

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, Ronal L. Rocco  
Councilman, John C. Proud  
Councilman, Gregory K. Leach  
Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John Folmer; Highway Sup’t. Carl Bush; Town Planning Board Member, Nick Renzi; Town Zoning Board of Appeals Member, David Alexander; Barb Leach; County Legislator, Susan Briggs; Mike Barylski; Chris Bushnell; Steve Flatt; Jim Reeners; Mike Reeners; Beth Holland; Loren Holland; Amy and Jeff Bauer; Regina Grantham; Nancy and Richard Kroot; Steve Moffitt; Brianna Head; John Head; Karen and Julie Hempson; Nancy and Scott Cavellier; Victor Siegle; Roy Hurlbert; Shelly White; Eric Marquardt; Paul Heider; Bob Beceaul; News Reporters: Eric Mulvihill from WXHC, and Sharon Stevans for Channel 2, Access TV.

Supervisor Tupper called the meeting to order.

Councilman Leach made a motion, seconded by Councilman Proud, to approve the Draft Special Town Board Minutes of January 14, 2013. All voting aye, the motion was carried.

RESOLUTION #59

AUTHORIZE SUPERVISOR TO SIGN  
PURCHASE ORDER #1184

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Motion by Councilman Proud  
Seconded by Councilman Leach  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #1184 submitted by Highway Sup’t. Bush to be paid to Bobcat Company for a Skid Steer Auger with bits, including freight, in the amount of \$3,626.05.

RESOLUTION #60

AUTHORIZE PAYMENT OF VOUCHERS – MARCH

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Motion by Councilman Leach  
Seconded by Councilman Proud  
VOTES: ALL AYE ADOPTED

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

Funds A, B, DA, DB	Voucher #161-205:	
	General Fund A	\$ 75,978.91
	General Fund B	\$ 2,015.87
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 26,032.05
Funds CD1, CD3, CD4	Voucher #3-6:	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 32,857.81
	Business Devl CD4	\$ 0.00
Fund CD2	Voucher #0	
	Senior Rehab CD2	\$ 0.00
Fund HC, SS, SW	Voucher #68-79	
	NYS Rt 13 Sewer Rehab HC	\$ 0.00
	Sewer SS	\$ 3,995.55
	Water SW	\$ 1,493.93

Funds SF, TA, TE	Voucher #(None)		
	C'Ville Fire District SF	\$	0.00
	Trust & Agency TA	\$	0.00
	Expendable Trust TE	\$	0.00

Supervisor Tupper offered privilege of the floor to Amy Bauer.

Amy Bauer, representing the residents of Westmore Lane submitted a letter to the Board which she read aloud. The letter was in response to a recent "Letter to the Editor" published in the *Cortland Standard* by Jim and Mike Reeners regarding their proposed housing project on tax map #86.09-01-21.000 and #86.09-01-22.200. If done correctly within the R-1 zoning requirements, the neighbors were in favor of a senior community adjacent to the Westmore Lane neighborhood.

The residents had concerns regarding Mr. Reeners' proposal for a development that he put forth before the Town Board:

1. Concerned that proposal was to change the R-1 zoning to allow greater density of population and structures.
2. Concerned that proposal was to build a 2-story apartment complex with 40-car parking lot, parking garage, and maintenance building; 5 duplexes; 8 cottages; 31 small homes; and a two-lane road to provide driving access.
3. Concerns regarding potential water run-off and bottleneck traffic in a high-density development; elevation.

Mrs. Bauer stated that Mr. Reeners has asked the Town of Cortlandville to allow spot-zoning by creating an R-4 zone that does not exist locally, and read the definition of spot-zoning. She mentioned that at the last Town Board Meeting, Attorney Folmer advised the Board that Mr. Reeners' request could constitute spot-zoning and that approval should not be granted at this time.

According to the Town's Land Use & Aquifer Protection Plan of 2002, the parcel is to remain at R-1 zoning, which Mrs. Bauer interpreted to mean that housing should be built according to and with respect for the legal residential zoning laws. Prior to Mr. Reeners' request to rezone the parcel to R-4, the original request was for a rezone to R-3 which would require that variances be granted for the front yard setbacks of 25 ft. versus the required 35 ft. According to Town representatives, Mrs. Bauer stated that variances should only be allowed if there is a hardship. She stated that the only hardship would be financial and self-induced for planning a high density development on a parcel of land zoned R-1 which does not allow such a development to be constructed. The neighbors of Westmore Lane encouraged Mr. Reeners to develop the property as it was intended under the R-1 zoning.

