

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, with Supervisor Tupper presiding.

Members present:

Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, John C. Proud
Councilman, John P. Reynolds
Councilman, Douglas E. Withey
Town Clerk, Kristin E. Rocco-Petrella

Others present were: Town Attorney, John Folmer; Highway Sup't., Glenn Bassett; Town Residents: Pamela Jenkins; Stephen Flatt; and News Reporter, Jacob DeRochie from the *Cortland Standard*.

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Testa, to approve the Town Board Minutes of July 11, 2018; the Special Town Board Minutes of July 16, 2018; and the Town Board Minutes of July 18, 2018. All voting aye, the motion was carried.

RESOLUTION #197 AUTHORIZE PAYMENT OF VOUCHERS – AUGUST

Motion by Councilman Withey

Seconded by Councilman Proud

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, the vouchers submitted have been audited and shall be paid as follows:

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|---------------------------------------|-------------------------------|--------------|
| Funds A, B, DA, DB, HE, HG, SS, SW | Voucher #996-1063 | |
| | General Fund A | \$ 97,401.63 |
| | General Fund B | \$ 41,452.63 |
| | Highway Fund DA | \$ 0.00 |
| | Highway Fund DB | \$ 31,921.94 |
| | Saunders Rd Sewer HE | \$ 0.00 |
| | Gutchess Lumber SC Project HG | \$ 1,646.01 |
| | New Highway Garage HH | \$ 4,419.04 |
| | Sewer Fund SS | \$127,055.63 |
| | Water Fund SW | \$ 9,017.40 |
| Funds CD1, CD3, CD4 | Voucher #48-52 | |
| | BMills Rehab CD1 | \$ 0.00 |
| | Town Wide Rehab CD3 | \$ 49,660.00 |
| | Business Devl CD4 | \$ 0.00 |
| Funds SF, TA, TE | Voucher #36-37 | |
| | C'Ville Fire District SF | \$ 0.00 |
| | Trust & Agency TA | \$ 41,147.71 |
| | Expendable Trust TE | \$ 0.00 |

Supervisor Tupper offered privilege of the floor to those in attendance. No requests were made.

Under communications, Supervisor Tupper apprised the Board he received a letter from Sharon Stevans thanking the Board and Town officials for the gift and thank you note she received. After years of volunteering her time and expertise to videotape Cortlandville meetings as well as arranging for them to be broadcasted on the local community access television channel, Mrs. Stevans was stepping back from her service largely as a result of changes with Spectrum TV.

Councilman Proud made a motion, seconded by Councilman Reynolds, to receive and file correspondence from Phillips Lytle LLP, dated July 25, 2018, regarding comments on the Town's proposed Solar Zoning Ordinance and a proposed waiver provision. All voting aye, the motion was carried.

There was discussion regarding correspondence from Phillips Lytle LLP and the proposed Solar Zoning Ordinance. Attorney Folmer explained that Phillips Lytle LLP suggested that waiver provisions be included in the proposed Local Law that would grant the Town Planning Board the authority to issue waivers under specific code requirements. The language for the proposed waiver provision was forwarded to the Town and County Planning Boards for review. The County Planning Board recommended that the proposed waiver provisions not be incorporated into the proposed zoning text amendment, which Attorney Folmer agreed with. In his opinion, adopting the waiver provisions would be a mistake. As the County Planning Board pointed out, an applicant would already be allowed to apply for a variance, and the Town Planning Board has no authority in NYS Town Law to grant waivers (variances) from the requirements of a zoning law. Attorney Folmer stressed that criteria for use variances are strict and State established, and that use variances are not given easily. In addition, if the waiver provisions were adopted the Planning Board may not want such responsibility. The Board agreed.

Attorney Folmer explained that Phillips Lytle LLP was specifically concerned with a parcel that may be affected by the proposed Solar Law without the waiver provisions. However, Attorney Folmer discovered that the parcel they were concerned with was included in a Zone Change several years ago that eliminated their need for such a provision altogether.

Attorney Folmer reported that the Board has not yet received the comments from the Town's consultant The Zoghlin Group with regard to Part 1 and Part 2 of SEQR, and therefore requested the Board extend the moratorium on solar facilities. After discussion, the Board agreed to extend the moratorium until October 31, 2018 or until the Local Law is adopted.

