

PUBLIC HEARING NO. 1

LOCAL LAW OF 2018
ZONING LAW AND MAP AMENDMENT
AGRICULTURAL TO B-3
EMMANUEL POTHOS, OWNER
WEAVER ROAD
TAX MAP #87.00-05-11.000

A Public Hearing was held by the Town Board of the Town of Cortlandville at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, regarding the adoption of a Local Law for the year 2018 which would amend the Zoning Law and Map of the Town of Cortlandville. The application is by Emmanuel Pothos, owner, to re-classify and re-designate tax map #87.00-05-11.000, consisting of 2.82 +/- acres of land located north of Weaver Road and south of Interstate Route 81 in the Town of Cortlandville, from its present zoning classification of Agricultural to B-3 (Planned Commercial Business).

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; Deputy Town Clerk, Patricia Romer; Town Resident, Pamela Jenkins; News Reporters: Jacob DeRochie from the *Cortland Standard*, and Hannah Bistocchi from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Town Clerk, Kristin Rocco-Petrella, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to those in attendance.

No requests were made.

No further comments or discussions were heard.

The Public Hearing was closed at 5:03 p.m.

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; Deputy Town Clerk, Patricia Romer; Town Resident, Pamela Jenkins; News Reporters: Jacob DeRochie from the *Cortland Standard*, and Hannah Bistocchi from the *Cortland Voice*.

Supervisor Tupper called the meeting to order.

The Draft Town Board Minutes of August 1, 2018 were presented to the Board for their review.

RESOLUTION #206

AUTHORIZE PAYMENT OF VOUCHERS – AUGUST

Motion by Councilman Proud
Seconded by Councilman Withey
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:

Funds A, B, DA, DB, HE, HG, SS, SW	Voucher #1064-1146		
	General Fund A	\$	91,044.17
	General Fund B	\$	13,687.40
	Highway Fund DA	\$	0.00
	Highway Fund DB	\$	87,253.58
	Saunders Rd Sewer HE	\$	0.00
	Gutchess Lumber SC Project HG	\$	493,042.57
	New Highway Garage HH	\$	10,820.34
	Sewer Fund SS	\$	88,153.67
	Water Fund SW	\$	11,565.13
Funds CD1, CD3, CD4	Voucher #(None)		
	BMills Rehab CD1	\$	0.00
	Town Wide Rehab CD3	\$	0.00
	Business Devl CD4	\$	0.00
Funds SF, TA, TE	Voucher #41-41		
	C’Ville Fire District SF	\$	0.00
	Trust & Agency TA	\$	126.00
	Expendable Trust TE	\$	0.00

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

Councilman Proud made a motion, seconded by Councilman Reynolds, to receive and file the monthly report of Town Code Enforcement Officer McMahon for the month of July 2018. All voting aye, the motion was carried.

Councilman Withy made a motion, seconded by Councilman Proud, to receive and file the monthly report from the Cortland County SPCA for the month of July 2018. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Reynolds, to receive and file the Water and Sewer monthly report for the month of July 2018. All voting aye, the motion was carried.

Councilman Withey made a motion, seconded by Councilman Testa, to receive and file the monthly report of the Town Supervisor for the month of July 2018. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the monthly report of the Town Clerk for the month of July 2018. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the monthly report of Town Code Enforcement Officer Campbell for the month of July 2018. All voting aye, the motion was carried.

Supervisor Tupper apprised the Board he received a letter from Gina and Robert Sikora requesting the addition of language to the Town Zoning Code in order to include cultural activities not included in the current zoning. He explained that the Board would not be considering changes to the Code at this time since the Comprehensive Plan was underway. Supervisor Tupper would forward the correspondence to the Comprehensive Plan Committee.

Under old business, Attorney Folmer explained that the Board was declared the Lead Agency for the Zoning Law and Map Amendment requested by Emmanuel Pothos, tax map #87.00-05-11.000. Part 1 of the Short Environmental Assessment Form (EAF) was complete. Attorney Folmer read aloud the questions for Part 2 of the Short EAF, to which the Board members answered.

Attorney Folmer advised that because the Board identified that there would be a change in use or intensity of land, Part 3 of the EAF should indicate that there would be a change because of a change in zone. Attorney Folmer questioned whether the Board wanted to issue a Negative Declaration, to which they responded they did. Attorney Folmer stated he would complete the narrative for Part 3 and provide it to Supervisor Tupper.

RESOLUTION #207 DECLARE NEGATIVE IMPACT FOR ZONE CHANGE
REQUEST SUBMITTED BY EMMANUEL POTHOS FOR
PROPERTY LOCATED NORTH OF WEAVER ROAD

Motion by Councilman Proud

Seconded by Councilman Withey

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

ADOPTED

WHEREAS, a Zone change request was submitted by Emmanuel Pothos for land located north of Weaver Road and south of Interstate Route 81 in the Town of Cortlandville, from its present zoning classification of Agricultural to B-3 (Planned Commercial Business), and

WHEREAS, the Town Board as Lead Agent duly reviewed and completed Part 2 of the Short Environmental Assessment Form, therefore

BE IT RESOLVED, the Town Board as Lead Agent, does hereby declare that the proposed Zone Change request shall have no significant environmental impact, and it is further

RESOLVED, the Supervisor is hereby authorized and directed to sign the SEQRA application relating to the Zone Change request.

