

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Blodgett Mills Independent Baptist Church, Blodgett Mills, New York, with Supervisor Tupper presiding.

Members present:

Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, John C. Proud
Councilman, C. Randolph Ross
Councilman, Douglas E. Withey
Town Clerk, Kristin E. Rocco-Petrella

Others present were: Town Attorney, John A. DelVecchio; Highway Sup't. Glenn Bassett; Court Clerk, Pamela Bassett; Deputy Town Clerk, Patricia Romer; Town Residents: Pamela Jenkins; Bob Martin; Donna Johnson; Rebecca Bryan; Dawn Brown; Gregory Leach; Barb Leach; and Blodgett Mills Independent Baptist Church Pastor, Thomas Heotzler.

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Withey, to approve the Draft Town Board Minutes of May 1, 2019 and the Draft Town Board Minutes of May 15, 2019. All voting aye, the motion was carried.

Councilman Withey made a motion, seconded by Councilman Proud, to receive and file the Cortlandville Zoning Board of Appeals Minutes of April 30, 2019. All voting aye, the motion was carried.

Councilman Withey made a motion, seconded by Councilman Proud, to receive and file the Cortlandville Planning Board Minutes of April 23, 2019. All voting aye, the motion was carried.

RESOLUTION #133

AUTHORIZE SUPERVISOR TO SIGN PURCHASE
ORDER #1407

Motion by Councilman Withey
Seconded by Councilman Proud
VOTES: AYE – Tupper, Testa, Proud, Ross, Withey NAY – 0
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #1407 submitted by Highway Sup't. Bassett to be paid to Cazenovia Equipment Co., Inc., to purchase a 2019 Frontier FM2012R Flex-Wing Grooming Mower with Pneumatic Tires, for the total cost of \$14,275.00.

RESOLUTION #134

AUTHORIZE PAYMENT OF VOUCHERS – MAY

Motion by Councilman Proud
Seconded by Councilman Testa
VOTES: AYE – Tupper, Testa, Proud, Ross, Withey NAY – 0
ADOPTED

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

Funds A, B, DA, DB, HG, SF, SS, SW	Voucher #731-829	
	General Fund A	\$ 38,533.16
	General Fund B	\$ 21,855.56
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 60,996.22
	Gutchess Lumber SC Project HG	\$ 0.00
	C'Ville Fire District SF	\$ 0.00
	Sewer Fund SS	\$ 6,285.45
	Water Fund SW	\$ 7,935.67

Funds CD1, CD3, CD4	Voucher #5-6	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 99,389.10
Funds TA, TE	Voucher #19-22	
	Trust & Agency TA	\$ 43,859.36
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident Pamela Jenkins recalled that at the May 15, 2019 Town Board Meeting, the Board referred the proposed solar law zoning change request (request for a solar overlay district by McLean Solar 1, LLC) to the Comprehensive Plan Committee but did not refer it to the Town Planning Board. However, a different version of the request was on the June 4, 2019 Planning Board agenda for review. The Planning Board postponed the item and referred it to the Comprehensive Plan Committee.

Ms. Jenkins provided the Board with copies of page 6 of the Department of State planning guide on zoning, which discussed overlay zoning. She pointed out that overlay zoning is in addition to the zoning that is in place – it does not remove residential property right protections. Ms. Jenkins stated that it was a complete misuse of the overlay concept and that what the developer has done is a “run around” the Town’s zoning that is intact. Ms. Jenkins stated that the Environmental Assessment Form (EAF) submitted by the applicant to the Town Planning Board “failed to account for the impacts of their proposed law to all of the land and properties and acreage and neighbors that could possibly be impacted.” She read an excerpt from the Environmental Conservation Law (§ 617.4(b)(2)) regarding Type 1 Actions. “SEQRA law requires that all of those impacts be addressed in the EAF and Environmental Impact Statement for any zoning law change that could impact greater than 25 acres.”

Ms. Jenkins stated the Board must ask how many residential properties and how many acres the developer now controls, owns or leases that would be subject to the developers zoning law change and how many properties and acres and neighbors could it impact in the future.

Ms. Jenkins urged the Board not to forward the most recent request for a solar overlay district to the Town Planning Board or the County Planning Board. She asked the Board to allow the Comprehensive Plan Committee the opportunity to work on it first.

Supervisor Tupper offered privilege of the floor to Bob Martin.

Town resident Bob Martin commented on Town Board agenda items regarding the Diescher Lease agreement and the Town’s Agriculture & Farmland Protection Plan, which he stated were positive actions taken by the Board for the Town.

