

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, Gregory K. Leach
 Councilman, Walter J. Kasperek
 Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John Folmer; Highway Sup't. Carl Bush; Attorney Mike Shafer; Al Kryger; Bob Ferris; Barb Leach; Patrick Leach; Pam Jenkins; Marian Kay Withey; Doug Withey; Kevin Pristash; Todd Miller; Jill Holl; Christine Baron; Judith Helmer; Catherine ?; Pam Jenkins; Charlotte Farris; Patricia Roiger; Antonio Triana; Sabrina Clark; Steve Terwilliger; Toni Williams; Bob Ferris; Lee Miller; Ron and Sonya Rocco; Katie Groat and her children Willem, Holland, and Pierce; Kristin Rocco-Petrella and her daughter Avery; Ed and Eileen O'Donnell; News Reporter: Tyrone Heppard from the *Cortland Standard*, and Sharon Stevans from Channel 2, Access TV.

Supervisor Tupper called the meeting to order.

Supervisor Tupper recognized retired Town Councilman Ron Rocco for his thirty years of service to the Town of Cortlandville and its constituents. He presented Mr. Rocco with a plaque that would be displayed at Town Hall, which read as follows:

"A true public servant...a constant voice of the people and an advocate for the public good."

Ron L. Rocco

Town Councilman
 January 1, 1986 – February 9, 2016

Town Historian
 April 22, 2005 – January 1, 2009

Your loyalty and dedication of thirty years to the
 Town of Cortlandville will be unmatched for a long time.

Mr. Rocco thanked the Board, and thanked the community for voting him into office to serve as a Councilman for the past thirty years. He enjoyed his time on the Board, which he stated went really fast. Mr. Rocco would miss helping the citizens of the Town and the many friends that he made. He stated that he may have made some enemies as well but he always made his own decisions based on what he thought was in the best interest of the public.

Mr. Rocco encouraged people to get involved in local government. His job as Town Councilman became one of the biggest events of his life.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file the Cortlandville Zoning Board of Appeals Minutes of April 26, 2016 and May 31, 2016. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file the Cortlandville Planning Board Minutes of May 24, 2016. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Leach, to approve the Draft Town Board Minutes of May 18, 2016 as submitted. All voting aye, the motion was carried.

The Draft Town Board Minutes of June 1, 2016 were presented to the Board for their review.

RESOLUTION # 98 AUTHORIZE SUPERVISOR TO SIGN PURCHASE ORDER
#1267

Motion by Councilman Leach

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #1267 submitted by Highway Sup't. Bush to be paid to D&W Diesel, for re-manufactured Turbo Chargers for two Town Highway trucks (#17 and #12), for the total cost of \$4,796.56.

RESOLUTION #99 AUTHORIZE PAYMENT OF VOUCHERS - JUNE

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0
ADOPTED

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

Funds A, B, DA, DB	Voucher #513-577	
	General Fund A	\$ 18,926.91
	General Fund B	\$ 10,375.40
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 43,445.74
Funds CD1, CD3, CD4	Voucher #(None)	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 0.00
Fund HA, HB, HC, HD, HE, SS, SW	Voucher #216-238	
	Luker Rd Water HA	\$ 793.86
	Owego St Water HB	\$ 518.05
	NYS Rt 13 Sewer Rehab HC	\$ 53,751.25
	Oakcrest/Pendleton Sewer HD	\$ 172.80
	Saunders Rd Sewer HE	\$ 0.00
	Sewer SS	\$ 1,337.10
	Water SW	\$ 7,493.85
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 Pam Jenkins.

Pam Jenkins urged the Board to withdraw the resolutions on the agenda pertaining to Bennie Road until the land has been appraised and offered for sale to the highest bidder. She mentioned that she looked up the New York State Highway Law Section 212a, abandoning parts of town highways, and did not think it applied to this situation because the new owner of the properties to the left and right of the road (Clearmideo) did not own the land when the new Bennie Road was created. Because there was no taking of land from the current owner of the properties, she did not see how the Town could justify giving away taxpayer property.

Ms. Jenkins wanted to discuss the most recent drafts of the gas station law. Supervisor Tupper interjected and reminded Ms. Jenkins that the Town suspended consideration of the gas station law.

Ms. Jenkins referred to a recent FOIL request made to the Town, in which there were no written complaints about too few gas stations in the Town, and there were no active applications for gas stations in the Town. She questioned whether the abandoning of Bennie Road was being done for the benefit of someone who remains anonymous because they own land along Bennie Road or in Blodgett Mills.

