

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 Zoning Board of Appeals Member, David Alexander; Barb Leach; Mike Barylski; Jim and Jill Reeners; Mike Reeners; Scott and Nancy Cavellier; Chad Cotterill; Amy Bauer; Julie Hempson; Nancy and Richard Kroot; Randy Young; News Reporters: Eric Mulvihill from WXHC, Neil Benjamin from the *Cortland Standard*, 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 Town Board Minutes of December 19, 2012. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to approve the Draft Town Board Minutes December 28, 2012. All voting aye, the motion was carried.

RESOLUTION #40 AUTHORIZE SUPERVISOR TO SIGN
PURCHASE ORDER #0101

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 Purchase Order #0101 submitted by Water & Sewer Sup't. Alteri to be paid to Gartner Equipment Company Inc. for parts to rebuild the OCV valve at the Walden Oaks Booster Station Fire Pump in the total amount of \$3,710.13.

RESOLUTION #41 AUTHORIZE SUPERVISOR TO SIGN
PURCHASE ORDER #0019 THROUGH #0058

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 Purchase Orders #0019 through #0058 submitted by Highway Sup't. Bush for vendors used by the Highway Department for the year 2013 as follows:

- #0019 – Ames Linen Service – rag service
- #0020 – Allied Spring & Service - truck parts
- #0021 – Beck Equipment Inc. – excavator rental and equipment repairs
- #0022 – Builder's Best Home Do It Center – building supplies, tools
- #0023 – Cargil Salt – salt (state bid)
- #0024 – Casella Waste Service – trash service
- #0025 – Chemung Supply Corp. – plastic and steel pipe (state bid)
- #0026 – CNY Farm Supply – equipment & parts
- #0027 – CNY Power Sports – equipment & parts
- #0028 – Cortland County Highway Department – roadway stripping (county bid)
- #0029 – Cortland County SWCD – hydro seeding plus
- #0030 – Cortlandville Gravel Mining – gravel & stone (county bid)
- #0031 – Crossroads Highway Supply – street & roadway signs & posts, snow plow parts

#0032 – Drake Oil Co. – hydraulic oil, motor oil, antifreeze
 #0033 – F.S. Lopke Contracting Inc. – rip-rap stone (county bid)
 #0034 – Grant Street Construction/Repair – equipment parts
 #0035 – Groton Auto Supply – vehicle parts/tools
 #0036 – Hanson Aggregates NY – stone & asphalt (county bid)
 #0037 – Holbrook’s Precast Inc. – concrete blocks tongue & grooved & catch basins
 #0038 – Hummel’s Office Equipment – office supplies, bathroom supplies
 #0039 – I-D Booth Inc. – building supplies
 #0040 – J.C. Smith Inc. – tools, equipment parts
 #0041 – J & J Equipment – sweeper rental (state bid)
 #0042 – JTS Lumber – building supplies
 #0043 – Kellogg Auto Supply – vehicle parts, tools
 #0044 – Lowes – building supplies
 #0045 – Meldrim’s Paint Center – paint (buildings/ballfields)
 #0046 – Murdock’s Excavaion – top soil
 #0047 – Reed’s Seeds – seed & fertilizer
 #0048 – Ricoh USA Inc. – copy machine
 #0049 – Skyline Electric – building supplies
 #0050 – Stadium International Trucks – truck parts
 #0051 – Staples Credit Plan – office supplies
 #0052 – Stubs Tree Service – tree service (city bid)
 #0053 – Suit-Kote Corp. – asphalt products, stone & sand, pavers (county bid)
 #0054 – Tallmadge Tire Service – tire service/repairs (state bid on new tires)
 #0055 – Tomark Sports – parks supplies (bases/tools/etc.)
 #0056 – Tractor Supply Co. – tools/parts
 #0057 – Vantage Equipment – equipment parts/repairs
 #0058 – ZEP Sales & Service – chemical sprays, hand cleaner, truck wash/wax