Mr. Martin commented on the proposed zoning amendment for McLean Solar 1, LLC. He referred back to the comments he made at the May 15, 2019 Town Board meeting, and read an excerpt aloud from the meeting minutes, reiterating his concern for spot zoning and the status of payment in lieu of tax (PILOT) agreements with regard to the solar farms. According to Real Property Tax Law Section 487, “As a measure to provide the installation of clean energy sources the New York State Legislature adopted a section of RPTL 487 that exempts the value of solar panel systems from the local property taxes.” Mr. Martin stated that under the law, any increase in the property value attributed to the addition of solar panels is exempt from property taxes. The law allows for any taxing jurisdiction to opt out of the tax exemption by adopting a local law or resolution making the added value of solar panel systems fully taxable. Ultimately, a taxing jurisdiction that does not opt out can require a solar developer to pay an annual fee or payment in lieu of taxes as a replacement of the taxes that would have otherwise been collected. Mr. Martin suggested the Board utilize a NYSEDA sample of a NYS Energy PILOT law to gain additional revenue for the Town based on solar farms being developed in the Town.

Supervisor Tupper offered privilege of the floor to Dawn Brown who declined the opportunity to speak.

Supervisor Tupper thanked Mr. Martin and Ms. Jenkins for their comments.

(Town residents Gregory Leach, Barb Leach and Dawn Brown excused themselves from the meeting at 5:16 p.m.)

Councilman Withey made a motion, seconded by Councilman Testa, to receive and file the monthly report of Code Enforcement Officer, Kevin McMahon for the month of May 2019. All voting aye, the motion was carried.

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

There was a brief discussion regarding the status of the budget accounts for the Town. Supervisor Tupper explained that at the Board's July meeting, the Board would be presented with a report of the expenses and revenues for all budget accounts.

Town Clerk Rocco-Petrella reported that the last day of tax collection was May 31, 2019; 96.53% of the total tax warrant was collected in comparison to the 2018 tax year in which 96.6% was collected. Since the 2019 total tax warrant increased the total dollar amount collected actually increased. She explained that she will settle with the County Treasurer on June 11, 2019 at which point the remaining unpaid taxes will be returned for collection. She mentioned that the Town Supervisor was paid in full with the exception of a \$73.16 grass relevy (misc. code charge). One of the unpaid tax bills included a grass relevy charge, which according to the County would not be collected on the Town's behalf if the tax bill was returned to the County for collection. The Board was made aware of such when they adopted the resolution in 2018 to relevy four uncollected grass charges to the 2019 Town/County tax bills.

Councilman Testa made a motion, seconded by Councilman Withey, to receive and file the monthly report of the Tax Collector for the month of May 2019. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa to receive and file the monthly report of the Town Clerk for the month of May 2019. All voting aye, the motion was carried.

Councilman Withey made a motion, seconded by Councilman Testa, to receive and file the monthly report of Fire & Safety Inspection Officer Desiree Campbell for the month of May 2019. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from Charter Communications, dated May 20, 2019, regarding programming services. All voting aye, the motion was carried.

Attorney DelVecchio reported:

Grass Complaint – Walden Oaks:

Attorney DelVecchio apprised the Board there is a continual problem of noncompliance of the Town's Grass and Weed Control Ordinance by a property owner in the Walden Oaks development. Annually, the Walden Oaks Homeowners Association submits a grass complaint to the Town for the vacant parcel. Attorney DelVecchio explained the process involved in grass complaints and read from the Town Code. The Town Highway Department gives notice, by certified mail, to the owner of record of the parcel regarding the complaint issued. If the condition is not remedied within 10 days of the notice, the Superintendent of Highways will remedy the condition and will charge the cost to the owner of record. If the cost is not paid within 30 days, the cost will be levied onto the owner's Town and County tax bill for collection. The Town has never received a response from the property owner, who is believed to live in Germany. The property owner has a local mailing address. Attorney DelVecchio stated he is actively researching a solution to prompt action from the parcel owner to resolve the ongoing issue. Quasi-criminal action in Town Court and forced easements were discussed as possible solutions. Attorney DelVecchio will keep the Board apprised on his progress.

PILOT Agreements - Solar Farm Projects:

Attorney DelVecchio apprised the Board that he and Assessor Briggs were working on PILOT agreements with C2 Energy Capital in relation the five solar farm projects that were recently approved by the Town. Attorney DelVecchio stated that if a PILOT agreement were reached in principal, it would be submitted the Town Board for approval.