Supervisor Tupper indicated that he received a request for privilege of the floor from Doug Withey who also wanted to discuss the gas station law. Supervisor Tupper informed Mr. Withey as well that the Board suspended consideration of the law. Mr. Withey submitted his comments to the Board.

Supervisor Tupper apprised Ms. Jenkins that when the Town abandons a road the property automatically goes to the land owners on either side of the road measured from the centerline. He referenced the condemnation law. Supervisor Tupper also mentioned that after the Town abandoned the road the landowners on both sides agreed to the Town installing a turnaround at the end of the road to be used for Town trucks/snowplows.

Councilman Proud recalled that prior to the construction of Super Wal-Mart, the NYS DOT told the Town that Bennie Road was going to be closed as it was a dangerous intersection; the Town could close the road or the DOT would close it. Councilman Proud stated that it was a good arrangement that the road was closed and that the Town had an opportunity for a turnaround at the end of the road; the landowners did not have to grant a turnaround.

The monthly reports of the Town Justices and Water & Sewer Department for the month of May were on the table for review and are filed in the Town Clerk's office.

Town Clerk/Tax Collector Snyder presented the Board with the 2016 Tax Collector's Summary. She explained that the Summary shows the amount of the 2016 warrant was over \$11.7 million. She collected over \$10.6 million this year, and only returned back to the County Treasurer \$275,000 of unpaid tax bills, which was 171 tax bills out of 4,000.

RESOLUTION #100 ACCEPT 2016 TAX COLLECTOR'S SUMMARY

Motion by Councilman Leach

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the 2016 Tax Collector's Summary is hereby accepted and shall be received and filed.

Councilman made a motion, seconded by Councilman, to receive and file correspondence from Charter Communications, dated June 15, 2016, regarding programming services. All voting aye, the motion was carried.

There was discussion regarding the need to rescind the resolution adopted on November 5, 2014 regarding the abandonment of a portion of Bennie Road. Attorney Folmer explained that the Board adopted a resolution involving a qualified abandonment of a portion of Bennie Road. Part of the requirements of that abandonment was a Certificate of Abandonment signed by the County Highway Sup't. At the time the resolution was adopted the certificate had not been received. The certificate has since been received, which must be filed with the Cortland County Clerk and forwarded to Real Property Tax Services so they can make the appropriate adjustments in the tax maps. Attorney Folmer asked the Board to rescind the November 5, 2016 resolution, and to then accept the "Consent to Abandonment" for a portion of Bennie Road, and then to authorize the Board to execute the Certificate of Abandonment for a portion of Bennie Road.

**RESOLUTION #101 RESCIND RESOLUTION ADOPTED NOVEMBER 5, 2014 -
"AUTHORIZE THE TOWN BOARD TO EXECUTE THE
CERTIFICATE OF ABANDONMENT AND DEED FOR THE
ABANDONMENT OF A PORTION OF BENNIE ROAD"**

Motion by Councilman Leach

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby rescind Resolution #__ of 2014 adopted November 5, 2014, "Authorize the Town Board to Execute the Certificate of Abandonment and Deed for the Abandonment of a Portion of Bennie Road".

RESOLUTION #102 ACCEPT "CONSENT TO ABANDONMENT" FOR A PORTION
OF BENNIE ROAD

Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

WHEREAS, per the Town Board meeting of November 5, 2014 a resolution was duly presented, authorized and adopted calling for the "Authorization of the Town Board to execute a Consent to Abandonment for a portion of Bennie Road", and

WHEREAS, said "Consent to Abandonment" was submitted to the Cortland County Highway Superintendent for approval, therefore

BE IT RESOLVED, the executed "Consent to Abandonment" from the Cortland County Highway Superintendent is hereby accepted, received and filed.

RESOLUTION #103 AUTHORIZE THE TOWN BOARD TO EXECUTE THE
CERTIFICATE OF ABANDONMENT FOR A PORTION OF
BENNIE ROAD

Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board is hereby authorized and directed to execute the Certificate of Abandonment, and it is further

RESOLVED, the abandoned portion of said Bennie Road as described in "Schedule A" annexed to the Certificate of Abandonment is hereby authorized conveyed to the adjoining property owners.

There was discussion regarding the application for a PUD submitted by the Leonidas Group of Virgil, LLC.

Councilman Proud recalled that the Town Planning Board adopted Action #15 on March 29, 2016 which referred the PUD application to the Town Board for approval. On April 20, 2016 the Town Board scheduled a public hearing on the Leonidas PUD application, which was held May 18, 2016. Town Code requires action be taken within 30 days, which would be June 18, 2016. In between the time the Board scheduled a public hearing and when the public hearing was held, the Town Board received the decision from Judge Cerio regarding the Article 78 Proceeding, which referred to the process the Board uses to make its decisions.

