

PUBLIC HEARING NO. 1

AQUIFER PROTECTION PERMIT
 CORTLAND-VIRGIL SOLAR, LLC, APPLICANT
 FARM EAST, LLC, OWNER
 899, 904 SOUTH CORTLAND VIRGIL ROAD
 TAX MAP #105.00-04-18.000

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, concerning an application for an Aquifer Protection Permit submitted by Cortland-Virgil Solar, LLC to permit the construction of a solar array, accessory access driveway and security fencing encompassing approximately 12.25+/- acres. The property, owned by Farm East, LLC, is located on the north side of Gallagher Road, approximately 400 ft. east of the South Cortland Virgil Road/Gallagher Road intersection, tax map #105.00-04-18.000.

Members present:

Supervisor, Richard C. Tupper
 Councilman, Theodore V. Testa
 Councilman, John C. Proud
 Councilman, C. Randolph Ross
 Deputy Town Clerk, Patricia L. Romer

Absent:

Town Clerk, Kristin E. Rocco-Petrella
 Councilman, Douglas E. Withey

Others present were: Town Attorney, John A. DeVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Mark Sweeney, Sweeney Law Firm, PLLC representing C2 Energy Capital; Paul T. Woodward, representing Keystone Associates; Elie Schecter, representing C2 Energy Capital; Town Residents: Pamela Jenkins; Bob Martin; Susan Fitts; Barbara Leach; News Reporters: Jacob DeRochie from the *Cortland Standard*; Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Deputy Town Clerk, Patricia Romer, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins indicated that her comments apply to all projects that are the subject of the public hearings. She said she is generally in favor of solar, however the NYS Environmental Quality Review Act states that every non-residential project of 10 acres or more is automatically a Type 1 project. Such projects require an environmental review be completed for the project so that there is enough information for decision makers and the public to rely upon. She said this requirement for the long (full) Environmental Assessment Form (EAF) is separate and in addition to the long form which was filled out when the Town passed the Solar Law Zoning Amendment in October 2018. That long form pertained only to amending the zoning law and not to each of the separate solar farm projects that are the subject of tonight's public hearings. She presented to the Board the New York 617.4 Type 1 Actions, in which she highlighted projects greater than 10 acres automatically being Type 1 Actions that require a long (full) EAF. Ms. Jenkins also displayed a SEQR flow chart showing Type 1 Actions requiring a long EAF and a Determination of Significance. She stated that the solar farm projects would likely be a Positive Determination of Significance because each project has issues with glare, impervious surfaces and inconsistency with farmland protection. Ms. Jenkins stated that SEQR compliance is required under the law and that the Town Board cannot take action on any of the solar farm projects until the full EAF is filled out. She said the County Planning Board and the Town Planning Board could not have taken action or made recommendations unless the full EAF's were before them. Ms. Jenkins also requested the Board make the terms of the proposed PILOT agreements public for each of the solar farm projects so the public can weigh the benefits to the risks. Ms. Jenkins indicated she would submit her comments for the record.

Supervisor Tupper offered privilege of the floor to Bob Martin.

Town resident Bob Martin stated his comments were for all five public hearings. He agreed with Ms. Jenkins' comments that four of the sites were 10 +/- acres; three of the sites are prime farmland. He said he believed that C2 Energy Capital and Keystone Associates proposed projects for properties owned by Farm East, LLC may be the first solar farms in Cortlandville. He referenced Local Law No. 2 of 2018 for solar energy facilities adopted by the Town in which a Negative Declaration of Environmental Significance was issued. He said he does not believe the Board has satisfied its obligation under New York State Environmental Quality Review Act (SEQRA) as he is not sure SEQR can be done on a technology that is not site specific. Mr. Martin noted that three of the sites proposed are partially or totally considered prime farmland and said Local Law No. 2 states that large-scale solar energy systems shall not be located on prime farmland soils. He suggested the Board utilize the New York State Energy Research and Development Authority (NYSERDA) as it provides step by step instructions for municipalities and has a guide for decommissioning solar panel systems. Mr. Martin said that based on the combined acreage of 63.59 acres and the projected power generation of 12.81 Mega Watts, decommissioning costs after 20 years will be \$633,454.00; Cortlandville needs to make sure the costs are covered. He said solar farms will be proliferating in New York State and hopefully in Cortlandville. He stated the Town Board should make sure that solar farms are in environmental compliance and also financially beneficial to citizens and to the Town and questioned what the effect was on taxes or PILOT.

Supervisor Tupper offered privilege of the floor to Susan Fitts.

Town resident Susan Fitts stated she was not against solar energy or solar arrays if it is done correctly. She requested assurance that the land be returned to agricultural once the project was finished. Her concern was that the land would be sold to big industry. Ms. Fitts stated she would put her trust in the Board going through the correct processes.

Supervisor Tupper offered privilege of the floor to Mark Sweeney.

Mark Sweeney introduced himself as the attorney representing C2 Energy Capital. He questioned whether he should address the issues during the public hearing or to speak during the Board's regular meeting. Attorney DelVecchio suggested he speak now; the Board would comment after the public hearings.