Proposed Zoning Amendment for a Solar Overlay District:

With regard to the request for a solar overlay district (McLean Solar 1, LLC), Attorney DelVecchio explained that the application was informally before the Town Planning Board. He and PZO Weber thought that in fairness to the applicant it should be placed on the agenda for the Planning Board to look at the application. He recalled that at the Town Board's May 15, 2019 meeting there was an application that was not complete at the time, which was submitted on May 15, 2019. The application was refined and resubmitted. Attorney DelVecchio and PZO Weber considered it prudent to submit the modified application to the Planning Board for review, with the idea that the Town Board would likely refer it to the Planning Board for their recommendation. Attorney DelVecchio explained that the Planning Board did not take any formal action last night or make any findings, but only looked at the application. The Planning Board suggested the Comprehensive Plan Committee review the application for feedback.

Attorney DelVecchio stated that the modified application was on this evening's Town Board agenda. He suggested that the Board could either refer the modified application to the Comprehensive Plan Committee for review and consideration, as suggested by the Planning Board, or could formally refer the application to the Town and County Planning Boards, which was the typical, standard protocol. Attorney DelVecchio suggested the Board refer the application to the Town and County Planning Boards.

Supervisor Tupper added that PZO Weber informed him that there is a time limit for processing applications. Councilman Withey questioned whether the application was 100% complete, to which Attorney DelVecchio responded yes. He explained that PZO Weber determines whether or not an application is complete.

Councilman Ross asked what the time limit applied to. He stated that the application was for two different items – one was a change to the Town's zoning law, and the second was a request for the new zone to a particular parcel. Attorney DelVecchio recommended he speak to PZO Weber for clarification on the time limit for referring an application to the County.

Councilman Withey questioned what would happen if the Board does nothing with the application. Attorney DelVecchio stated that if the Town does not meet a deadline the applicant could perhaps challenge the Town, or perhaps the applicant could simply reapply. In theory, the application should go to the Town and County Planning Boards, who would only make a recommendation to the Town Board. Attorney DelVecchio explained that the Board has the option of tabling the application. He explained that in the completed application, the main refinement had to do with where the proposed overlay will pertain. The proposal, dated May 22, 2019, was for lots of 10 acres or more within R-1 districts which are substantially adjacent to an agricultural district.

Supervisor Tupper moved on to the next agenda item, indicating that the Board could discuss the matter further at the appropriate time in the meeting.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the completed grant application for the Town's 2019 Community Development Block Grant (CDBG) Town-wide Housing Rehabilitation Grant, dated April 26, 2019, as submitted by Thoma Development Consultants. All voting aye, the motion was carried.

There was discussion regarding the renewal of the lease agreement between the Town and John Diescher d/b/a Diescher Farms for the lease of Town property for farming purposes. Attorney DelVecchio explained that he drafted the lease agreement. Councilman Withey remarked that corn had been planted before the renewal of the lease was approved. He suggested that next year the lease should be renewed before the crops are planted. He also questioned whether the Town should be advertising the property for competitive bidding. Supervisor Tupper explained that Mr. Diescher's current lease did not expire until July and that Mr. Diescher was away for the winter and did not return until May. Mr. Diescher has farmed the property for approximately 40 years under the previous owner, Gutchess Lumber. Supervisor Tupper explained that the amount of land to be leased changed from the 80 acres in 2018, to 50 acres in 2019, and that the rental cost per acre was at market price.

RESOLUTION #135 AUTHORIZE THE 1-YEAR LEASE AGREEMENT BETWEEN
THE TOWN OF CORTLANDVILLE AND JOHN DIESCHER
FOR A PORTION OF TOWN PROPERTY LOCATED AT 3111
BYRNE HOLLOW CROSSING SUBJECT TO PERMISSIVE
REFERENDUM

Motion by Councilman Withey

Seconded by Councilman Testa

VOTES: AYE – Tupper, Testa, Proud, Ross, Withey NAY – 0
ADOPTED

BE IT RESOLVED, that the Town Board of the Town of Cortlandville does hereby authorize the 1-year lease of approximately 50 acres of Town property located at 3111 Byrne Hollow Crossing in the Town of Cortlandville, known as the site of the Gutchess Lumber Sports Complex, a portion of tax map #105.00-04-02.000, for the total rent of \$3,500.00, to John Diescher for the purpose of crop farming, and it is further

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

RESOLUTION #136 AUTHORIZE HIGHWAY SUPERINTENDENT TO
RECLASSIFY DAMIAN M. WALKER FROM A “BUILDING
AND GROUNDS LABORER” TO “LABORER”

Motion by Councilman Testa

Seconded by Councilman Withey

VOTES: AYE – Tupper, Testa, Proud, Ross, Withey NAY – 0
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct Highway Superintendent Bassett to reclassify Damian M. Walker of 17 Charles Street, Cortland, New York from the title “Building and Grounds Laborer” to the title “Laborer”, effective June 6, 2019, at an hourly wage of \$15.81.