RESOLUTION #42 AUTHORIZE PAYMENT OF VOUCHERS – FEBRUARY

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 #54-115 | |
| | General Fund A | \$ 58,403.77 |
| | General Fund B | \$ 7,718.02 |
| | Highway Fund DA | \$ 0.00 |
| | Highway Fund DB | \$134,066.66 |
| Funds CD1, CD3, CD4 | Voucher #1-1 | |
| | BMills Rehab CD1 | \$ 0.00 |
| | Town Wide Rehab CD3 | \$ 5,760.00 |
| | Business Devl CD4 | \$ 0.00 |
| Fund HC, SS, SW | Voucher #27-45 | |
| | NYS Rt 13 Sewer Rehab HC | \$ 1,652.00 |
| | Sewer SS | \$ 4,518.00 |
| | Water SW | \$ 23,314.50 |
| Funds SF, TA, TE | Voucher #1-3 | |
| | C’Ville Fire District SF | \$ 0.00 |
| | Trust & Agency TA | \$ 33,105.76 |
| | Expendable Trust TE | \$ 0.00 |

Supervisor Tupper offered privilege of the floor to Jim Reeners.

Jim Reeners, representing Cornerstone Properties Cortland III, LLC, distributed a packet of information to the Board titled “Westmoreland Heights”, a Proposal to Develop a Multidimensional Senior Living Community. Mr. Reeners apprised the Board he was seeking a zone change from R-1 to R-3 for two parcels which he had a purchase offer on, tax map #86.13-01-21.000 and 86.13-01-22.200. The rezone was contingent upon the type of development that he wished to build. Mr. Reeners referred to a map that he displayed for the Board to show the involved parcels.

Mr. Reeners apprised the Board that he initially planned to apply for a Planned Unit Development in the R-1 district. However, after meeting with Planning & Zoning Officer Bruce Weber, Mr. Reeners realized that a zone change was a better option because it would be “impossible to get the density that was necessary to allow the development to be successful ... to have enough units of the various types.” Mr. Reeners stated that Mr. Weber mentioned that changing the zoning from R-1 to R-3 could be considered spot zoning. However, Mr. Reeners stated that jumping from Business to R-1 could also be considered spot zoning.

Mr. Reeners stated that in Westmore Lane the criteria for a R-1 district require the building lots be over a minimum certain width and that the square footage of the building lots is over 30,000 square feet. However, Mr. Reeners stated that 9 of the 14 lots on Westmore Lane are non-conforming in an R-1 district, but they are conforming in an R-2 district. Mr. Reeners did not think that Westmore Lane should be considered an R-2 district, but was trying to make the point that his proposal for a change of zoning was a more gradual change. Mr. Reeners also stated that 9 of the 11 homes currently built on the 14 lots are non-conforming in bulk regulations in a R-1 district; primarily the front yard setback.

Mr. Reeners stated there were other issues that his development would solve and mentioned that he had meetings with Water & Sewer Sup't. Alteri, Highway Sup't. Bush, and County Deputy Highway Sup't. Buerkle to discuss roads, drainage and water and sewer. Mr. Reeners went into detail regarding water and sewer connections as he referenced the map he had on display. His proposal called for a waterline extension that would connect existing waterlines creating a loop in the system that would increase water flow and pressure. He explained that part of his proposal would include a multi-unit building that would have fire suppression systems that need a certain guaranteed flow in order to feed those systems. With regard to the sewer, the existing sewer line is considered to be a minimal flow sewer line. Mr. Reeners stated that anything that increases the flow of the sewer line makes it more serviceable with less of a chance for blockages etc. Mr. Reeners explained that sewer would be connected at two points on Westmore Lane.

Councilman Rocco questioned whether Mr. Reeners was intimately familiar with the drainage, how many acres were included in the proposal, and what school district the property was located in. Mr. Reeners stated that he would address drainage and has a topographical map, and mentioned that according to Highway Sup't. Bush, water run-off on Westmore Lane has increased significantly in the last several years. Mr. Reeners explained that 20.4 acres would be used for the project, including retention areas. He also mentioned that Tim Buhl was the engineer for the project. The property is located in the Homer School District.

Mr. Reeners stated the reason he was addressing the development with the Board now was because he had no interest in obtaining a zone change if he could not build the proposed “multidimensional senior living community”; he was not interested in using the site for anything other than his proposal. Mr. Reeners explained in detail the proposed road that would be constructed, which would be an extension from Commons Avenue and would tie into Westmore Lane. In doing so, Westmore Lane would no longer be an illegal cul-de-sac.