Attorney Sweeney said C2 Energy Capital understands the community concern regarding SEQRA compliance and takes its obligations to comply very seriously. The Planning Board received the solar farm applications and based on the amount of disturbance determined the projects to be an Unlisted Action, not a Type 1 Action. The overall coverage by the lots for the projects exceeds 10 acres, however it doesn't equate to 10 acres of disturbance of land for any of the projects, which is what SEQR thresholds are based upon. Mr. Sweeney explained that the racking system would be driven into the ground; there would not be a clearing of 10 acres in order to do this; they are open fields. The projects would have a much smaller literal footprint than 10 acres. He said that given the lower amount of disturbance that will occur, it was appropriate to use a Short Environmental Assessment Form under SEQR for an Unlisted Action. Attorney Sweeney referred to Keystone Associates representative Paul Woodward who designed the projects to speak more specifically toward the disturbance issue.

Supervisor Tupper offered privilege of the floor to Paul Woodward.

Paul Woodward introduced himself as a Civil Engineer for Keystone Associates for the solar farm projects. He stated that with the exception of the Lime Hollow site, all other sites are on agricultural fields. The agricultural fields are currently sitting open with no vegetation on them. He explained as part of the process, access roads for each project site would be built 10 feet wide and excavated down 12 inches with NYS DOT sub-base. Following the DEC guidelines, the DEC does not consider the panels themselves as a disturbance or an impervious area. For stormwater purposes, the DEC considers that the water will run off the panels and hit the ground underneath the next row. With regard to the disturbance itself, Mr. Woodward noted the access roads. Driving piles and panels are set and built on the piles and there are approximately 4 per racking system. The total disturbance for Cortlandville is less than an acre; it is 0.73 acre of disturbance. He stated there is minor tree clearing to keep trees off of fence lines so the trees do not cast shadows on the solar panels. The Lime Hollow solar project is the exception as it is the only previously cleared area that has a regrowth within the last five to six years.

Supervisor Tupper offered privilege of the floor to Elie Schecter.

Elie Schecter representing C2 Energy Capital, spoke toward earlier comments made that solar is not a permitted use on prime farmland within the zoning law. He clarified that the law reads: “unless approved by the Town Planning Board.” The Town Planning Board granted special approval for the solar farms in the districts of prime farmland.

No further comments or discussions were heard.

The Public Hearing was closed at 5:19 p.m.

Note: All public comments made during Public Hearing No. 1, Public Hearing No. 2, Public Hearing No. 3, Public Hearing No. 4 and Public Hearing No. 5 pertain to each one of the public hearings held on April 17, 2019 with regard to the Aquifer Protection Permit applications for solar farms.

PUBLIC HEARING NO. 2

AQUIFER PROTECTION PERMIT
 EAST RIVER ROAD SOLAR, LLC, APPLICANT
 FARM EAST, LLC, OWNER
 EAST RIVER ROAD
 TAX MAP #77.00-11-08.000

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, concerning an application for an Aquifer Protection Permit submitted by East River Road Solar, LLC to permit the construction of a solar array, accessory access driveway and security fencing encompassing approximately 10.2+/- acres. The property, owned by Farm East, LLC, is located on the east side of East River Road, approximately 275 ft. north of the East River Road/Ames Road intersection, tax map #77.00-11-08.000.

Members present:

Supervisor, Richard C. Tupper
 Councilman, Theodore V. Testa
 Councilman, John C. Proud
 Councilman, C. Randolph Ross
 Deputy Town Clerk, Patricia L. Romer

Absent:

Town Clerk, Kristin E. Rocco-Petrella
 Councilman, Douglas E. Withey

Others present were: Town Attorney, John A. DelVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Mark Sweeney, Sweeney Law Firm, PPLC representing C2 Energy Capital; Paul T. Woodward, representing Keystone Associates; Elie Schecter, representing C2 Energy Capital; Town Residents: Pamela Jenkins; Bob Martin; Susan Fitts; Barbara Leach; News Reporters: Jacob DeRochie from the *Cortland Standard*; Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Deputy Town Clerk, Patricia Romer, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins again requested that the terms of the PILOT agreement be made public in order for the public to be able to weigh the benefits to risks regarding the solar farm projects.

Supervisor Tupper offered privilege of the floor to Bob Martin.

Town resident Bob Martin reiterated to the Board that NYSERDA offers guidance for municipalities for the SEQR process for solar energy systems. Mr. Martin read the following: "Under current SEQR requirements, the majority of commercial ground mounted solar projects are considered Unlisted or Type 1 actions." The DEC adopted amendments to SEQR effective January 1, 2019 that impact review procedures for solar projects. The DEC adopted a new Type 2 category to be codified as 6 NYCRR 617.5. It talks about installations of solar arrays, which are installations involved with 25 acres or less of physical alterations of brownfields, landfills etcetera. Mr. Martin asked the Board to review that information. He continued that NYSERDA offers free technical assistance to municipalities for the SEQR process for solar energy systems. He provided the Board with the email: cleanenergyhelp@nyserda.ny.gov and suggested the Board contact NYSERDA to resolve the SEQR question.

