

PUBLIC HEARING NO. 1

LOCAL LAW OF 2019

AMENDMENT TO CHAPTER 178, ARTICLE XVIII, SECTION 178-112

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 the enactment of a Local Law amending Chapter 178, Article XVIII, Section 178-112 of the Zoning Code of the Town of Cortlandville to permit illuminated signs on properties which are classified as: 1. Business uses for freestanding signs; 2. Professional offices; 3. Recreational and social activities; and 4. Religious institutions.

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; Town Residents: Robert Martin; Pamela Jenkins; Thomas Williams; Rebecca Bryan; Donna Johnson; Jay Cobb; and Jeffrey Guido.

Supervisor Tupper called the Public Hearing to order.

Town Clerk, Kristin Rocco-Petrella read aloud the published, posted and filed legal notice.

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

No requests were made for privilege of the floor.

No further comments or discussion were heard.

The Public Hearing was closed at 5:05 p.m.

## 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, 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; Town Residents: Robert Martin; Pamela Jenkins; Thomas Williams; Rebecca Bryan; Donna Johnson; Jay Cobb; and Jeffrey Guido.

Supervisor Tupper called the meeting to order.

Councilman Testa made a motion, seconded by Councilman Proud, to approve the Draft Town Board Minutes of September 4, 2019. All voting aye, the motion was carried.

Councilman Testa made a motion, seconded by Councilman Proud, to approve the Draft Special Town Board Minutes of August 30, 2019. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Zoning Board of Appeals Minutes of August 27, 2019. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Planning Board Minutes of August 27, 2019. All voting aye, the motion was carried.

The Draft Town Board Minutes of September 18, 2019 were presented to the Board for their review.

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RESOLUTION #221      AUTHORIZE SUPERVISOR TO SIGN PURCHASE  
ORDER #0154

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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 #0154 submitted by Water & Sewer Sup't. Alteri to be paid to Snow Rail Systems for the purchase of a snow rail system to be installed on the roof of the Municipal Water Garage, for the total cost of \$4,942.55.

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RESOLUTION #222      AUTHORIZE SUPERVISOR TO SIGN PURCHASE  
ORDER #0139

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Motion by Councilman Withey  
Seconded by Councilman Testa

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 #0139 submitted by Water & Sewer Sup't. Alteri to be paid to Scadatek, Inc. for tank control system upgrades and engineering services at the Blue Creek Water Tank, for the total cost of \$5,910.00.

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**RESOLUTION #223                      AUTHORIZE PAYMENT OF VOUCHERS – OCTOBER**


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Motion by Councilman Withey  
 Seconded by Councilman Proud

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 #1412-1481	
	General Fund A	\$ 86,248.21
	General Fund B	\$ 14,661.34
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 84,559.96
	Gutchess Lumber SC Project HG	\$ 0.00
	C'Ville Fire District SF	\$ 0.00
	Sewer Fund SS	\$ 4,285.75
	Water Fund SW	\$ 13,573.92
Funds CD1, CD3, CD4	Voucher #(None)	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 0.00
Funds TA, TE	Voucher #37-38	
	Trust & Agency TA	\$ 42,730.83
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to Pamela Jenkins.

Town resident, Pamela Jenkins commented on agenda item I-7, to receive and file the Aquifer Protection Permit Application of McLean Solar 1, LLC; to forward the application to the Town and County Planning Boards for review and recommendations; and to request that the Town Planning Board act as Lead Agency. Ms. Jenkins stated that the item should not be on the agenda at all because the Town Solar Law does not allow for large-scale solar farms in R-1 districts, and that the applicant's attempts to change the zoning law or be spot zoned were defeated by the Comprehensive Plan Committee, by the County Planning Board and by the Town Planning Board.

Ms. Jenkins commented that the applicant, McLean Solar 1, LLC could apply for a zone change or for a use variance. She also commented that former Planning Board Chairwoman, Kathy Wickwire was interested in hearing from the neighbors of the property.

Ms. Jenkins read aloud a letter from Town resident, Andrea Rankin, who was in opposition to the solar farm in close proximity to her property. Ms. Jenkins urged the Board to tell the applicant they were not entitled to apply for an Aquifer Permit in the R-1 district.

Supervisor Tupper offered privilege of the floor to Robert Martin.