Mrs. Bauer stated that there was no assurance that there would be sufficient interest by aging baby boomers who have the funds to afford Mr. Reeners' housing costs, or to be attracted to his highly dense area. The residents of Westmore Lane recommended that government officials conduct an official feasibility study to determine the County's actual need for senior living at the proposed rent and purchase levels, rather than to rely on remarks made in Mr. Reeners' online straw vote.

The residents were concerned that Mr. Reeners was not 100% committed to a senior housing plan. Mrs. Bauer mentioned that during the residents' meeting with Mr. Reeners they asked whether he would consider selling to future homeowners who are not 55 or older to which he replied yes. While the residents believe Mr. Reeners does hope to develop and sell to seniors, there is no assurance that will happen. If the Town approves the request to spot-zone the parcel to R-4, there would be no requirements for Mr. Reeners to develop and sell to seniors.

Mrs. Bauer stated there are other parcels surrounding Cortland that would fulfill Mr. Reeners' dream of creating a senior community or high density development that have convenient access to shopping, etc., but that do not pose the same zoning, water or traffic concerns. The residents and neighbors of Westmore Lane did not feel the parcel Mr. Reeners was pursuing was suited for his plan.

The monthly reports of the Supervisor and Water & Sewer Department for the month of January 2013, and the Town Clerk, Tax Collector, Code Enforcement, and the Fire & Safety Inspection Report for the month of February 2013, were on the table for review and are filed in the Town Clerk's office.

Councilman Rocco made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated March 1, 2013, regarding programming services. All voting aye, the motion was carried.

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RESOLUTION #61                      ENTERTAIN FOR DISCUSSION TOWN BOARD  
RESOLUTION #54 OF 2013

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Motion by Councilman Proud  
Seconded by Councilman Testa  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby wish to entertain for discussion Resolution #54 of 2013, which tabled any action for a zone change request from an R-1 to R-4 for property located at Kinney Gulf Road and Route 281.

There was discussion regarding the proposed zone change request. Councilman Proud stated that at the last Board Meeting the Board entered into an agreement with Clough Harbour & Associates (CHA) to conduct a study with regard to the future development of the Town, which the Board had been discussing for the past 9 months. Councilman Proud stated it would be premature to go forward with any zoning proposal at this time until the Board had a report back from CHA.

Councilman Rocco mentioned that CHA is the Town's engineering firm that the Town has worked with for over 10 years. Supervisor Tupper stated that CHA has a professional planner who the Town is hiring to form a committee of local citizens and developers; the contract calls for public input and Town input. Supervisor Tupper stated that the Board would be moving forward with CHA's contract tonight, and recommended the Board postpone any decision on the zone change until the Board receives information back from CHA.

Councilman Rocco questioned if Mr. Reeners currently owned the parcel. Mr. Reeners indicated that the property was under contract.

Councilman Rocco questioned whether the study involving the City and Village of Homer would be involved. Supervisor Tupper clarified that the joint effort was for the Route 11 Study. This study with CHA was strictly to take a look at the Town's zoning and planning and to review the Town's 2002 corridor. Supervisor stated that the Town needs to see where the future expansion for commercial and residential will be, looking at the zoning map for the entire Town.

Councilman Rocco questioned whether there was a deadline for CHA's study to be complete. Councilman Testa indicated that a meeting would be held Monday, March 11, 2013 with CHA. He stated that a group of people from the community were already selected to take part in the study. Supervisor Tupper stated that CHA anticipated a 4-5 month process from the notice to proceed to a final land use plan, which he suspected was the minimum amount of time.