With regard to the Town’s Agricultural & Farmland Protection Plan and correspondence from NYS Agriculture & Markets Commissioner Richard Bell, Councilman Proud noted that the key recommendation was to appoint an Agricultural Advisory Committee to assist in the implementation of Plan recommendations. Councilman Proud indicated that the appointment of such a committee could be difficult because it is a challenge to find agriculturists in the Town that want to serve in that capacity.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from NYS Agriculture & Markets Commissioner Richard Bell, dated May 24, 2019, indicating approval of the Town’s Agricultural & Farmland Protection Plan by NYS Agriculture and Markets and commending the Town for its initiative and effort in developing the Plan. All voting aye, the motion was carried.

There was discussion regarding agenda item I-7, “Forward the Zoning Amendment request from McLean Solar LLC to Establish Solar Overlay Districts in the Town of Cortlandville, to the Town & County Planning Boards for their review & recommendations.”

Councilman Ross stated that if Attorney DelVecchio says that PZO Weber says this is incumbent upon the Board or a deadline may missed then he would like to forward the request with the advisory that, “we think this is properly considered at this point along with the comprehensive plan that’s being developed”. Supervisor Tupper stated that the Board could forward the request to the Town and County Planning Boards and suggest the Planning Board forward the request to the Comprehensive Plan Committee.

Councilman Proud referred to earlier discussion in the meeting pertaining to the proper protocol for applications submitted to the Town. He said he preferred to comply with Cortlandville zoning regulations for completed applications. The completed application is referred to the Town and County Planning Boards for review and recommendations, and it is referred back to the Town Board to make a determination. He stated he did not recall a time when the Board did not follow the same process for an application that was considered complete. Councilman Proud said he agreed with the idea that the Comprehensive Plan Committee review

and consider the concept of overlay districts for the Town of Cortlandville, but did not agree with the idea of referring the application to the Comprehensive Plan Committee, as the Committee should have no input regarding the actual application.

Supervisor Tupper stated the idea of referring the application to the Comprehensive Plan Committee was so they could see what such an application would look like. He stated that the Board was not doing their responsibility by forwarding the application on until the new Comprehensive Plan is written.

Councilman Withey recommended denial of the current application because it does not fit within the Town's Comprehensive Plan at present time. He suggested the Board let the Comprehensive Plan run its course, noting that five solar farm applications were approved. He stated that the Board was not doing their responsibility by forwarding the application on until the new Comprehensive Plan is written. Discussion ensued amongst the Board as to whether or not the application was complete.

Councilman Testa asked Attorney DelVecchio for his opinion.

Attorney DelVecchio clarified the Board's options of action regarding the zoning amendment request, which would be a change in law. He reiterated that the application was complete. He informed the Board that they could deny the request altogether, but if the Board was to consider the amendment they would have to follow standard protocol and refer it to the County Planning Board. Attorney DelVecchio explained that it was optional for the Board to refer the application to the Town Planning Board, however he suggested that the Town Planning Board be included if the request was forwarded. He reminded the Board that forwarding the request would be for review and recommendations, not a decision. He reiterated that the Board has the option to say no right now - that we are not going to consider the request, or could forward the request on to the County Planning Board, with an option to also refer it to the Town Planning Board.

Councilman Withey proposed that the Board adopt a resolution to not entertain the McLean Solar LLC zoning amendment request until the Comprehensive Plan is complete. Attorney DelVecchio suggested that if Councilman Withey's proposal was the course the Board wanted to take, that the Board say no now rather than delaying action until the Comprehensive Plan is complete. Supervisor Tupper stated that the Board has forwarded applications to the Planning Board that the Board knew would now be approved in order to follow protocol. Discussion continued at length amongst the Board with regard to the zoning amendment request and the proper action to take. Councilman Ross stated that he would be willing to forward the request to the Town and County Planning Boards for comment and that he would rather get comment on the matter now rather than to wait until after the Comprehensive Plan is done. Councilman Proud added that the Town Board would finalize the Comprehensive Plan. The Comprehensive Plan Committee would make their recommendations to the Board for decision. Councilman Withey voiced concern for the constituents who were following along. Councilman Proud stated that by referring the request to the County Planning Board, the Town Board would receive a report and recommendation; the Board does not have to accept the recommendation. Councilman Withey was adamant that the Board not forward the request.