RESOLUTION # 198 AUTHORIZE EXTENSION TO LOCAL LAW NO. 1 OF 2017
"IMPOSING A MORATORIUM AND APPROVALS OF
INSTALLATIONS OF SOLAR FACILITIES"

Motion by Councilman Proud

Seconded by Councilman Reynolds

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

WHEREAS, on September 6, 2017 the Town Board of the Town of Cortlandville adopted Local Law No. 1 of 2017 imposing a Moratorium on the review and approval of any and all applications for the installation of Solar Facilities in the Town of Cortlandville, and

WHEREAS, said Local Law was filed with the New York State Department of State effective September 20, 2017, and

WHEREAS, per Section 3 of the Local Law, the "moratorium shall expire on March 1, 2018, or upon the adoption of regulations of Zoning Laws relating to such facilities, whichever shall first occur", and

WHEREAS, on February 7, 2018 the Town Board referred a proposed Zoning Code Amendment for Solar Energy Systems as submitted by the Town's Solar Energy Systems Committee to the Town and County Planning Boards for review and recommendations, and

WHEREAS, on February 21, 2018 the Town Board approved the extension of the moratorium until April 4, 2018; and on March 7, 2018 approved a further extension of the moratorium until April 18, 2018 to allow time for the Town and County Planning Boards to complete their review; and on April 4, 2018 extended the moratorium until May 31, 2018 as recommendations had not been received and a public hearing had not been held; and on May 16, 2018 approved a further extension of the moratorium until July 30, 2018 to allow time for an additional review by the Town and County Planning Boards, and

WHEREAS, on July 11, 2018 the Town Board forwarded Part 1 and Part 2 of SEQRA for the proposed Zoning Code Amendment to the Town's legal consultants, The Zoghlin Group PLLC, for review and has not received a response, therefore

BE IT RESOLVED, the Town Board does hereby authorize an extension to Local Law No. 1 of 2017, "Imposing a Moratorium and Approvals of Installations of Solar Facilities" from July 30, 2018 until October 31, 2018 or upon the adoption of regulations of Zoning Laws relating to such facilities, whichever shall first occur.

Under new business, Town Clerk Rocco-Petrella apprised the Board she recently issued a permit for the Seedstock Music Festival, which would be held August 3-5, 2018. The appropriate agencies, such as the Sheriff's Department and the Cortland County Health Department, were aware of the event. The festival, which was open to the public, included a lineup of 25 bands, local arts, and farm to fresh foods.

Town Clerk Rocco-Petrella informed the Board she was recently served two Notice of Petitions for review of assessments from Wal-Mart Real Estate Business Trust and Gator Cortlandville Partners, as well as a Petition and Complaint and Amended Summons regarding John Barden, Richard L. Small and Sharon A. Small vs. Bruce Weber; Town of Cortlandville; Cortlandville Planning Board; Cortlandville Town Board; New York State Department of Environmental Conservation; 1657 Hillside, LLC; Economy Paving Co., Inc., Franklin Rock, Inc.; Stephen J. Compagni. She requested the Board acknowledge their receipt.

Attorney Folmer added that the certiorari tax petitions of Wal-Mart and Gator Cortlandville Partners are filed every year and have consistently been resolved via Assessor David Briggs and counsel for the petitioners. At this point, there was no action for the Board to take because the statute provides upon filing the petition the municipality has denied all allegations that are in concern.

In regard to the Barden litigation, given action taken this week Attorney Folmer believed the Town would be stipulated out of the lawsuit or receive an order dismissing the lawsuit as it pertains to municipal officers, employees and Board members. It would leave in place Mr. Barden's personal claim to damages to himself as a result of his allegations concerning Economy Paving and stormwater.