Supervisor Tupper offered privilege of the floor to Attorney Mark Sweeney.

Attorney Sweeney addressed questions from residents regarding the PILOT Agreement. He stated that C2 Energy Capital has not engaged in PILOT discussions with the Town at this point. He said he understands that it is necessary to negotiate with the Town and other taxing jurisdictions that want to participate in the PILOT Agreements. C2 Energy Capital is in the process of notifying the other taxing jurisdictions, including the school districts and the County, that they are undertaking this project and to give them the opportunity to partake and respond

with their intentions. Once that occurs, the negotiations will be ongoing and the agreement will be put before the Board and the public for review and consideration. Similarly, one of the conditions opposed on the project was the provision of the decommissioning bond for each project by the Planning Board. He explained that in their application, a decommissioning plan was submitted that outlined using NYSERDA framework and what the particular costs were estimated to be for decommissioning for each project. The costs were extrapolated out for 20 years - the expected life of the project. The total estimated cost would be the amount of bonding provided for each project. C2 Energy Capital would submit a particular form of bonding to the Town Attorney to be sure the form is acceptable and prior to construction would issue the decommissioning bonds to the Town when building permits are sought. C2 Energy Capital was aware of the requirements and was working with its insurance agents, taxing jurisdictions and the Town of Cortlandville.

No further comments or discussions were heard.

The Public Hearing was closed at 5:26 p.m.

Note: All public comments made during Public Hearing No. 1, Public Hearing No. 2, Public Hearing No. 3, Public Hearing No. 4 and Public Hearing No. 5 pertain to each one of the public hearings held on April 17, 2019 with regard to the Aquifer Protection Permit applications for solar farms.

PUBLIC HEARING NO. 3

AQUIFER PROTECTION PERMIT
 LIME HOLLOW SOLAR, LLC, APPLICANT
 FARM EAST, LLC, OWNER
 LIME HOLLOW ROAD
 TAX MAP #95.00-06-04.100

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, concerning an application for an Aquifer Protection Permit submitted by Lime Hollow Solar, LLC to permit the construction of a solar array, accessory access driveway and security fencing encompassing approximately 15.77+/- acres. The property, owned by Farm East, LLC, is located on the south side of Lime Hollow Road, approximately ½ mile west of the Lime Hollow Road/Stupke Road intersection, tax map #95.00-06-04.100.

Members present:	Supervisor, Richard C. Tupper Councilman, Theodore V. Testa Councilman, John C. Proud Councilman, C. Randolph Ross Deputy Town Clerk, Patricia L. Romer
------------------	---

Absent:	Town Clerk, Kristin E. Rocco-Petrella Councilman, Douglas E. Withey
---------	--

Others present were: Town Attorney, John A. DelVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Mark Sweeney, Sweeney Law Firm, PLLC representing C2 Energy Capital; Paul T. Woodward, representing Keystone Associates; Elie Schecter, representing C2 Energy Capital; Town Residents: Pamela Jenkins; Bob Martin; Susan Fitts; Barbara Leach; News Reporters: Jacob DeRochie from the *Cortland Standard*; Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Deputy Town Clerk, Patricia Romer, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins stated that because there is no information available to the Board and to the public on the PILOT Agreements or the decommissioning bonds it was premature to discuss any of the solar farm projects. She questioned how the projects could be considered an Unlisted Action noting that the Lime Hollow solar farm application was to encompass 15.77 acres. She mentioned the solar farm project in the Town of Dryden and that the Board wrestled with the PILOT agreement for years. She said that even if the project qualified as an Unlisted Action, it was the Board's right to require a Full Environmental Assessment Form under SEQR.

Supervisor Tupper offered privilege of the floor to Bob Martin.

Town resident Bob Martin read excerpts from a document he had noting page 90, under SEQR process overview 3.1 defining SEQR action. "Thresholds that would classify solar projects as a Type 1 action include physical alteration of 10 acres or the expansion of an existing solar facility by 5 acres or more." Mr. Martin reminded the Board to use NYSERDA as a resource. Classifying the type of action focuses largely on the size of the project and the proximity to sensitive environmental or social cultural resources. Mr. Martin stated the Aquifer may be such a resource.

Supervisor Tupper offered privilege of the floor to Attorney Mark Sweeney.

Attorney Sweeney for C2 Energy Capital addressed comment made by Ms. Jenkins and Mr. Martin. He stated the requirements for the PILOT are separate and apart from the Town's jurisdiction of Aquifer Protection Permit applications. He explained that the PILOT agreement is typically one of the last items done and that there is precedent for the values being used throughout New York State and established under NYSERDA. NYSERDA has tools available

for municipalities to determine what they believe are appropriate ranges of consideration on the per Mega Watt value for PILOT agreements. In regard to the decommissioning bond, Attorney Sweeney stated that is squarely within the jurisdiction of the Planning Board determining conditional permits under the Town's solar regulations. C2 Energy Capital is required to submit the decommissioning plan to the Planning Board for review, which has been done. It has been reviewed by the Town's engineer, by Planning & Zoning Officer, Bruce Weber and by the Planning Board itself, and has been found to be acceptable. This was being used as the basis of the bond. Attorney Sweeney wanted to bring it to the Board's attention that it had been done.