Mr. Reeners referred to the preliminary site plan and discussed the multi-dwelling two story building located to the north of the site. He explained that the multi-unit building would be adjacent to the group-home currently located on the northeast corner of Westmore Lane. Mr. Reeners explained the elevation of the area and stated that the entire first story of the multi-unit building would be below the ground elevation of the group home. Mr. Reeners stated that one of the concerns that Dave Hempson of Westmore Lane stressed to him was the additional lights and how that would affect the neighborhood. Mr. Hempson also questioned whether the large multi-unit building could be moved to another location on the site. Mr. Reeners explained that due to the elevation the proposed location of the multi-unit building “best masked the building”, and was also the best location with regard to seeing the headlights of cars. Mr. Reeners explained that the development would have down-lit lighting and scone lighting. The lights in the parking lot would be run all night long for security purposes.

Mr. Reeners pointed out the three retention areas planned for the development, one of which he would need to obtain an easement from the County for. Since drainage or excessive run-off has been a problem on Westmore Lane, he suggested that the County may be willing to grant the easement. Mr. Reeners stated he was required to handle the water from his site and would create a gentle swale that would be adequate to totally contain the water from the projects. The swale was not a berm. Mr. Reeners continued to discuss the retention areas as he referred to the map he presented.

Mr. Reeners explained the different buildings involved in the project. The largest structure of the entire project was a 32-unit two-story multi-dwelling units, which include 3000 sq. ft. of common areas. Mr. Reeners stated that his project was unlike any other he had seen and was designed to be mostly a passive senior living community; it was not assisted care. Mr. Reeners stated he was looking for the “empty-nester” from 45 years old to 85+ years old. The

next group of buildings were duplexes with one car garages and yard space. Both the 32-unit building and the duplexes were rentals. The next group of lots would have approximately 1200 sq. ft. cottage homes with two bedrooms and a large one-car garage. The remaining 31 lots would be single family homes. Mr. Reeners referenced the Hickory Park development in the City of Cortland, in which he owned lots and has constructed similar homes. He stated that in his research the people in his market were looking for quality, small, energy efficient, and easy to care for homes, which is what he was aiming for. Mr. Reeners stated that his initial thought was to rent the cottage homes, however that could change over the course of the development. With regard to the single family homes, Mr. Reeners stated that he did not have plans to maintain the properties at this time.

Mr. Reeners apprised the Board that all rentals are totally inclusive: taxes, water/sewer, internet, cable television, electric and gas are covered in the monthly rental payment. He hoped he could rent the cottage homes, but was not certain because people may want to purchase the homes. He explained that the homes would have radiant heat and air conditioning, which is expensive to install but is more efficient and provides comfortable living.

Mr. Reeners asked whether the Board had any questions so far. Attorney Folmer questioned the height of the swale and whether it was intended to block the view from Westmore Lane. Mr. Reeners indicated that the swale would not be very high, around 1 to 1 ½ ft, with the intent to help the water to travel in its own area. The odds of seeing any water travel there was slim as the area would be landscaped.

Attorney Folmer commented on the proposed road from Westmore Lane and stated that whenever the area has been discussed in the past the concept of the road has been a big concern. People are concerned that the road becomes a way to avoid the lower intersection and would increase traffic. Mr. Reeners stated that he discussed the concern with Highway Sup't. Bush as well and stated that he did not want thru traffic in such a community either, however an access road to Westmore Lane was required. In an effort to reduce thru traffic Mr. Reeners stated he would like a reduced speed limit of at least 25 MPH, and would also ask for no thru traffic. He also mentioned the difficulty in turning left from Commons Avenue onto Route 281 which would deter people from traveling Kinney Gulf Road to Westmore Lane and through the new Westmoreland Heights development to Commons Ave. Mr. Reeners hoped the reduced speed limit through the development would deter people from traveling from Route 281 to Commons Avenue through the development to reach Kinney Gulf Road. During construction, all construction vehicles and deliveries would come via Commons Ave. The development would also be completed in phases; during the first phase of the project the road connecting Westmore Lane would be a "rough grade road" that Mr. Reeners would initially like blocked. Mr. Reeners also mentioned the Route 281 construction project and a possible traffic light at the intersection of Kinney Gulf Road and Route 281.

Councilman Rocco questioned how long Westmore Lane was. Mr. Reeners stated that Westmore Lane was 1350 ft. from Kinney Gulf Rd. Councilman Rocco also questioned whether Mr. Reeners would be adverse to putting in a berm separating the two developments if there were concerns regarding privacy. Mr. Reeners stated there was a downside to a berm. He did not want to add to the water flow problems.