**RESOLUTION #199 ACKNOWLEDGE RECEIVING NOTICE OF PETITIONS FOR
REVIEW OF ASSESSMENTS**

Motion by Councilman Withey

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing, the Notice of Petitions regarding their current assessments from the following:

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|---|---------------------|---------------------------|
| Wal-Mart Real Estate Business Trust #1731 | 819 Bennie Road | tax map #105.00-02-07.000 |
| Gator Cortlandville Partners LTD | 3654-3666 Route 281 | tax map #96.09-01-02.200 |

**RESOLUTION #200 ACKNOWLEDGE RECEIVING PETITION AND COMPLAINT
AND AMENDED SUMMONS IN THE MATTER OF JOHN
BARDEN, RICHARD L. SMALL AND SHARON A. SMALL
VS. TOWN OF CORTLANDVILLE**

Motion by Councilman Withey

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing, the Petition and Complaint and Amended Summons in the matter of John Barden, Richard L. Small and Sharon A. Small vs. Bruce Weber, in his capacity as Planning/Zoning Officer of the Town of Cortlandville; Town of Cortlandville; Cortlandville Planning Board; Cortlandville Town Board; New York State Department of Environmental Conservation; 1657 Hillside, LLC; Economy Paving Co., Inc.; Franklin Rock, Inc.; Stephen J. Compagni, regarding property located at 1819 Route 13 in the Town of Cortlandville, tax map #77.00-12-07.000.

After receiving several complaints by phone regarding the current state of the railroad tracks on McLean Road near the Cortland County SPCA and Gutches Lumber, Town Clerk Rocco-Petrella apprised the Board she contacted Highway Sup't. Bassett and requested he look into the matter. Highway Sup't. Bassett contacted the Cortland County Highway Department, the NYS DOT, and the Susquehanna Railroad regarding the inactive railroad tracks and was working towards a resolution to correct the situation. Highway Sup't. Bassett explained that the

Susquehanna Railroad would give permission to pull the rails from the road however it would be the Town's responsibility to replace them in the future if the railroad found reason to use the rail line. The railroad would also give permission to pave over the rails, which he felt may be a better option and was working with the County to accomplish that. Supervisor Tupper inquired if the railroad gates would be removed, eliminating the need for vehicles such as school buses to stop at the crossing. Highway Sup't. Bassett responded that they are in the process of studying all options.

Attorney Folmer reported:

Aquifer Protection Permit – Cortlandville Fire District:

Attorney Folmer apprised the Board that the completed SEQR for Cortlandville Fire District Aquifer Protection Permit application will be ready by the August 15, 2018 Town Board meeting.

CDBG Program Income Loan – Uncollectible Debt:

Attorney Folmer summarized a situation in regards to a CDBG Program Income Loan in the amount of \$15,000.00 made by the Town in 2010. Under the conditions/guidelines of the loan, there was a two-year freeze period before payment was required. Payments of \$250.00 per month commenced in March 2014 through April 2016, at which point the balance due to the Town was \$8,500.00. Attorney Folmer suspected that payments stopped because at that point in time a process was underway at the County to foreclose on the property for non-payment of taxes. A judgment was entered in that proceeding in February 2017. A tax deed was issued to the County in June 2017 and the County then conveyed the property to an individual on June 15, 2017. When the judgment was entered the liens of the prior mortgages were extinguished against the property. After conferring with the County, Attorney Folmer indicated that the only recourse would be to pursue a personal lawsuit against the debtors; the chances of collecting the loan are very slim. Attorney Folmer suggested the Board, by resolution, consider the loan an uncollectible debt.

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| RESOLUTION #201 | DECLARE UNCOLLECTIBLE DEBT FOR A 2010 LOAN MADE FROM COMMUNITY DEVELOPMENT PROGRAM INCOME FUNDS |
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Motion by Councilman Withey

Seconded by Councilman Proud

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

WHEREAS, in 2010 the Town of Cortlandville had funds available through its CDBG Program for loans to income property owners qualifying under the CDBG Income Property Rehabilitation Program, and

WHEREAS, in 2010 the Town Board entered into an Income Property Loan Agreement and authorized the extension of a \$15,000.00 loan from the Town's Community Development Program to eligible recipients, and

WHEREAS, as per the loan agreement payments of \$250.00 per month commenced in March of 2014, however payments stopped in April of 2016 with a remaining balance due of \$8,500.00, and

WHEREAS, a judgment for non-payment of taxes was entered in February of 2017 by the County of Cortland that resulted in the deed being issued to the County of Cortland and has since been conveyed to new property owners, therefore

BE IT RESOLVED, the Town Board does hereby declare and determine that the obligation has become uncollectible and should be written off as uncollectible debt (identified through CDBG #287HR173-05).