Attorney DeVecchio stated it should be known that the members of the public are speaking with respect to all the projects. He stated the record should be clear that all of the public comments should apply to all of the public hearings and that the minutes should reflect that.

No further comments or discussions were heard.

The Public Hearing was closed at 5:30 p.m.

Note: All public comments made during Public Hearing No. 1, Public Hearing No. 2, Public Hearing No. 3, Public Hearing No. 4 and Public Hearing No. 5 pertain to each one of the public hearings held on April 17, 2019 with regard to the Aquifer Protection Permit applications for solar farms.

PUBLIC HEARING NO. 4

AQUIFER PROTECTION PERMIT
MCLEAN 2 SOLAR, LLC, APPLICANT
GUTCHESS LUMBER CO. INC., OWNER
693, 723 STUPKE ROAD
TAX MAP #95.15-01-12.000

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, concerning an application for an Aquifer Protection Permit submitted by McLean Solar 2, LLC to permit the construction of a solar array, accessory access driveway and security fencing encompassing approximately 9.20+/- acres. The property, owned by Gutches Lumber Co. Inc., is located on the north side of Stupke Road, approximately 215 ft. southeast of the McLean Road/Stupke Road intersection, tax map #95.15-01-12.000.

Members present:	Supervisor, Richard C. Tupper Councilman, Theodore V. Testa Councilman, John C. Proud Councilman, C. Randolph Ross Deputy Town Clerk, Patricia L. Romer
------------------	---

Absent:	Town Clerk, Kristin E. Rocco-Petrella Councilman, Douglas E. Withey
---------	--

Others present were: Town Attorney, John A. DeVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Mark Sweeney, Sweeney Law Firm, PLLC representing C2 Energy Capital; Paul T. Woodward, representing Keystone Associates; Elie Schecter, representing C2 Energy Capital; Town Residents: Pamela Jenkins; Bob Martin; Susan Fitts; Barbara Leach; News Reporters: Jacob DeRochie from the *Cortland Standard*; Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Deputy Town Clerk, Patricia Romer, read aloud the published, posted and filed legal notice.

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

No further comments or discussions were heard.

The Public Hearing was closed at 5:33 p.m.

Note: All public comments made during Public Hearing No. 1, Public Hearing No. 2, Public Hearing No. 3, Public Hearing No. 4 and Public Hearing No. 5 pertain to each one of the public hearings held on April 17, 2019 with regard to the Aquifer Protection Permit applications for solar farms.

PUBLIC HEARING NO. 5

AQUIFER PROTECTION PERMIT
ROUTE 13 SOLAR, LLC, APPLICANT
FARM EAST, LLC, OWNER
ROUTE 13
TAX MAP #105.00-04-02.120

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, concerning an application for an Aquifer Protection Permit submitted by Route 13 Solar, LLC to permit the construction of a solar array, accessory access driveway and security fencing encompassing approximately 16.25+/- acres. The property, owned by Farm East, LLC, is located on the West side of Gracie Road and north of NYS Route 13, immediately north of the Town of Virgil boundary, tax map #105.00-04-02.120.

Members present:

Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, John C. Proud
Councilman, C. Randolph Ross
Deputy Town Clerk, Patricia L. Romer

Absent:

Town Clerk, Kristin E. Rocco-Petrella
Councilman, Douglas E. Withey

Others present were: Town Attorney, John A. DelVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Mark Sweeney, Sweeney Law Firm, PLLC representing C2 Energy Capital; Paul T. Woodward, representing Keystone Associates; Elie Schecter, representing C2 Energy Capital; Town Residents: Pamela Jenkins; Bob Martin; Susan Fitts; Barbara Leach; News Reporters: Jacob DeRochie from the *Cortland Standard*; Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

Deputy Town Clerk, Patricia Romer, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins stated that she disagreed with the statement made by Attorney Sweeney that the public does not need information on the PILOT agreement and decommissioning bond before the public weighs the risks and benefits of the 16.25 acre Route 13 Solar, LLC solar farm on agricultural land and in the tributary area for the sole source aquifer. She stated that the information is needed before we can weigh the risk and has everything to do with the Aquifer Protection Permit.

No further comments or discussions were heard.

The Public Hearing was closed at 5:35 p.m.

Note: All public comments made during Public Hearing No. 1, Public Hearing No. 2, Public Hearing No. 3, Public Hearing No. 4 and Public Hearing No. 5 pertain to each one of the public hearings held on April 17, 2019 with regard to the Aquifer Protection Permit applications for solar farms.