Supervisor Tupper questioned whether he expected the apartment and duplex residents to enter and exit on Commons Avenue. Mr. Reeners stated he did not know what to expect. He explained that Phase I of the project included the construction of water and sewer lines, the 32-unit building, parking lot, and utilities. Mr. Reeners referred to the map and explained Phase II, which included finishing the road through the development and developing the single-family homes and duplexes. Until Phase II of the project the road leading to the 32-unit building would technically be a driveway to the building. However once he moves beyond the first phase of the project he would have no choice but to construct the roads, which would be completed to the specifications required by the Town.

Councilman Proud questioned what Mr. Reeners' time frame was for the project. Mr. Reeners stated he would like to construct the maintenance and service facility, which was not shown on the map, in the fall of 2013 and begin major construction in the spring of 2014. He stated that occupancy could take a year.

Attorney Folmer questioned whether Mr. Reeners theory was that he would go before the Town Zoning Board of Appeals and the Town Planning Board to get the necessary variances and site plan approvals, as well as an easement from the County, all before he came before the Town Board, that would be contingent upon the zone change approval from R-2 to R-3. Mr. Reeners stated that Attorney Folmer was correct and stated that he has been looking for a site to construct this type of senior living community for about three years. There were other sites that he looked at, however the proposed site was the best option.

With regard to the variances that Mr. Reeners would need, he stated that based on the bulk regulations in an R-3 area, the multiple dwelling which covers a little over 14% of the 3-acre parcel is 6% less than you can use. According to bulk regulations you can cover 20% of the

parcel. He stated that to have a 32-unit building, the total side yard would have to be 268 ft. which would change the 2-story building to a narrow 4-story building. Mr. Reeners stated he did not want to move the building back any further because he may want to build a row of garages in the future. He also stated that there was about 1-acre behind the building that he intended to use for outside recreation purposes. He also mentioned that the building was already 75 ft. further back than the bulk regulations allow. Mr. Reeners stated that for the side-yard variance he would like it decreased to no more than 120 ft. Mr. Reeners would also need a front-yard setback variance from 35 ft. to 25 ft. He explained that one of the points of the development was that it was easy to take care of. He explained that he would need a front-yard setback variance because more ground space would be used for the single-family homes. The homes would all be 1-story, slab homes that would include larger garages for added storage areas. He referenced the Hickory Park development again which had 25 ft. setbacks.

Councilman Rocco questioned whether the 32-unit building would be brick. Mr. Reeners explained that the building would not be brick in order to keep rents down, but he would work with the Planning Board and make the building attractive. He stated that he felt he could offer a first-class, comfortable situation with a variety of living styles at a reasonable rate. Councilman Rocco questioned whether the buildings would have vinyl siding. Supervisor Tupper interjected and reminded Councilman Rocco that the reason Mr. Reeners was here was to discuss zoning.

Mr. Reeners reiterated that he had no interest in developing the property for anything other than his housing project. He stated he did not want the zoning to be changed to R-3 and to then apply for permits and not be approved to for his project.

Supervisor Tupper offered privilege of the floor to Mike Barylski.

Mike Barylski explained that he wanted to pass along some information to the Board as they thought about the draft wind ordinance for the Town. Mr. Barylski apprised the Board he spoke with Dan Dineen from the County Planning Department regarding the countywide update of the Ag District. Countywide, 538 parcels were removed from the Ag District representing 6,000 acres. In the Town of Cortlandville, 97 parcels are no longer in an Ag District as a result of updating the county map. Mr. Barylski stated that the overwhelming majority of the changes went from an Ag District to residential. The point he wanted to make was that the Town had a certain character to it. As the Board develops the wind ordinance, he stated that setbacks were “monumentally important in terms of reducing complaints”.

Mr. Barylski apprised the Board that GE has come out with a 656 ft. tall wind turbine. The science that is out there continues to develop with regard to greater and greater setbacks. He hoped the Board availed themselves to that information and stated that the wind turbine industry was still in its infancy state. Mr. Barylski stated that there is a complex component to what noise is generated by wind turbines. Mr. Barylski hoped the Board would take some of the comments made by the County into consideration, urging the Town to reconsider and develop and impose larger setbacks in the ordinance.

RESOLUTION #43 ACCEPT ANNUAL REPORT OF THE LAMONT MEMORIAL
FREE LIBRARY FOR THE YEAR 2012

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

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

The monthly reports of the Town Clerk, Tax Collector, Code Enforcement Office, and the Fire & Safety Inspection Report for the month of January 2013, and Town Justice for December 2012, were on the table for review and are filed in the Town Clerk's office.