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RESOLUTION #61-A                      RESOLUTION TO NOT CONSIDER ZONE CHANGE  
REQUEST OF JAMES AND MICHAEL REENERS UNTIL THE  
STUDY BY CLOUGH HARBOUR & ASSOCIATES IS  
COMPLETE FOR AN UPDATE TO THE TOWN OF  
CORTLANDVILLE'S LAND USE & AQUIFER PROTECTION  
PLAN

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Motion by Councilman Proud  
Seconded by Councilman Rocco  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby adopt a resolution to not consider the Zone Change Request of James and Michael Reeners, for a proposed new zoning district Residential R-4, for property located off of Kinney Gulf Road, tax map #86.09-01-21.000, and Route 281, tax map #86.09-01-22.200, until such time as the study by Clough Harbour & Associates is complete for an update to the Town of Cortlandville's Land Use & Aquifer Protection Plan.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from Amy Bauer, presented March 6, 2013, regarding the proposed zone change request of James and Michael Reeners, for property located off of Kinney Gulf Road, tax map #86.09-01-29.000, and Route 281, tax map #86.09-01-22.200. All voting aye, the motion was carried.

Councilman Testa made a motion, seconded by Councilman Proud, to receive and file the Town of Cortlandville's Full Application to the USDA – Rural Development, for the Route 13 Sewer Project, dated February 26, 2013, as prepared by Fiscal Advisors & Marketing, Inc. on behalf of the Town. All voting aye the motion was carried.

Town Clerk Snyder requested the Board accept the Annual Report of the Supervisor for 2012, which was filed with her, and which she provided the Board with copies of. Supervisor Tupper mentioned that the Annual Report was not due until April 1<sup>st</sup>, however the USDA required that it be filed.

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**RESOLUTION #62                      ACCEPT ANNUAL REPORT OF THE SUPERVISOR**

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Motion by Councilman Testa  
Seconded by Councilman Rocco  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Annual Report of the Supervisor for the year 2012 is hereby accepted, and shall be received and filed.

Supervisor Tupper mentioned that another requirement made by the USDA was that the Town register on the federal website called SAM (System for Award Management). He thanked Town Clerk Snyder for her efforts and for spending the day registering online with the federal website. Town Clerk Snyder explained the new method of reporting electronically with SAM.

Attorney Folmer reported:

Attorney Folmer acknowledged Mrs. Whiting, a retired teacher from Homer in attendance.

Repeal New York Secure Ammunition & Firearms Enforcement Act of 2013:

Attorney Folmer recalled that the Board recently adopted a resolution regarding the New York Secure Ammunition & Firearms Enforcement Act of 2013. In the resolution, the Board drew a conclusion and resolved that they were opposed to any further infringements upon the right of the people to bear arms under the Second Amendment of the Constitution. Since that time, there have been numerous resolutions adopted by various governing bodies, including the Cortland County Legislature, calling for the repeal of the New York Secure Ammunition & Firearms Enforcement Act on the grounds that it does infringe upon a persons constitutional rights.

Attorney Folmer suggested the Board rescind the earlier motion, and to adopt the same language dealing with the repeal of the law rather than merely the suggestion of infringement. Supervisor Tupper mentioned that the Board had already seen the proposed resolution. Attorney Folmer read the last paragraph of the resolution aloud. Supervisor Tupper added that the resolution would be sent to all of the Town's elected representatives, including Senator Seward, Congressman Hanna, Governor Cuomo, Assemblywoman Lifton, Assemblyman Kolb, and Assemblyman Finch.

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**RESOLUTION #63                      RESCIND RESOLUTION #44 OF 2013 ADOPTED FEBRUARY 6, 2013 – “ADOPT RESOLUTION OPPOSING THE ENACTMENT OF ANY LEGISLATION THAT WOULD FURTHER INFRINGE UPON THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS”**

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Motion by Councilman Rocco  
Seconded by Councilman Proud  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby rescind Resolution #44 of 2013 adopted February 6, 2013 - “Adopt Resolution Opposing the Enactment of Any Legislation That Would Further Infringe Upon the Right of the People to Keep and Bear Arms.”

## RESOLUTION #64

ADOPT RESOLUTION CALLING FOR THE REPEAL OF THE  
NEW YORK SECURE AMMUNITION AND FIREARMS  
ENFORCEMENT ACT OF 2013

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Motion by Councilman Rocco  
Seconded by Councilman Proud  
VOTES: ALL AYE ADOPTED

WHEREAS, the Right of the People to Keep and Bear Arms is guaranteed as an Individual Right under the Second Amendment to the United States Constitution and under the Constitution of the State of New York, and;

WHEREAS, the Right of the People to Keep and Bear Arms for defense of Life, Liberty, and Property is regarded as an Inalienable Right by the People of the Town of Cortlandville, New York, and;