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

Funds A, B, DA, DB, HG, HH, SF, SS, SW	Voucher #502-584		
	General Fund A	\$	28,572.80
	General Fund B	\$	52,535.82
	Highway Fund DA	\$	0.00
	Highway Fund DB	\$	17,283.88
	Gutchess Lumber SC Project HG	\$	0.00
	New Highway Garage HH	\$	0.00
	C'Ville Fire District SF	\$	0.00
	Sewer Fund SS	\$	5,162.52
	Water Fund SW	\$	6,695.74
Funds CD1, CD3, CD4	Voucher #4-4		
	BMills Rehab CD1	\$	1,200.13
	Town Wide Rehab CD3	\$	10,948.00
	Business Devl CD4	\$	64,735.74
Funds TA, TE	Voucher #(None)		
	Trust & Agency TA	\$	0.00
	Expendable Trust TE	\$	0.00

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins referred to agenda item I-4; *“Resolution addressing the Town’s corrective action plan related to the Town Audit by the NYS Comptroller’s Office.”* She stated the only resolution taxpayers would find acceptable is for Mr. Leach to repay Cortlandville for work done by the Town on his private property. Ms. Jenkins said the Town spent money on private property absent public discussion, public approval and DEC required permits. She requested the Board not take action until the topic is discussed at length and in public. She also requested that Councilman Withey be present to participate in that discussion.

Supervisor Tupper offered privilege of the floor to Bob Martin.

Town resident Bob Martin agreed with Ms. Jenkins that the full Town Board should be present for discussions regarding corrective action with respect to the Town Audit by the New York State Comptroller’s Office.

Supervisor Tupper thanked the speakers for their comments.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the monthly report of the Cortland Community SPCA for the month of March 2019. All voting aye, the motion was carried.

Councilman Testa made a motion, seconded by Councilman Ross, to receive and file the monthly report of the Supervisor for the month of March 2019. All voting aye, the motion was carried.

Councilman Ross made a motion, seconded by Councilman Proud, to receive and file the monthly report of Justice Casullo for the month of March 2019, and the monthly report for Justice LeFevre for the month of March 2019. All voting aye, the motion was carried.

Councilman Ross made a motion, seconded by Councilman Testa, to receive and file the monthly report of Fire & Safety Inspections for the month of March 2019. All voting aye, the motion was carried.

Under old business, there was discussion regarding the five Aquifer Protection Permit Applications submitted by the following: Cortland-Virgil Solar, LLC; East River Road Solar, LLC; Lime Hollow Solar, LLC; McLean 2 Solar, LLC; and Route 13 Solar, LLC.

Attorney DelVecchio recognized town residents comments made during the five public hearings. He explained that conditional permits regarding the solar projects were applied for and granted by the Town Planning Board. A SEQR determination was made by the Planning Board and a Negative Declaration was declared. The conditional permits were granted. At this point, the Board is to solely decide whether or not to grant the Aquifer Protection Permits for the solar projects. Topics of the PILOT Agreement and decommissioning bonds are ancillary issues.

Councilman Ross questioned what the conditional permits allowed. Attorney DelVecchio explained they permitted the applicant to have solar projects on the five sites. He explained that the applicant submitted detailed plans and engineering reports that were reviewed by the Planning Board for each site. The Planning Board considered all aspects under their jurisdictional authority and granted conditional permits. The Town Board was to consider whether or not there was a threat or concern for the aquifer or groundwater.

Councilman Ross questioned if it was the Board's jurisdiction to consider some of the other issues because of the way the Town's solar law was written. Attorney DelVecchio suggested the Board should confine its discussion to any concerns about the aquifer. If the Board thought SEQRA, PILOT, or the decommissioning plans were relevant to the consideration of the Aquifer Protection Permits the Board could discuss such.

Attorney DelVecchio advised the Board that if they decide to grant the Aquifer Protection Permits, they should do so by incorporating the County Planning Department's recommendations into the resolutions. Councilman Ross inquired if the Town Planning Board considered whether a short or long EAF was required under SEQRA, to which Attorney DelVecchio replied yes. He explained the Planning Board chose to use the short EAF and completed the factor analysis and concluded there was a Negative Declaration for environmental impact.

Councilman Ross asked if the Town law and zoning code gave the Planning Board the authority to determine such information. Attorney DelVecchio answered yes. Councilman Ross asked if adequate bonds were being developed with regard to the conditional permits for the solar projects. Attorney DelVecchio replied yes and said that he conferred with Attorney Sweeney many times on the projects. A detailed decommissioning plan was provided to the Town, which was examined by the Town's engineer and PZO Weber. The plan was found to be sufficient.

Discussion amongst the Board continued. Councilman Ross asked if all permits in relation to the solar farms were for the solar farms only or if they could be used for other projects in the future. Councilman Proud answered that the permits were only for solar development and that any other development considered in the future would be subject to another application/permits.

Attorney Sweeney stated that Councilman Proud was correct. The applications that were submitted detailed particular projects individually and the permits that pertain to them. The Aquifer permits would only permit the project applied for. He stated that any other development after the removal of the solar projects would be subject to further review by applicable Boards. The applicant was limited to the specific project and obligated to removal after the project lifespan. Councilman Ross asked for an explanation of the projects' separate LLC's and Farm East, LLC's involvement. Attorney Sweeney explained the structured tier system with C2 Energy Capital being the ultimate owner of the projects.

Councilman Proud asked when a project is decommissioned and everything is removed if the site is immediately re-seeded. Attorney Sweeney answered yes and that it is returned to its original condition.