The Board agreed to delaying action on the proposed Local Law until they reviewed the language for Part 3 of the SEQR. Supervisor Tupper stated he would add the proposed Local Law to the Town Board Meeting Agenda of September 5, 2018 for consideration.

Attorney Folmer reported:

Cortlandville Fire District Aquifer Protection Permit:

Attorney Folmer apprised the Board he was in possession of the full SEQR report as prepared by The Zoghlin Group PLLC regarding the Aquifer Protection Permit Application submitted by the Cortlandville Fire District for a Live Fire Training Center. The report included Part 1, Part 2 and Part 3 of the Full Environmental Assessment Form. Attorney Folmer requested the Board receive and file the documents.

Councilman Proud made a motion, seconded by Councilman Testa to receive and file Part 1, Part 2, and Part 3 of the SEQRA Full Environmental Assessment Form as submitted by the Town's consulting firm, The Zoghlin Group PLLC, regarding the application for an Aquifer Protection Permit submitted by the Cortlandville Fire District. All voting aye, the motion was carried.

RESOLUTION #208 BRING THE AQUIFER PROTECTION PERMIT
APPLICATION SUBMITTED BY THE CORTLANDVILLE
FIRE DISTRICT OFF THE TABLE FOR BOARD
CONSIDERATION

Motion by Councilman Proud

Seconded by Councilman Withey

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

BE IT RESOLVED, the Town Board does hereby bring the Aquifer Protection Permit application submitted by the Cortlandville Fire District off the table, and to add the item to the Town Board Meeting agenda of September 5, 2018 for Board consideration.

Agricultural and Farmland Protection Plan – SEQR:

Attorney Folmer apprised the Board he had the completed SEQR documents regarding the Town's Agricultural and Farmland Protection Plan, which was on the agenda as I-8. He requested that he be able to discuss the item later in the meeting.

Hiawatha Landing – Expenditure of Town Funds:

Attorney Folmer stated he was asked to investigate the possibility of monies expended in connection with the lease of property at Hiawatha Landing "as amounting to an unconstitutional expenditure of public funds for the benefit of an individual." He explained he had the opportunity to research the subject. He examined the Constitution, Article 8 Section 1 and several judicial decisions, which have construed the provision of the Constitution.

Attorney Folmer stated in his opinion, as of this date, there has not been an unconstitutional expenditure of funds. Attorney Folmer based his opinion on several things. First, Town Law gives the Town Board the opportunity and the authority to lease property. Second, the Town has the ability to expend funds for recreational purposes. The Town has a lease agreement, although Attorney Folmer admitted "the cart got before the horse in the beginning." The lease agreement runs for a period of five years subject to an exception, which he would explain.

Attorney Folmer stated that at the present time he sees no benefit flowing to Hiawatha Ventures/Hiawatha Landing because the lease has been turned over to the Town; the landlord pays the taxes and has no control over what the Town uses it for. Without a doubt, it is being used for recreational purposes. Consequently, Attorney Folmer's opinion was that as of today there has been no questionable expenditure of public funds.

However, Attorney Folmer explained that the lease contains a termination provision that either party can terminate the lease upon a 60-day notice to the other. In the event that either party shall exercise that option and terminate the lease, then an examination of the expenditure and the present value of that expenditure at the time of expiration will need to be accomplished. If at the end of the lease, whether it be by early termination or the expiration of the term of the lease, then the Town would be entitled to remove any property of intrinsic value that the Town has installed on that property, such as the blocks put in place to prevent someone from driving into the river. Once the lease is terminated, either by early termination from a 60-day notice or upon the expiration of the term without a renewal, then a determination will have to be made as to whether there has been an improvement requiring reimbursement and a determination made as to the value of those improvements, should there be any in fact.

Councilman Withey requested discussion on Hiawatha Landing. He expressed his appreciation for Attorney Folmer's opinion and stated that he and Attorney Folmer have been discussing the issue for the past four months and have met six times on the subject. He reported that he met with outside counsel regarding the issue and was informed he is on solid ground. He said the Town, at the time, did not live up to fiduciary responsibilities as it relates to improving private property. Councilman Withey stated it is very clear in the Constitution and General Municipal Law that the Town did not have the right to use personnel or equipment for the benefit of private property, but the Town did in the amount of approximately \$32,000. He proposed that no action be taken now, except comments. He stated he would put together a

packet for the next Board Meeting and discuss the matter in its entirety. Attorney Folmer interjected and stated he would stand by his opinion. Councilman Withey requested that the matter of Hiawatha Landing be placed on the September 5, 2018 meeting agenda. Supervisor Tupper questioned it being an agenda item to which Councilman Withey replied that it could be done however the Board wishes, but he wanted action taken soon. Councilman Proud asked what action he wanted taken. Councilman Withey reiterated he would put together a package and would propose a resolution for the next meeting; the Board could take whatever action they see fit at that time.