Councilman Proud referred to the Code of the Town of Cortlandville Section 178-57; list a set of requirements that the Town Planning Board has to abide by in order to make a recommendation to the Town Board. After deliberation they have the ability to approve it, send it to the Town Board with approval, disapproval, with modifications, or they can suggest no action to the Town Board. There are then five items after that that they are to consider. Councilman Proud stated that as he read Judge Cerio's decision, those items have to be addressed and the Town Board must have the written record of it, which we do not. Councilman Proud stated that all of the boards in the Town, and he suspected other boards throughout the state, have been doing the reviews as the Town has done.

Councilman Proud made a motion to refer the matter back to the Town Planning Board with the Board's recommendation that they provide a written report that is required in the Code of the Town of Cortlandville and in Judge Cerio's decision. Councilman Testa seconded the motion. Attorney Folmer commented that Judge Cerio has outlined a procedure that would accomplish a record keeping method by which the hard look that is required by SEQRA could be accomplished. The Town's SEQRA process has been used for years, and has been sustained by two Supreme Court decisions; one in connection with the ReRob application, and one in connection with the Wal-Mart application.

Attorney Folmer stated that Councilman Proud's motion was appropriate because it would enable us to establish a record that will permit us to sustain our determinations whatever they may be; in favor of the application or in opposition thereto. Attorney Folmer stated the resolution would provide a better basis, consistent with Judge Cerio's analysis of the Town's SEQRA process.

Supervisor Tupper questioned whether the Town Board would send the application back to the Planning Board for their June meeting, and hoped it would not take months to get back to the Town Board. Attorney Folmer suspected it would not take long.

On behalf of the Leonidas Group of Virgil, LLC, Attorney Mike Shafer stated that he hoped it would be clear in the resolution that this was not a referral back to the Planning Board to conduct a SEQRA determination. The Town has a PUD ordinance and there would be a SEQRA review by the Planning Board if the PUD is approved. Attorney Shafer stated that the issues were not ignored by the Planning Board; they were discussed in detail by Planning Board Member Renzi, and in the correspondence from CHA. Attorney Shafer wanted to make sure the Town Board was going back to the Planning Board for a specific purpose and not for SEQRA.

RESOLUTION #104 REFER PUD APPLICATION SUBMITTED BY LEONIDAS
GROUP OF VIRGIL, LLC BACK TO THE TOWN PLANNING
BOARD TO PROVIDE THE TOWN BOARD WITH A
WRITTEN REPORT OF THEIR RECOMMENDATION

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby refer the PUD application submitted by the Leonidas Group of Virgil, LLC back to the Town Planning Board in order for them to provide a written report of their recommendation to the Town Board made on March 29, 2016 (Action #15) pursuant to the Code of the Town of Cortlandville, Section 178-57.

Attorney Folmer reported:

Sale of Surplus Property:

Attorney Folmer apprised the Board that in February 2000 the Town acquired title to a parcel of land that consisted of 1.01 acres located off of Davinci Drive, tax map #76.00-02-19.000. It was determined by Highway Sup't. Bush and others in the Town that the parcel is no longer necessary for municipal purposes and is therefore surplus property. Stephen and Janine Franco were interested in purchasing the property from the Town. Attorney Folmer requested the Board adopt a resolution to convey the parcel to Mr. and Mrs. Franco for the sum of \$1,000, subject to a permissive referendum. He explained that based on the current assessed value, the sale price was appropriate.

Supervisor Tupper questioned whether there would be expenses for a survey or abstract, and if so would the buyer pay the costs. Attorney Folmer did not believe there would be such expenses.

Councilman Testa questioned why the Francos were interested in purchasing the property. Supervisor Tupper explained that the Francos own a 26-acre parcel that they have two easements to get to but do not own either one of them. The Francos plan to build a house on the 26-acre parcel and would like to construct a private driveway to access the property.

RESOLUTION #105 AUTHORIZE SALE OF TOWN PROPERTY LOCATED ON
DAVINCI DRIVE SUBJECT TO PERMISSIVE
REFERENDUM

Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board of the Town of Cortlandville does hereby authorize the sale of town property located on Davinci Drive in the Town of Cortlandville, consisting of a parcel of land 1.01 acres for the sum of \$1,000.00, tax map #76.00-02-19.000, to Stephen D. and Janine L. Franco, and it is further

RESOLVED, this resolution is adopted Subject to Permissive Referendum as required by law.