RESOLUTION #105 APPROVE AQUIFER PROTECTION PERMIT #1 OF 2019
SUBMITTED BY CORTLAND-VIRGIL SOLAR, LLC FOR
PROPERTY LOCATED AT 899, 904 SOUTH CORTLAND
VIRGIL ROAD SUBJECT TO CONDITIONS

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

WHEREAS, the Cortland County Planning Department and the Town Planning Board have reviewed and recommended approval of this Aquifer Protection Permit application, and

WHEREAS, a Public Hearing was duly held by this Town Board, therefore

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #1 of 2019, submitted by Cortland-Virgil Solar, LLC, permitting the construction of a solar array, accessory access driveway and security fencing encompassing approximately 12.25+/- acres, for property owned by Farm East, LLC, located on the north side of Gallagher Road, approximately 400 ft. east of the South Cortland Virgil Road/Gallagher Road intersection, tax map #105.00-04-18.000, subject to the following conditions from the Town and County Planning Boards:

1. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
2. The applicant obtaining written approval of the driveway entrance to Gracie Road from the County Highway Superintendent since Gracie Road is a County road.
3. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site
4. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
5. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
6. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
7. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
8. Compliance with SEQR requirements.

AND IT IS FURTHER RESOLVED, the Supervisor is hereby authorized to sign the permit.

RESOLUTION #106 APPROVE AQUIFER PROTECTION PERMIT #2 OF 2019
SUBMITTED BY EAST RIVER ROAD SOLAR, LLC FOR
PROPERTY LOCATED ON EAST RIVER ROAD SUBJECT TO
CONDITIONS

Motion by Councilman Testa

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

WHEREAS, the Cortland County Planning Department and the Town Planning Board have reviewed and recommended approval of this Aquifer Protection Permit application, and

WHEREAS, a Public Hearing was duly held by this Town Board, therefore

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #2 of 2019, submitted by East River Road Solar, LLC, permitting the construction of a solar array, accessory access driveway and security fencing encompassing approximately 10.2+/- acres, for property owned by Farm East, LLC, located on the east side of East River Road, approximately 275 ft. north of the East River Road/Ames Road intersection, tax map #77.00-11-08.000, subject to the following conditions from the Town and County Planning Boards:

1. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
2. The applicant obtaining written approval of the driveway entrance to East River Road from the County Highway Superintendent since East River Road is a County road.

3. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.
4. That the applicant prepare and submit an erosion and sediment control plan to the Town to address erosion and sediment control during construction and revegetation of all pervious areas upon completion of construction.
5. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
6. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
7. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
8. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
9. Compliance with SEQR requirements.

AND IT IS FURTHER RESOLVED, the Supervisor is hereby authorized to sign the permit.

RESOLUTION #107 APPROVE AQUIFER PROTECTION PERMIT #3 OF 2019
SUBMITTED BY LIME HOLLOW SOLAR, LLC FOR
PROPERTY LOCATED ON LIME HOLLOW ROAD SUBJECT
TO CONDITIONS

Motion by Councilman Testa

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

WHEREAS, the Cortland County Planning Department and the Town Planning Board have reviewed and recommended approval of this Aquifer Protection Permit application, and

WHEREAS, a Public Hearing was duly held by this Town Board, therefore

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #3 of 2019, submitted by Lime Hollow Solar, LLC permitting the construction of a solar array, accessory access driveway and security fencing encompassing approximately 15.77+/- acres, for property owned by Farm East, LLC, located on the south side of Lime Hollow Road, approximately ½ mile west of the Lime Hollow Road/Stupke Road intersection, tax map #95.00-06-04.100, subject to the following conditions from the Town and County Planning Boards:

1. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
2. The applicant obtaining written approval of the driveway entrance from the Town Highway Superintendent given the change in use of the property.

3. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.
4. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
5. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
6. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
7. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
8. Compliance with SEQR requirements.

AND IT IS FURTHER RESOLVED, the Supervisor is hereby authorized to sign the permit.

RESOLUTION #108 APPROVE AQUIFER PROTECTION PERMIT #4 OF 2019
SUBMITTED BY MCLEAN SOLAR 2, LLC FOR PROPERTY
LOCATED AT 693, 723 STUPKE ROAD SUBJECT TO
CONDITIONS

Motion by Councilman Testa

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

WHEREAS, the Cortland County Planning Department and the Town Planning Board have reviewed and recommended approval of this Aquifer Protection Permit application, and

WHEREAS, a Public Hearing was duly held by this Town Board, therefore

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #4 of 2019, submitted by McLean Solar 2, LLC permitting the construction of a solar array, accessory access driveway and security fencing encompassing approximately 9.20+/- acres, for property owned by Gutchess Lumber Co. Inc., located on the north side of Stupke Road, approximately 215 ft. southeast of the McLean Road/Stupke Road intersection, tax map #95.15-01-12.000, subject to the following conditions from the Town and County Planning Boards:

1. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
2. The applicant obtaining written approval of the driveway entrance to Stupke Road from the Town Highway Superintendent since Stupke Road is a Town road.
3. That a maintenance schedule be established to ensure that vegetative cover including the proposed buffer strip is maintained post-construction as it will be the primary management practice for stormwater on site.