Councilman Ross stated that he originally voted to table the matter, but was convinced that the Board does not have to approve the request and stated that he would like comments on the matter. Councilman Ross also stated that he would like comments on overlay zones versus a floating zone to determine whether either of the terms being used would work.

Supervisor Tupper read the proposed motion as listed on the agenda, which was made by Councilman Testa and seconded by Councilman Proud, and called for a vote.

RESOLUTION #137	REFER ZONING AMENDMENT REQUEST FROM MCLEAN SOLAR LLC TO ESTABLISH SOLAR OVERLAY DISTRICTS IN THE TOWN OF CORTLANDVILLE TO THE TOWN AND COUNTY PLANNING BOARDS FOR REVIEW AND RECOMMENDATIONS
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Motion by Councilman Testa

Seconded by Councilman Proud

VOTES: AYE – Tupper, Testa, Proud, Ross

NAY – Withey

ADOPTED

BE IT RESOLVED, the Town Board does hereby refer the Zoning Amendment Request received from McLean Solar LLC to establish Solar Overlay Districts in the Town of Cortlandville to the Town and County Planning Boards for review and recommendations.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file the Cortland County Planning Department Review and Recommendations, dated May 10, 2019, and Cortland County Planning Board Resolution #19-11, dated May 15, 2019, regarding the Aquifer Protection Permit application submitted by Jameson DelVecchio for property located on NYS Route 13, tax map #77.17-01-08.200. All voting aye, the motion was carried.

RESOLUTION #138 SCHEDULE PUBLIC HEARING FOR AQUIFER
PROTECTION PERMIT APPLICATION SUBMITTED BY
JAMESON DELVECCHIO FOR PROPERTY LOCATED OFF
OF NYS ROUTE 13 FOR JUNE 19, 2019

Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, a Public Hearing shall be scheduled for June 19, 2019 at 5:00 p.m. or as soon thereafter as the parties may be heard, for an Aquifer Protection Permit application submitted by Jameson DelVecchio to subdivide a 3.31± acre parcel into three parcels; one with an existing duplex unit and to construct a duplex on one of the other parcels, for property located on the west side of NYS Route 13, approximately 112 ft. north of the City of Cortland boundary, tax map #77.17-01-08.200.

RESOLUTION #139 SCHEDULE PUBLIC HEARING REGARDING THE 2018
CDBG SMALL BUSINESS ECONOMIC DEVELOPMENT
PROGRAM (CDBG #287SB902-18) FOR ROYAL NISSAN OF
CORTLAND, INC. FOR JUNE 19, 2019 AT 5:00 P.M.

Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby schedule a Public Hearing regarding the 2018 CDBG Small Business Economic Development Program (CDBG #287SB902-18) for Royal Nissan of Cortland, Inc., for Wednesday, June 19, 2019 at 5:00 p.m. at the Raymond G. Thorpe Municipal Building, for the purpose of providing details with respect to the program and program progress, to solicit comments with respect to funded activities and program administration, and to answer questions with respect to the CDBG Program or grant activities.

Supervisor Tupper commented that if the Board has not visited the new Royal Nissan dealership that they do so. He complimented and commended Mr. Reagan for the work completed on the new dealership and expressed appreciation for his recent tour of the facility. He explained that the Town was awarded a CDBG (in the amount of \$100,000) for the dealership, and that the Town extended additional program income funds as a loan.

Supervisor Tupper questioned whether there was any further business to come before the Board.

Councilman Withey acknowledged Pastor Thomas Heotzler from the Blodgett Mills Independent Baptist Church who was in attendance. Pastor Heotzler gave a brief summary on the history of the Church. The Church was built in 1811 in what is now the City of Cortland. In the mid 1800's the Church was deconstructed piece by piece and rebuilt at its current location in Blodgett Mills. Throughout the years the Church has been a Baptist Church, Methodist Church, and a Universalist Church. The Board members thanked Pastor Heotzler for his hospitality.

Supervisor Tupper reminded the Board members to attend the required Sexual Harassment training at the Raymond G. Thorpe Municipal Building on Friday June 7, 2019 at either 9:00 a.m. or 10:00 a.m.

No further comments or discussion were heard.

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

The meeting was adjourned at 6:15 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 June 28, 2019.
The final version of this meeting was approved as written at the Town Board meeting of July 3, 2019.