Supervisor Tupper apprised the Board that the Town requested a budget modification for the Town-wide Housing Rehabilitation Grant, CDBG #287HR326-16. The Town requested and received approval from the NYS Office of Community Renewal for an additional \$23,110 of the Town's program income to be used to complete renovations of two homes already benefiting from the 2016 Town-wide Housing Rehabilitation Grant. Supervisor Tupper added that the Town requested use of \$84,000 of the Town's program income to purchase ADA playground equipment for the Gutches Lumber Sports Complex. He expected approval of the Town's request in the near future.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file correspondence from NYS Homes & Community Renewal, dated August 9, 2018, regarding the Budget Modification Approval for the NYS CDBG Project #287HR326-16, Town-wide Housing Rehabilitation Grant. All voting aye, the motion was carried.

RESOLUTION #209 AUTHORIZE APPROVAL OF PAYMENTS REGARDING THE
TOWN-WIDE HOUSING REHABILITATION GRANT
PROGRAM CDBG #287HR326-16

Motion by Councilman Proud

Seconded by Councilman Testa

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-CDBG #287HR326-16:

Voucher #53: Wade Sprouce - \$2,600.00

Voucher #54: Wade Sprouce - \$3,500.00

Voucher #55: Empire Construction of CNY - \$5,700.00

RESOLUTION #210 SCHEDULE PUBLIC HEARING REGARDING THE
SUBMISSION OF AN APPLICATION FOR A 2018 NYS
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG),
TOWN-WIDE HOUSING REHABILITATION PROGRAM

Motion by Councilman Proud

Seconded by Councilman Withey

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby schedule a Public Hearing for Wednesday, September 5, 2018 at 5:00 p.m. at the Raymond G. Thorpe Municipal Building, regarding the submission of an application to New York State for funding for a 2018 NYS Community Development Block Grant (CDBG), Town-Wide Housing Rehabilitation Program.

RESOLUTION #211 RESOLUTION TO BE PAID DIRECTLY ALL OF TOWN'S
SHARE OF COUNTY SALES TAX

Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

WHEREAS, New York Tax Law Section 1262 allows municipalities to apply a portion of their Sales Tax against the Property Taxes levied upon real property in that municipality, and

WHEREAS, the Town of Cortlandville requests that the Cortland County Legislature apply \$0.00 (zero dollars and zero cents) of Sales Tax to be utilized in the reduction of the County Tax levied against Real Property, with the amount requested in this resolution divided by 4 and that \$0.00 quarterly amount be deducted from the County quarterly sales tax distribution as per agreements with the County related to Sales Tax Distribution, with any remaining funds available in Sales Tax payments paid to the Town of Cortlandville, and

BE IT FURTHER RESOLVED, that pursuant to New York Tax Law Section 1262, this resolution shall be effective commencing with calendar year 2019, and be it further

RESOLVED, that the Town of Cortlandville Town Clerk shall forward a Certified Copy of this Resolution to the Cortland County Treasurer and the Cortland County Real Property Tax Office by Registered or Certified Mail before September 1st, 2018.

There was discussion regarding correspondence from the New York State Department of Environmental Conservation (NYS DEC) regarding the Town's mining concerns and the Route 13 Rocks application to modify their sand and gravel mine permit both laterally and vertically. Councilman Proud commented on the application being declared complete, but no official action being taken until SEQR is resolved. In his opinion, he stated it would require a Full Environmental Impact Statement in light of issues that have been raised. According to the correspondence, before a determination of significance is made, there would be ample opportunity for the Town and the public to provide comments.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file correspondence from the New York State Department of Environmental Conservation (NYS DEC), dated August 7, 2018, regarding the Town's mining concerns and the Route 13 Rocks application to modify their sand and gravel mine permit. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Reynolds, to receive and file correspondence from NYS Agriculture & Markets, dated August 1, 2018, concerning the Town's request to act as Lead Agency with regard to the Town's Agriculture & Farmland Protection Plan. All voting aye, the motion was carried.

With regard to the Town's Agriculture and Farmland Protection Plan, Attorney Folmer apprised the Board he was in possession of the completed SEQR documents, Part 1, Part 2 and Part 3, as prepared by the Town's consultants CHA. He requested the documents be received and filed and placed on the September 5, 2018 Town Board meeting agenda. The Board would have an opportunity to study the documents.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file Part 1, Part 2 and Part 3 of the SEQRA Full Environmental Assessment Form for the Town of Cortlandville Agriculture and Farmland Protection Plan, and to place the item on the Town Board's Meeting agenda for September 5, 2018. All voting aye, the motion was carried.

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 5:28 p.m.

Respectfully submitted,

Kristin E. Rocco-Petrella

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

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