It was reported that Councilman Leach audited the Highway Department and Water & Sewer Department records for 2012, and that Councilman Proud audited the Town Court records for 2012, and found everything to be in order.

Under communications, Councilman Rocco apprised the Board he received a phone call on January 20th from a Councilman in the Town of Truxton, Ghassan Wehbe. Mr. Wehbe explained that the Town of Truxton adopted a resolution opposing the enactment of any legislation that would further infringe upon the right of the People to keep and bear arms. Mr. Wehbe asked that the Town of Cortlandville adopt the same resolution. Councilman Rocco read aloud the Town of Truxton's resolution, and made a motion for the Board to adopt the same resolution substituting the language "Town of Cortlandville" where it read "Town of Truxton."

Councilman Testa requested Attorney Folmer comment on the proposed resolution before acting on it. Attorney Folmer stated he saw the resolution for the first time today, and mentioned that he had seen other versions of the resolution to ask for the repeal of the act that had already been adopted. He explained that the proposed resolution discussed legislation "that would further infringe", which meant that "we don't want you to do any more". He stated the resolution was appropriate for the Board to adopt if they chose to do so.

Further comments were made with regard to the rights of sportsmen, and regarding the way in which the State passed the bill "in the dark of the night."

RESOLUTION #44 ADOPT RESOLUTION OPPOSING THE ENACTMENT OF
ANY LEGISLATION THAT WOULD FURTHER INFRINGE
UPON THE RIGHT OF THE PEOPLE TO KEEP AND BEAR
ARMS

Motion by Councilman Rocco
Seconded by Councilman Leach
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 from all safe forms of firearms recreation, hunting, and shooting 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 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 infringes on 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 recreation, hunting and shooting conducted within the Town of Cortlandville, New York;

NOW, THEREFORE, IT BE AND IS HEREBY RESOLVED that the Town of Cortlandville Town Board, do hereby oppose the enactment of any legislation that would further infringe upon the Right of the People to keep and bear arms and consider such laws to be unconstitutional and beyond lawful Legislative Authority.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated January 25, 2013, regarding rate increases. All voting aye, the motion was carried.

Under new business, Town Clerk Snyder apprised the Board she was in receipt of the liquor license renewal application for Garcia's Mexican Restaurant, and requested the Board receive and file the notice.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the Renewal Application Notice Form from Perfetti Law Office, dated January 14, 2013, regarding the renewal of the liquor license for Garcia's Mexican Restaurant located at 879 Route 13 in the Town of Cortlandville. All voting aye, the motion was carried.

Town Clerk Snyder requested the Board receive and file the Town's NYS Environmental Facilities Corporation (EFC) Application, which was forwarded to the EFC by Fiscal Advisors making the February 1st deadline. The EFC Application included the Town's hardship application, the application for financing and all of the appropriate documentation.

Supervisor Tupper mentioned that a lot of work was involved in the EFC Application for Town Clerk Snyder, Bookkeeper Hicks, and Attorney Folmer. He congratulated those who played a role in the application.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file the Town of Cortlandville's New York State Environmental Facilities Corporation Clean Water State Revolving Fund Application and attached documents, signed January 16, 2013 by Supervisor Tupper, for the Town's Route 13 Sewer Project. All voting aye, the motion was carried.

Town Clerk Snyder requested the Board receive and file a Notice of Claim from State Farm for damages sustained to their insured's vehicle by a Town snow plow.

RESOLUTION #45 ACKNOWLEDGE RECEIVING NOTICE OF CLAIM FOR
DAMAGES TO A VEHICLE

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

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing the Notice of Claim from State Farm for damages sustained to a 2010 Forest River GEORGETOWN 373, owned by Dann S. Grant (the insured) at 4368 Old Route 11 in the Town of Cortlandville.

Town Clerk Snyder briefly discussed the collection of taxes for 2013. She apprised the Board the 2013 warrant for tax collection was \$11,988,000+ for the Town of Cortlandville. By February 1st, \$8,237,549+ was collected. Of the 3,829 tax bills that were mailed, 2,871 tax bills were paid by February 1st, which equates to 69% of the warrant. This year, 338 property owners took advantage of the partial payment program, which was more than the number of owners who participated in 2012. Town Clerk Snyder explained that the Town Supervisor has been paid for the Town budget in full, and that \$4 million was forwarded to the County Treasurer. The Cortlandville Fire District was also paid in full.

