
- **ADVERTISE FOR DOCK – PLACEMENT AND REMOVAL**  
Mrs. Carlson said it is a 14 section dock with 4 benches.

**MOTION #40 OF 2011**

MR. SENA MOTIONED TO ADVERTISE FOR BIDS TO BE RECEIVED NO LATER THAN 4/8/11, FOR PLACEMENT AND REMOVAL OF THE TOWN DOCK AT LIGHTHOUSE PARK. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.

- **ANNUAL TRANSFER STATION REPORT FILED BY PENHOLLOW – TOTAL 626 TONS**  
*There was general discussion of people who are not property owners using the transfer station and perhaps once again doing a check of stickers, addresses at the station.*
- **HEALTH INSURANCE – CONFIRMING CAFETERIA PLAN WITH INDEPENDENT HEALTH**  
Mr. Stapleton said after extensive research it appears that with health reimbursement accounts (HRA) where premiums only are being reimbursed there is no extensive liability to the town. He said the town needs a resolution to adopt a payment only plan (POP). He said Independent Health has a model plan they can provide which is about 10 pages long. He said they have confirmed with the town in writing that we have a premium reimbursement plan only which means the town has no liability for any and all medical expenses a member might incur. He said the town is only responsible for the premiums. He said the pre-tax employee contribution is the issue. He said the town needs to pass a resolution authorizing the supervisor to sign the application for the Independent Health Co. to draft a POP plan at a cost of \$350.00. He said the town has already been doing employee deductions since 2002. He said the new IRS regulations require that the plan be in writing and not just a resolution of the town to authorize the premiums be taken out of the paychecks.

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**MOTION #41 OF 2011**

MR. WHITNEY MOTIONED TO AUTHORIZE THE SUPERVISOR TO SIGN THE PAYMENT ONLY PLAN (POP) DOCUMENT FROM INDEPENDENT HEALTH CO.

**WHEN IT IS RECEIVED. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

• **ENERGY SERVICE PROVIDERS, INC.**

Mrs. Carlson said the town has received a number of high pressure phone calls from energy service providers to switch to their company. She said she is not comfortable with their tactics and currently the town uses NYSEG Solutions. *After discussion it was decided that Mrs. Carlson would contact Energy Service Providers, Inc. and let them know the town is not interested.*

**MOTION #42 OF 2011**

**MR. STOW MOTIONED TO ACCEPT MIKE GLEASON'S QUOTE OF \$703.00 TO HARDWIRE 5 SMOKE AND 3 CARBON MONOXIDE DETECTORS INTO THE MITCHELL HOUSE. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

• **REPORTS:**

**JAY GOULD, LEGISLATOR**

Mr. Gould said the following occurred at the February, 2011 Legislative meeting:

- 4 appointments made to the Chaut. Co. Planning Board; 2 appointments to Southern Tier West Regional Planning Board; 4 to Youth Bureau; 23 to Fire Advisory Board; 1 to Soil and Water; 3 to Parks Commission; 2 to Fish and Wildlife; 2 to Airport Commission
- JCC Capital Project at a cost of \$399,875.00 to acquire land and upgrade the Carnahan Building was a lengthy topic at the meeting.
- Grant passed for \$728,820.00 for NYS Court Security
- Explosive Detection Canine Team - \$50,000 grant for period 11/22/10 – 7/31/13
- Bomb Detection Grant received of \$30,376.00
- Chautauqua Co. Visitors Bureau – Resolution to apply to state for matching grants from Dept. of Commerce in the amount of \$429,000 which is received from 3% bed tax (about 45% of bed tax funds go to the Visitors Bureau)
- Reapplication to NYS to continue to collect the 5% bed tax (3% for tourism and 2% clean water)

**GARY RYAN, HIGHWAY SUPERINTENDENT**

Mr. Ryan said things are a little slow right now and they have been working on the trucks and doing some general maintenance at the shop and some hand patching on the roads.

**HOWARD PEACOCK, JUSTICE**

Mr. Peacock said both Mr. Bensink and Mrs. Stow are on vacation. He said there have been a few arraignments and Justice School will be held in May.

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**BRAD LAWSON, ZONING C.E.O.**

Mr. Lawson said there have been few permits applied for this year as is usual for January through March. He said he will hold the Informal Contractor Program on 3/16/11 at 7:00 PM and anyone who is interested is welcome to attend. He said he has spoken to the company that Jim Sheppard works for regarding the house on Stoneledge Rd. that burned. He said the check should be written and received by the

homeowners this week and hopefully it will be taken down soon after. He said the Planning Board is working on property maintenance issues and Mr. McCord will present a draft to the board at next month's meeting.

**NANCY THOMAS, TOWN CLERK (copy of report in Minute Book)**

**MOTION #43 OF 2011**

**ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA, THE TOWN CLERK'S REPORT WAS ACCEPTED AS PRESENTED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**SALLY P. CARLSON, SUPERVISOR: (copy of report in Minute Book)**

**Mrs. Carlson** said she, Art and Dick had attended the Supervisors/Mayors meeting where Lyle Hajdu and Kim Sherwood were the guest speakers. She said they presented the CLMC Plan and a copy is available here for review as well as one on line at the Chautauqua County Website. She said they have suggested joint meetings with Planning, Zoning and Town Boards be held to discuss lake issues and seek suggestions to improve the lakes health. She said she would like to arrange something this spring.

**Mr. Lawson** said it is good that our Comprehensive Plan already has a place for this plan to fit into and everything is coming together.

**Mrs. Carlson** said Mr. Tolman advised her that the new EPA regulations are going to really restrict development in Western N.Y. because of the types of soil.

**MOTION #44 OF 2011**

**MR. STOW MOTIONED THAT THE SUPERVISOR'S REPORT BE ACCEPTED AS PRESENTED. MR. WHITNEY SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**MOTION #45 OF 2011**

**MR. WHITNEY MOTIONED TO PAY THE GENERAL FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. SENA SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**MOTION #46 OF 2011**

**MR. WHITNEY MOTIONED TO PAY THE HIGHWAY FUND BILLS AS AUDITED AND REVIEWED EARLIER. MR. STOW SECONDED AND THE MOTION WAS CARRIED UNANIMOUSLY.**

**COUNCILMAN STOW ON THE PASSING OF COUNCILMAN ART THOMAS**

**Mr. Stow** said the town has lost a great community person who had provided service to the town for over 50 years. He said during those years he served as Justice for approximately 43 years; a Town Board member from 2007 to the present and even earlier in the 1970's. He said Art was very active in his

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community with the Boy Scouts and had performed many marriages for his family members. He said Art was a great example to all and his mentor and he would miss him very much.

**Mr. Sena** said he had led a great life and we were blessed to have had him in our lives.

**Mr. Whitney** agreed and said Art had performed his oldest son's marriage and had come to his classes when he was teaching to give talks to students on government service.

Mr. Stow said his shoes would be tough to fill. “THANKS ART, GREAT JOB”!

**MOTION #47 OF 2011**

ON A MOTION MADE BY MR. STOW AND SECONDED BY MR. SENA THE MEETING WAS  
ADJOURNED AT 9:32 PM.

*Nancy M. Thomas*  
*Town Clerk*