WHEREAS, the People of the Town of Cortlandville, New York, derive economic benefit and recreation from all safe forms of firearms conducted within the Town of Cortlandville using all types of firearms allowable under the United States Constitution and the Constitution of the State of New York, and;

WHEREAS, the Town of Cortlandville Board, being elected to represent the People of the Town of Cortlandville and being duly sworn by their Oath of Office to uphold the United States Constitution and the Constitution of the State of New York, and;

WHEREAS, the New York Assembly and the New York Senate, being elected by the People of the State of New York and being duly sworn by their Oath of Office to uphold the United States Constitution and the Constitution of the State of New York, and;

WHEREAS, the legislation passed by the New York State Legislature and signed by the Governor on January 15 infringes upon the Right to Keep and Bear Arms and bans the possession and use of firearms now employed by individual citizens of the Town of Cortlandville, New York, for defense of Life, Liberty and Property and bans the possession and use of firearms now legally owned for safe forms of firearms conducted within the Town of Cortlandville, New York;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Town of Cortlandville's Town Board, hereby calls for the repeal of the **New York Secure Ammunition and Firearms Enforcement Act of 2013** and declares that such legislation infringes upon the Right of the People to keep and bear arms, thereby considers such an act an over reach of legislative authority and is unconstitutional.

Draft Local Law – Wind Energy Facilities:

Attorney Folmer reported that the Town Planning Board prepared its comments with regard to the Town's Draft Local Law for Wind Energy Facilities. The Planning Board considered the draft Local Law, and each of the members of the Planning Board prepared an individual report. Attorney Folmer presented Town Clerk Snyder with the folder of reports, which also included information used by the Planning Board in writing their report. He asked that the Board receive and file the report, and presented each of the Board Members with copies of the reports along with additional information provided at Chairperson Wickwire's request from Victor Siegel and Mike Barylski.

Supervisor Tupper thanked the Town Planning Board for their efforts as they spent a considerable amount of time preparing their report.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the comments and report from the Cortlandville Town Planning Board, received March 6, 2013, regarding the proposed Draft Local Law for the Town of Cortlandville, Wind Energy Facilities. All voting aye, the motion was carried.

There was a brief discussion regarding the Summary of Groundwater Monitoring for Walmart as reported by the Cortland County Soil and Water Conservation District. Supervisor Tupper explained that Walmart has had no negative effect on the groundwater, which would continue to be monitored.

Councilman Proud pointed out that the letter suggested the Town require Walmart to continue quarterly review of the groundwater monitoring for at least another year, which he agreed with. Councilman Proud stated that the quarterly reports give the Town a better basis for information to look back on. He suggested that if the reports come back clear for the next year, that perhaps the Board could reduce the frequency of the groundwater monitoring to annually.

Supervisor Tupper recalled that the groundwater monitoring was a 5-year plan; quarterly for 2 and then annually for 3, with an opportunity for the Planning Board to decide if it should be continued. Attorney Folmer suggested that the Town Planning Board receive a copy of the report, as they were instrumental in establishing the fact that the monitoring systems would be done. Supervisor Tupper would have his secretary forward a copy of the report to the Town Planning Board.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the 2011-2012 Summary of Groundwater Monitoring for Walmart, NYS Route 13, from the Cortland County Soil and Water Conservation District, dated February 2013. All voting aye, the motion was carried.

There was discussion regarding correspondence from NBT Bank regarding the conversion of the Town's bank accounts from Alliance Bank to NBT Bank. Supervisor Tupper indicated that he would be meeting with a representative from NBT Bank after the merger was complete. He anticipated no change in the Town's service from the bank. Councilman Rocco questioned whether the Town needed to officially add NBT to the list of banks it does business with. Councilman Leach recalled that the Board added language "Alliance Bank or its successor" to the resolution regarding the Town's depositories at the beginning of the year. Attorney Folmer would verify that the language was added.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from NBT Bank, dated February 15, 2013, regarding the conversion of the Town's bank accounts from Alliance Bank to NBT Bank. All voting aye, the motion was carried.