4. That the applicant prepare and submit an erosion and sediment control plan to the Town to address erosion and sediment control during construction and revegetation of all pervious areas upon completion of construction.
5. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
6. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
7. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
8. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
9. Compliance with SEQR requirements.

AND IT IS FURTHER RESOLVED, the Supervisor is hereby authorized to sign the permit.

RESOLUTION #109 APPROVE AQUIFER PROTECTION PERMIT #5 OF 2019
SUBMITTED BY ROUTE 13 SOLAR, LLC FOR PROPERTY
LOCATED ON ROUTE 13 SUBJECT TO CONDITIONS

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

WHEREAS, the Cortland County Planning Department and the Town Planning Board have reviewed and recommended approval of this Aquifer Protection Permit application, and

WHEREAS, a Public Hearing was duly held by this Town Board, therefore

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #5 of 2019, submitted by Route 13 Solar, LLC permitting the construction of a solar array, accessory access driveway and security fencing encompassing approximately 16.25+/- acres, for property owned by Farm East, LLC, located on the west side of Gracie Road and north of NYS Route 13, immediately north of the Town of Virgil boundary, tax map #105.00-04-02.120, subject to the following conditions from the Town and County Planning Boards:

1. That the applicant providing assurances to the Town that the necessary steps would be taken to minimize reflective glare impact on surrounding properties.
2. The applicant obtaining written approval of the driveway entrance to Gracie Road from the County Highway Superintendent since Gracie Road is a County road.
3. That a maintenance schedule be established to ensure that vegetative cover underneath the panels is maintained post-construction as it will be the primary management practice for stormwater on site.

4. The applicant preparing and obtaining approval of a stormwater pollution prevention plan (SWPPP) including water quality and quantity management for this site from the Town upon review by the County Soil and Water Conservation District, if it is determined that this project would disturb more than one acre of land.
5. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) in addition to the preparation of a stormwater pollution prevention plan for the site per the NYS Phase II stormwater regulations and obtaining a NYSDEC Construction Stormwater Permit GP-0-15-002 coverage if it is determined that this project would disturb more than one acre of land. The SWPPP must meet the current Stormwater Management Design Manual and the Runoff Reduction and Green Infrastructure requirements.
6. That the applicant contacts the NYS DEC Division of Environmental Permits to request a jurisdiction determination and to apply for and obtain any permits required as a result of this determination.
7. The applicant obtaining Town Planning Board approval of the use of prime farmland for a ground-mounted large-scale solar energy system.
8. Compliance with SEQR requirements.

AND IT IS FURTHER RESOLVED, the Supervisor is hereby authorized to sign the permit.

Attorney DelVecchio reported:

McLean Solar 1, LLC – Request for an Overlay Zone:

Attorney DelVecchio stated that Attorney Sweeney, representing C2 Energy Capital, provided him and PZO Weber with a letter regarding the sixth solar farm project site. He explained that Attorney Sweeney's client was not seeking zone change, but rather a modification to the Town's zoning code to allow for an overlay zone. Attorney DelVecchio explained that since the letter was submitted today, the Board could decide that the letter was submitted too late for consideration, or could ask Attorney Sweeney to present the information tonight. Attorney DelVecchio explained the procedure for an overlay zone and that the request would also be referred to the Planning Board for review. Councilman Ross indicated he would like to hear the proposal from Attorney Sweeney at this time.

Attorney Sweeney explained that initially C2 Energy Capital submitted a request to the Board for a zone change, which was referred to the Town Planning Board. Discussion by the Planning Board focused on what happens after the solar project is gone. By changing the underlying zoning of the property, the use of the parcel would be permanently changed. The Planning Board was concerned for the long-lasting effect. They examined several different options, one of which was the creation of a solar overlay district that would allow for the particular use without changing the underlying zoning of the property. Attorney Sweeney explained that overlay zones have been used throughout New York State. It would elevate the review status of the project to the Town Board level and if the Town Board were to approve use of any overlay zone, C2 Energy Capital would still need to obtain conditional permits from the Planning Board. The Town Board would need to adopt a local law creating the specific overlay zone.

Mr. Sweeney stated that C2 Energy Capital was not asking the Board for approval tonight, but that they wanted to continue conversations with the Planning Board. In order for that to happen, they needed the Town Board to refer the topic to the Planning Board. Attorney Sweeney explained the difference between an overlay district and a floating zone. Although they are similar, a floating zone can be done anywhere throughout the Town, whereas an overlay district oftentimes is done over particular gateway areas. In the event the Board is unable or unwilling to allow this option, C2 Energy Capital would file for a Use Variance with the Town Zoning Board of Appeals. Attorney Sweeney stressed the intent was for continued conversation to be sure to comply with all standards.

Councilman Ross stated he would like Planning Board and public comments. It was decided that Attorney Sweeney would refine his letter and that PZO Bruce Weber would submit the letter to the Planning Board and post it to the Town's website. Attorney DelVecchio suggested the Board adopt a resolution referring the matter to the Planning Board for its consideration and recommendations.