Supervisor Tupper thanked Town Clerk Snyder and her staff for their hard work during the busy month of January. Attorney Folmer also complimented Town Clerk Snyder and her staff for the remarkable job that they do.

Attorney Folmer reported:

Demolition of Unsafe Building – Route 13 Partners, LLC:

Attorney Folmer reported that as of the 22nd of January, the period of time for which an appeal could be taken with regard to the former Golden Skillet restaurant expired. Town Code Enforcement Officer Williams solicited three requests for proposals to demolish the building. The proposals are due by Friday, February 8, 2012 at the close of business and would be reviewed by Attorney Folmer. Attorney Folmer requested the Board adopt a resolution authorizing the Supervisor to enter into a contract with the lowest responsive, responsible bidder so that the Town could undertake the process to have the building demolished.

RESOLUTION #46 AUTHORIZE SUPERVISOR TO ENTER INTO A CONTRACT
WITH THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER
WITH REGARD TO THE DEMOLITION OF THE UNSAFE
BUILDING LOCATED AT 840 ROUTE 13 IN THE TOWN OF
CORTLANDVILLE

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

WHEREAS, the Town Code Enforcement Officer solicited a Request for Proposals with regard to the demolition of the unsafe building located at 840 Route 13 in the Town of Cortlandville, therefore

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to enter into a contract with the lowest responsive, responsible bidder for the demolition of the unsafe building located at 840 Route 13, owned by Route 13 Partners LLC.

Restore Position of Second Cortlandville Town Justice:

Attorney Folmer stated there has been a lot of discussion concerning the Town Court, and read aloud a proposed resolution for the Board to adopt regarding restoring the position of the second Cortlandville Town Justice.

Supervisor Tupper explained that the Town of Cortlandville Court ranks 37th out of all the town courts in the State of New York for the volume of business that is done. He stated that it was time for the Town to move forward with having a second Town Justice.

Attorney Folmer explained that Section 90 of the Town Law provides for a 30-day period of time within which a permissive referendum could be requested. He stated that a petition signed by 5% of the number of people who voted for governor in the last election have to sign the petition. Attorney Folmer suggested that anyone interested in the second Town Justice position contact Supervisor Tupper. He explained that one of the requirements was that a person be a resident of the Town in order to serve. It was not required that such person be an attorney, however in that case a significant amount of training would be involved.

RESOLUTION #47 RESTORE POSITION OF SECOND CORTLANDVILLE TOWN
JUSTICE PURSUANT TO SECTION 60-a OF TOWN LAW

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

WHEREAS, by Resolution adopted pursuant to Section 60-a of the Town Law on July 20, 1977, the Town Board reduced the number of Town Justices for the Town of Cortlandville Local Criminal Court from two to one; and

WHEREAS, since the adoption of that Resolution, the workload in said Court has increased, due to the development of the Town, to a level which is unsustainable by a single Town Justice; and

WHEREAS, the Court has increased its caseload to a point where it is processing approximately 6,000 Vehicle and Traffic Matters annually, together with approximately 750 to 1,000 criminal matters annually; and

WHEREAS, the Town Board has determined that it is in the best interests of the Town to restore the Town Justice position eliminated in the July 20, 1977 Resolution to increase the efficient and effective operation of the Court for both the judicial and non personnel responsible for its functioning and to better serve the people of the Town;

NOW, THEREFORE, it be resolved, pursuant to Section 60-a of the Town Law there is restored the position of second Cortlandville Town Justice; and

IT IS FURTHER RESOLVED, that this resolution is adopted subject to Permissive Referendum as provided in Section 90 of the Town Law.

Pending Litigation:

Attorney Folmer requested the Board reconvene to an Executive Session at the end of the Regular Meeting to discuss pending litigation. He also requested the Board adopt a resolution authorizing the Supervisor to execute an engagement letter with Guy Krough, Esq. of Ithaca, New York to provide legal services in connection with that litigation.

RESOLUTION #48 AUTHORIZE SUPERVISOR TO EXECUTE AN
ENGAGEMENT LETTER WITH GUY KROUGH, ESQ. TO
PROVIDE LEGAL SERVICES IN CONNECTION WITH
PENDING LITIGATION

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to execute an engagement letter with Guy Krough, Esq. of Ithaca, New York to provide legal services in connection with pending litigation.