There was discussion regarding correspondence from the City of Cortland Wastewater Treatment Plant notifying the Town of the City of Cortland's intent to be Lead Agency for the "Cortland Wastewater Treatment Plant Upgrades Project". Supervisor Tupper questioned whether the Town had to officially respond that it was not interested in being Lead Agency. Attorney Folmer indicated that the Town could notify the City but was not required to. There was a 30-day period of time for responses to be made. Councilman Leach pointed out that City would turn the bio-gas from the proposed Byrne Dairy Facility into electricity, which he was impressed with.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from the City of Cortland Wastewater Treatment Plant, dated February 20, 2013, regarding the City of Cortland acting as Lead Agency for the "Cortland Wastewater Treatment Plant Upgrades Project". All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from the New York State Environmental Facilities Corporation, dated February 22, 2013, regarding the Town's application funding for the NYS Route 13 Sewer Project. All voting aye, the motion was carried.

RESOLUTION #65

DECLARE THE MONTH OF APRIL AS FAIR HOUSING  
MONTH IN THE TOWN OF CORTLANDVILLE

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Motion by Councilman Rocco  
Seconded by Councilman Testa  
VOTES: ALL AYE ADOPTED

WHEREAS, in accordance with the Title VIII Fair Housing Policy of the Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988, and

WHEREAS, the month of April 2013 has been designated by the US Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity as Fair Housing Month, now therefore

BE IT RESOLVED, the Town Board of the Town of Cortlandville hereby declares and proclaims the month of April as Fair Housing Month in the Town.

RESOLUTION #66                      AUTHORIZE APPROVAL REQUEST OF ANDREW STILES  
FOR THE 2011 COMMUNITY DEVELOPMENT BLOCK  
GRANT HOUSING REHABILITATION PROGRAM

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Motion by Councilman Leach  
Seconded by Councilman Proud  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize the approval request of Andrew Stiles, for property located at 4154 North Road in the Town of Cortlandville, for a 100% deferred loan for the 2011 Community Development Block Grant Housing Rehabilitation Program, and it is further

RESOLVED, the work to be completed would include masonry, windows & doors, interior carpentry, roofing, electric, plumbing, siding, exterior carpentry, insulation, and other, for a total of \$27,490.00.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from New York State Homes & Community Renewal, dated February 25, 2013, regarding the Town's HOME Program – Asset Management HOME LPA Monitoring Questionnaire. All voting aye, the motion was carried.

There was discussion regarding the agreement between the Town and Clough Harbour & Associates (CHA) to prepare an update to the Town's Land Use & Aquifer Protection Plan. Attorney Folmer indicated that he reviewed the agreement and approved it as to form. He pointed out that the agreement called for not only meetings of the group, but for a public workshop where the public can comment on and propose zoning and planning changes.

RESOLUTION #67                      AUTHORIZE SUPERVISOR TO SIGN AGREEMENT  
BETWEEN THE TOWN AND CLOUGH HARBOUR &  
ASSOCIATES (CHA) TO PREPARE AN UPDATE TO THE  
TOWN OF CORTLANDVILLE'S LAND USE & AQUIFER  
PROTECTION PLAN

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Motion by Councilman Proud  
Seconded by Councilman Testa  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the agreement between the Town of Cortlandville and Clough Harbour & Associates (CHA) for the preparation of an Updated Land Use Plan for the Town of Cortlandville, for a cost not to exceed \$25,000.00.

Supervisor Tupper requested the Board authorize him to sign a 3-year contract with Hudson Energy to supply electricity to the Town as recommended by Troy & Banks. National Grid would still be the provider. Supervisor Tupper explained that Troy & Banks recommended the Town lock the price in for 3 years. The Town is currently paying \$0.06/kilowatt; the new fixed price would be \$0.056/kilowatt. The Town should therefore save money on its energy bills for the next 3 years.

RESOLUTION #68                      AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH  
HUDSON ENERGY SERVICES, LLC TO SUPPLY  
ELECTRICITY TO THE TOWN OF CORTLANDVILLE

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Motion by Councilman Leach  
Seconded by Councilman Testa  
VOTES: ALL AYE ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the 3-year agreement with Hudson Energy Services, LLC to supply electricity to the Town of Cortlandville.

No further comments or discussion were heard.

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

The meeting was adjourned at 5:45 p.m.

Respectfully submitted,

Karen Q. Snyder, RMC  
Town Clerk  
Town of Cortlandville

\*Note:

The draft version of this meeting was submitted to the Town Board for their review on March 28, 2013.  
The draft version of this meeting was approved as written at the Town Board meeting of April 3, 2013.