RESOLUTION #110 REFER REQUEST OF C2 ENERGY CAPITAL (MCLEAN SOLAR 1, LLC) FOR AN OVERLAY DISTRICT TO THE TOWN AND COUNTY PLANNING BOARDS FOR REVIEW AND RECOMMENDATIONS

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

BE IT RESOLVED, the Town Board does hereby refer the request submitted by C2 Energy Capital on behalf of McLean Solar 1, LLC, to permit an “Overlay District” for property located at 415 McLean Road, tax map #95.00-01-33.100, owned by Farm East LLC, to the Town and County Planning Boards for review and recommendations.

Gutchess Lumber Sports Complex and Parkland Alienation:

Attorney DelVecchio apprised the Board he spoke with Rich Cunningham of Thoma Development regarding parkland alienation and the Town’s obligation regarding it in respect to Citizens Park and the new Gutchess Lumber Sports Complex. Attorney DelVecchio explained that when a park closes any recreations that were available at that park should be available at another site. Supervisor Tupper explained that the Town was applying for a grant through NYS Parks and Recreation; the Town would not receive any grant money if the parkland alienation was not complete. The Town must duplicate the recreation that was available at Citizens Park at the Gutchess Lumber Sports Complex. Supervisor Tupper believed the deadline for funding was June or July. Attorney DelVecchio stated he would follow up on the matter with Jean Eggenhoffer from NYS Parks and Recreation.

There was a brief discussion regarding correspondence from the NYS Comptroller’s Office regarding the Town’s recent audit, “Improving Private Property”. Supervisor Tupper explained to the Board that the letters from the State Comptroller’s Office were received by the Town out of order. The first letter, which was meant to be the second letter, was received and filed at a prior meeting.

Councilman Proud made a motion, seconded by Councilman Ross to receive and file correspondence from the New York State Office of the State Comptroller, dated March 15, 2019, regarding acknowledgement of the Town’s response relating to the Town Audit. All voting aye, the motion was carried.

Supervisor Tupper discussed the Town’s corrective action plan relating to the Town’s Audit by the NYS Comptroller’s Office. He explained that two of the three recommendations by the Comptroller’s Office have been satisfied. A Special Town Board meeting would be scheduled in order for all Board members to be present and to discuss the last recommendation for corrective action. The Board would have discussions with legal advisors to ensure the Town stays in compliance with the audit.

RESOLUTION #111 SCHEDULE SPECIAL TOWN BOARD MEETING FOR APRIL 26, 2019

Motion by Councilman Testa

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

BE IT RESOLVED, the Town Board does hereby schedule a Special Town Board Meeting for Friday, April 26, 2019 at 10:00 a.m. to discuss the Audit Report of Examination 2018M-219, “Improving Private Property” as prepared by the Office of the State Comptroller for the Town of Cortlandville, and the last recommendation for corrective action.

RESOLUTION #112 AUTHORIZE SUPERVISOR TO AMEND THE 2019 BUDGET

Motion by Councilman Ross

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – 0

ABSENT – Withey

ADOPTED

BE IT RESOLVED, the Supervisor is hereby authorized and directed to amend the 2019 Budget for the Town of Cortlandville to account for expenses at the Gutches Lumber Sports Complex for (dugouts and signs) and to transfer funds as follows:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
B7110.41	B7110.42	\$3,000.00

Councilman Ross apprised the Board that he and Councilman Withey attended the 15th Annual Energy in the 21st Century Symposium. He said a huge emphasis was placed on the switchover to electronic vehicles and the need for charging stations. They also had the opportunity to visit a solar farm, which Councilman Ross said he thought linked well with discussions of tonight. He suggested the Town obtain a listing of charging stations to promote them for the area. Board members discussed the use of the Town's website for promotion and discussion continued regarding energy efficiency for the future of the Town.

Councilman Proud mentioned that he received a public announcement from Glenn Reisweber and Forrest Earl representing the Lime Hollow Nature Center for a Tick Fest on Saturday, May 4, 2019. The purpose of the event, which would include education, games and prizes, was to offer knowledge and tools to minimize contact with ticks.

Supervisor Tupper reflected on recent workshops for building security at the Raymond G. Thorpe Municipal Building and the Municipal Water Garage. He said progress was being made. It was decided that Town employees would park on the south side of the building and that such entrance would be an employee only entrance (commencing June 1, 2019). Supervisor Tupper acknowledged Assessor's Clerk Valerie Hall who recommended the parking spaces be changed to diagonal on the south side of the building, which would double the available parking spaces. The Fire Department was consulted to ensure there would be adequate room for emergency vehicles.

Attorney DelVecchio requested the Board convene to an Executive Session to discuss pending litigation.

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

The meeting recessed at 6:27 p.m.

No action was taken in Executive Session.

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

The Executive Session adjourned at 6:36 p.m.

No further comments or discussion were heard.

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

The meeting was adjourned at 6:36 p.m.

Respectfully submitted,

Kristin E. Rocco-Petrella

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

*Note:

The draft version of this meeting was submitted to the Town Board for their review on May 1, 2019.

The final version of this meeting was approved as written at the Town Board meeting of May 15, 2019.