RESOLUTION #106 ACCEPT COMPLETION OF THE NYS ROUTE 13 SANITARY
TRUNK SEWER REHABILITATION PROJECT

Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

WHEREAS, the Town of Cortlandville has completed construction of improvements to the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project, and

WHEREAS, the Town Board of the Town of Cortlandville has received notice of final completion for the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project, now therefore be it

RESOLVED, the Town Board of the Town of Cortlandville accepts the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project as complete and authorizes final payment to the contractor as well as professional services.

RESOLUTION #107 AUTHORIZE SUPERVISOR TO EXECUTE TWO DISCHARGE
OF MORTGAGES BETWEEN THE TOWN AND ANNA-MAE
ARTIM REGARDING THE 2008 HOME GRANT -
SENIOR HOUSING REHABILITATION PROGRAM

Motion by Councilman Leach

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to execute two Discharge of Mortgages between the Town and Anna-Mae Artim, 714 McLean Road, Cortland, New York 13045, with regard to the 2008 HOME Grant – Senior Housing Rehabilitation Program.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from Melvin & Melvin, PLLC, dated June 3, 2016, acknowledging receipt of the Town's correspondence exercising its option under Paragraph 1 of the Agreement between Gutches Lumber Co., Inc. and the Town of Cortlandville, dated June 27, 2015. All voting aye, the motion was carried.

There was a brief discussion regarding the Option Agreement between the Town of Cortlandville and Gutches Lumber Co., Inc. Attorney Folmer indicated that he spoke with Daniel Austin of Melvin & Melvin regarding the abstract which Gutches is required to bring up to date and pay for. Attorney Folmer would deliver the abstract to Monroe Title Company to be updated.

Councilman Proud recalled that the Town had two years to move Citizens Park and questioned whether the clock started to run from June 3, 2016. It was Supervisor Tupper's understanding that the day the Board exercised the Option Agreement, which was June 3, 2016, the clock would start. The Town could negotiate a third season at the current Citizens Park if necessary.

RESOLUTION #108 RESCHEDULE THE REGULAR TOWN BOARD MEETING OF
JULY 13, 2016 TO JULY 6, 2016

Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Proud, Leach, Kasperek NAY – 0

ADOPTED

BE IT RESOLVED, the Town Board does hereby reschedule the Regular Town Board Meeting of July 13, 2016 to Wednesday, July 6, 2016 at 5:00 p.m. to be held at the J.M. McDonald Center, 4292 Fairground Drive, Cortland, New York, to coincide with the dates of the Cortland County Fair.

RESOLUTION #109 RESCHEDULE PUBLIC HEARING FOR AQUIFER
PROTECTION PERMIT APPLICATION SUBMITTED BY DR.
BRIAN SIRGANY FOR PROPERTY LOCATED AT 992
ROUTE 13

Motion by Councilman Leach

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Kasperek NAY – 0
ADOPTED

WHEREAS, the Regular Town Board Meeting of July 13, 2016 was rescheduled to Wednesday, July 6, 2016 at 5:00 p.m. to coincide with the dates of the Cortland County Fair, therefore

BE IT RESOLVED, a the Town Board does hereby reschedule the Public Hearing for the Aquifer Protection Permit application submitted by Dr. Brian Sirgany, for property located at 992 Route 13, tax map #96.13-01-02.100 (portion of), from July 13, 2016 to July 6, 2016 at 5:00 p.m. at the J.M. McDonald Center, 4292 Fairgrounds Drive, Cortland, New York.

RESOLUTION #110 AUTHORIZE “TEMPORARY CLOSURE” OF A SECTION OF
FAIRGROUND DRIVE AND CARROLL STREET FOR THE
CORTLAND COUNTY FAIR SUBJECT TO APPROVAL
FROM THE TOWN HIGHWAY SUP’T.

Motion by Councilman Leach

Seconded by Councilman Kasperek

VOTES: AYE - Tupper, Testa, Proud, Leach, Kasperek NAY – 0
ADOPTED

WHEREAS, the Town received a request from the Cortland County Fair Board to authorize a “Temporary Closure” of a section of Fairground Drive and Carroll Street during the 2016 Cortland County Fair, and

WHEREAS, the temporary closure will not prohibit emergency vehicles access to Fairground Drive or Carroll Street, therefore

BE IT RESOLVED, the Town Board does hereby authorize a “Temporary Closure” on a portion of Fairground Drive and Carroll Street, being the “corner” where the two roadways connect, from July 4, 2016 through July 10, 2016 for the 2016 Cortland County Fair, subject to approval from the Town Highway Sup’t, and it is further

RESOLVED, signage for the temporary closure shall be provided by the Cortland County Fair Board.

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 5:35 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 June 30, 2016.

The draft version of this meeting was approved as written at the Town Board meeting of July 6, 2016.