Councilman Rocco made a motion, seconded by Councilman Leach, to receive and file correspondence from the New York State Department of State, received January 17, 2013, regarding the Consolidated Funding Application (CFA) for the CNY Living History Museum, which was not selected for funding. All voting aye, the motion was carried.

Councilman Rocco made a motion, seconded by Councilman Leach, to receive and file correspondence from New York State Homes & Community Renewal, dated January 15, 2013, regarding the Grant Agreement 60-Day Completion Notice for the New York State Community Development Block Grant for Pall Corp. All voting aye, the motion was carried.

RESOLUTION #49 AUTHORIZE SUPERVISOR TO SIGN THE OWNER-
OCCUPIED LOAN AGREEMENT AND AFFIDAVIT BETWEEN
THE TOWN AND DALYCE HEWES FOR THE TOWN'S 2011
COMMUNITY DEVELOPMENT BLOCK GRANT HOUSING
REHABILITATION PROGRAM

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

BE IT RESOLVED, the Town Board does hereby authorize the Supervisor to sign the Owner-Occupied Loan Agreement and Affidavit between the Town of Cortlandville and Dalyce Hewes, 2284 Blodgett Mills Road, Blodgett Mills, New York, for a 100% deferred loan for the 2011 Community Development Block Grant Housing Rehabilitation Program in the amount of \$28,167.00.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from the Cortland County Planning Department, dated January 11, 2013, regarding the adoption of the Town of Cortlandville's proposed Wind Energy Facilities Local Law. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file Cortland County Planning Board Resolution #13-01, dated January 16, 2013, regarding the adoption of the Town of Cortlandville's proposed Wind Energy Facilities Local Law. All voting aye, the motion was carried.

RESOLUTION #50 AUTHORIZE TOWN CLERK TO REQUEST PROPOSALS FOR
THE DELIVERY AND ADMINISTRATION OF SERVICES
FOR THE FY 2012 SMALL BUSINESS COMMUNITY
DEVELOPMENT BLOCK GRANT

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Town Clerk to request proposals for the delivery and administration of services in conjunction with a recently awarded FY 2012 Small Business Community Development Block Grant, and it is further

RESOLVED, proposals must be submitted to the Office of the Town Clerk no later than 12:00 p.m. on March 1, 2013.

RESOLUTION #51 AUTHORIZE HIGHWAY SUP'T. TO PURCHASE A DUMP-
BOX AND VIKING PLOW EQUIPMENT FROM THE
GENESEE COUNTY BID #2012-05

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Town Highway Sup't. to purchase a Dump-Box and Viking Plow Equipment, for the new single axle truck chassis the Town already purchased, from the Genesee County Bid #2012-05 for the total cost of \$60,407.00.

There was conversation regarding correspondence from Michael R. Park, Chairman of the Cortland County Legislature and Resolution No. 17-13 adopted by the Cortland County Legislature on January 24, 2013 "Requesting Air Energy TCI Inc. to Submit Any Applications for Permits or Approvals to Towns Sited for the Crown City Wind Energy Project".

Councilman Rocco commented on the correspondence from Mr. Park indicating that he would like to send the correspondence back to Mr. Park since the Town has nothing to say concerning TCI while the Town has a moratorium in place. Supervisor Tupper stated that the Town has not received an application from TCI or anyone else, but stated that the resolution should be received and filed.

Attorney Folmer concurred that the resolution itself should be received and filed. According to the County's resolution it was requested that TCI submit permit applications to the various towns. The Town of Cortlandville can accept an application if it is filed, but will not act on it during the period of time that the moratorium is in effect, which expires June 30, 2013. Attorney Folmer stated that the second part of the resolution troubled him because the Chairman was requesting that the Town Boards be encouraged to participate in the environmental review process. Attorney Folmer stated that the Town of Cortlandville has steadfastly taken the position that it will not take participate in that process because if the Board does, then their hands are tied with regard to SEQR determinations made by the County. Attorney Folmer stated there were two relatively recent court decisions, one of which finds that since the agency in that instance appointed a liason person and worked with the lead agency that they were in fact bound by the determination. The second court decision, which was taken up on appeal and approved by the Appellate Division in the 2nd Department, in which a Town Board did not participate and in effect did its own SEQR, and because it had no application before it, it was permitted to do so. With regard to the County's Resolution and Mr. Parks request, Attorney Folmer stated there were three options the Board had:

1. The Board could take no action. Attorney Folmer stated the risk is that when the County makes its determination that the Town would be bound by it. He reminded the Board that "SEQR is not an approving action." He stated that it is entirely possible, permissible, and recognizable under the state of the law that the Town could "make a Negative Declaration of Environmental Impact and deny the project that underlies that process." He stated that SEQR does not determine approval or denial. Attorney Folmer stated "the risk may be that the SEQR

findings, as to significance, might well be found to be binding upon us, but it doesn't dictate what we do with any application that would be filed here that would have to comply with our zoning ordinance."

2. The Board could agree to participate. If the Board participates they would be bound by the findings because they've participated as an involved agency with regard to the process.
3. Adopt a ban. The risk in adopting a ban was that the Article 10 process could be instituted to declare the ban an unreasonable restriction. The ban itself would not fall under what is called "exclusionary zoning", which has to do with racially oriented zoning proposals.

Councilman Rocco stated that the Town sent a letter out months ago to TCI and to the County Legislature and Attorney stating that the Town was not in the position of making a decision, nor would the Town accept any proposal during the moratorium. Attorney Folmer corrected Councilman Rocco and clarified that the Town did not say that it would not accept proposals; an application could be submitted but would not be acted on until the moratorium expires.

Supervisor Tupper stated that the County is working on the SEQR process for a project that hasn't even made an application. Attorney Folmer stated that the SEQR regulation does not require the presence of a formal application; it merely talks about formulating a plan of action.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from Michael R. Park, Chairman of the Cortland County Legislature, and Resolution No. 17-13 adopted by the Cortland County Legislature on January 24, 2013 "Requesting Air Energy TCI Inc. to Submit Any Applications for Permits or Approvals to Towns Sited for the Crown City Wind Energy Project". All voting aye, the motion was carried.

Councilman Rocco had another item to discuss regarding the Town's draft Wind Energy Facilities Law, which the Board passed on to the Town and County Planning Boards for comments. He mentioned that he and Councilman Testa proposed banning wind turbines, however the motion failed 2-3. From that point the Board voted to pass the draft Local Law on to the Planning Board for their comments. He read a portion of the Town Board Minutes of December 5, 2012 aloud, in which Attorney Folmer "requested the Board entertain a motion to forward the document to the Cortland County Planning Board and the Town Planning Board for their comments." Councilman Rocco wanted to make it clear that the Board would accept any comments regarding the draft Local Law, and was not barring any comments regarding the opinion of the draft law or whether such a facility should be allowed.

Attorney Folmer was not sure what Councilman Rocco was trying to suggest. He reported that at its December meeting, the Town Planning Board received the ordinance and undertook to make its comments available by January, which was then pushed to February. Attorney Folmer stated that to suggest that the Planning Board feels in any way restrained is not accurate.

Councilman Rocco stated he was responding to two of the Planning Board Members who were told that they could not entertain the idea of barring turbines because they were given the task by the Town Board to consider the draft local law presented to them when some of the members find that wind turbines are inappropriate for our community.

Supervisor Tupper stated that Councilman Rocco should not be speaking with the Planning Board members, as the Town Board was not supposed to influence the Planning Board at all. Councilman Rocco stated that he received his information from someone who was at the meeting, and that he has not talked with the members or attended any of their meetings.

Councilman Proud stated that he has attended many Planning Board Meetings and that members of that board are intelligent people who can read the Town Board Minutes and understand they were asked for comments. Councilman Rocco was concerned that the Planning Board was told otherwise; that they were charged to allow wind turbines within the community.

Attorney Folmer clarified that he advised the Planning Board that the Board was asking them "to comment on the appropriateness of this ordinance and they could make whatever comment in whatever form they wished to." He stated that he in no way limited what they would comment on, and has no way of controlling what they do in the way of their comments.

Councilman Proud made a motion, seconded by Councilman Leach, to recess the Regular Meeting to an Executive Session to discuss pending litigation. All voting aye, the motion was carried.

The meeting was recessed at 7:00 p.m.

The following information was received from the Supervisor's office.

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

No action was taken.

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

The meeting was adjourned at 7:06 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 15, 2013.

The draft version of this meeting was approved as written at the Town Board meeting of March 20, 2013 .