RESOLUTION #202 AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH
CHA TO COMPLETE THE SCHEMATIC DESIGN/
DEVELOPMENT PHASE FOR THE PROPOSED
CONCESSION-RESTROOM BUILDING FOR THE GUTCHESS
LUMBER SPORTS COMPLEX

Motion by Councilman Proud

Seconded by Councilman Reynolds

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the agreement with CHA, dated July 12, 2018, for the schematic design/development phase, to provide architectural services to complete a schematic design of the proposed Concession-Restroom building for the Gutchess Lumber Sports Complex in the amount of \$12,750.00.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file Cortland County Planning Board Resolution No. 18-24, dated July 18, 2018, and Cortland County Planning Department recommendations, dated July 13, 2018, regarding the request for a Zoning Law and Map Amendment for property owned by Emmanuel Pothos located off of Weaver Road, tax map #87.00-05-11.000. All voting aye, the motion was carried.

Attorney Folmer apprised the Board that the Town Planning Board considered the request at their July 31, 2018 meeting and recommended the Town grant the Zone Change subject to the applicable conditions from the County Planning Board. The County recommended approval subject to four conditions, however three of the conditions pertained to the proposed variance for a sign. The fourth condition referred to compliance with SEQR requirements.

RESOLUTION #203 SCHEDULE PUBLIC HEARING FOR AUGUST 15, 2018
REGARDING THE ADOPTION OF A LOCAL LAW TO
AMEND THE ZONING LAW AND MAP OF THE TOWN OF
CORTLANDVILLE

Motion by Councilman Proud

Seconded by Councilman Withey

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, a Public Hearing is hereby scheduled for August 15, 2018 at 5:00 p.m. at the Raymond G. Thorpe Municipal Building, regarding the adoption of a Local Law for the year 2018 to amend the Zoning Law and Map of the Town of Cortlandville, as submitted by Emmanuel Pothos, to rezone a 2.82 +/- acre parcel located north of Weaver Road and South of Interstate Route 81 in the Town of Cortlandville, tax map #87.00-05-11.000, from its present zoning classification of Agricultural to B-3 (Planned Commercial Business).

RESOLUTION #204 AUTHORIZE APPROVAL OF PAYMENTS REGARDING THE
TOWN-WIDE HOUSING REHABILITATION GRANT
PROGRAM – PROGRAM INCOME FUNDS –
CDBG #287HR326-16

Motion by Councilman Proud

Seconded by Councilman Reynolds

VOTES: AYE - Tupper, Testa, Proud, Reynolds, Withey NAY - 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize approval of payment for the following regarding the Town-Wide Housing Rehabilitation Grant Program – Program Income Funds – CDBG #287HR326-16:

Voucher #51: Reome Electrical & General Contracting - \$9,610.00 (Program Income Funds)

Voucher #52: Joseph Jenne - \$13,500.00 (Program Income Funds)

RESOLUTION #205 AUTHORIZE SUPERVISOR TO SIGN AGREEMENT
BETWEEN THE TOWN OF CORTLANDVILLE AND THE
CITY OF CORTLAND TO PROVIDE RECREATION
SERVICES FOR THE YEAR 2018

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE-Tupper, Testa, Proud, Withey, Reynolds NAY - 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the agreement between the Town of Cortlandville and the City of Cortland for the year 2018, for the City to provide recreation services through the Cortland Youth Bureau, in the total amount of \$71,700.00.

Councilman Proud announced that the Comprehensive Plan Committee would be conducting its first workshop this evening at 6:30 p.m. He anticipated the Plan would take a full year to complete. The Board was appreciative of the community members who were volunteering their time and expertise.

No further comments or discussion were heard.

Councilman Proud made a motion, seconded by Councilman Testa, to adjourn the Regular Meeting. All voting aye, the motion was carried.

The meeting was adjourned at 5:33 p.m.

Respectfully submitted,

Kristin E. Rocco-Petrella

Kristin E. Rocco-Petrella, RMC
Town Clerk
Town of Cortlandville

*Note:

The draft version of this meeting was submitted to the Town Board for their review on August 15, 2018.

The final version of this meeting was approved as written at the Town Board meeting of September 5, 2018.