Town resident, Robert Martin also commented on agenda item I-7 regarding the Aquifer Protection Permit Application submitted by McLean Solar 1, LLC. He urged the Board not to allow the application to move forward, noting that the surrounding areas were residential and vacant land. Mr. Martin suggested that the property remain farmland.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the proposed Tentative Budget of the Cortlandville Fire District, dated September 17, 2019. All voting aye, the motion was carried.

Councilman Testa made a motion, seconded by Councilman Withey, to receive and file the monthly report of Code Enforcement Officer, Kevin McMahon for the month of September 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 September 30, 2019, regarding programming services. All voting aye, the motion was carried.

## RESOLUTION #224

ADOPT LOCAL LAW NO. 2 OF 2019 AMENDING CHAPTER 178, ARTICLE XVIII "SIGNS", SECTION 178-112 "PERMITTED SIGNS", OF THE ZONING CODE OF THE TOWN OF CORTLANDVILLE

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Motion by Councilman Ross

Seconded by Councilman Withey

VOTES: Supervisor Tupper	Aye
Councilman Testa	Aye
Councilman Proud	Aye
Councilman Ross	Aye
Councilman Withey	Aye

ADOPTED

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Cortlandville for a public hearing to be held by said Board to hear all interested parties on a proposed Local Law amending Chapter 178, Article XVIII, Section 178-112 of the Code of the Town of Cortlandville, and

WHEREAS, notice of said public hearing was duly published in the *Cortland Standard*, the official newspaper of the said Town, and posted at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, as required by law, and

WHEREAS, said public hearing was duly held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Town Board of the Town of Cortlandville, after due deliberation, finds it in the best interest of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Cortlandville hereby adopts said Local Law as Local Law No. 2 of 2019, amending Chapter 178, Article XVIII "Signs", Section 178-112 "Permitted Signs", of the Code of the Town of Cortlandville, a copy of which is attached hereto and made a part hereof, and the Town Clerk is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Cortlandville, and to give due notice of the adoption of said Local Law to the Secretary of State.

Be it enacted by the Town Board of the Town of Cortlandville as follows:

## Section 1:

Amend Chapter 178, Article XVIII, Section 178-112 of the Cortlandville Town Code in the following manner:

For permitted signs, allow illuminated signs on properties which are classified as:

1. Business uses for freestanding signs
2. Professional offices
3. Recreational and social activities
4. Religious institutions

## Section 2:

Add a notation that all building mounted signs used for a business or activity may be illuminated two (2) hours before opening until two (2) hours after closing.

## Section 3:

Table 1, entitled "Permitted Sign Requirements", shall be amended and replaced in accordance with the modifications set forth herein.

## Section 4:

This Local Law shall become effective when filed with the Secretary of State of the State of New York, as required by law.

Under new business, Town Clerk Rocco-Petrella gave a brief report on recent activity in the Town Clerk's office. The 2019 Dog Census was underway, in which over 3,000 flyers were mailed to residents in mid-September, with two newspaper advertisements and five days of radio advertisement on WXHC. Over 200 census responses were received via the online form submission, with countless phone, email, mail, and over-the-counter responses made as well. During the month of September alone, 125 new original dog licenses were issued. Town Clerk Rocco-Petrella was pleased with the response to the census and advised the public they had until October 31, 2019 to license their dogs without the additional \$5.00 enumeration fee.

Town Clerk Rocco-Petrella informed the Board that also during the month of September, the Town Clerk's office staff was busy with conservation license sales, completing the water/sewer quarterly billing, water/sewer benefit tax calculations, and was preparing for records scanning in connection with the recently awarded shared services grant with Cortland County. She thanked her staff for their hard work and dedication.

Town Clerk Rocco-Petrella also reminded the Board that there were two upcoming training opportunities available: Local Government Conference to be held October 24, 2019 at Tompkins Cortland Community College with sessions starting at 1:00 p.m.-8:30 p.m.; and the NYS SEQR Training to be held October 29, 2019 from 5:30 p.m. - 7:30 p.m. in Owego, NY.

Attorney DelVecchio reported:

Large Scale Solar Array – Article 10:

Attorney DelVecchio apprised the Board he received communication from Jack Honor representing EDF Renewables, who would be submitting an application for a large-scale solar farm that would fall under the Article 10 process. Mr. Honor was interested in making another presentation to the Board. After discussion, the Board agreed that Attorney DelVecchio would invite him to make a presentation at the next Board meeting.

NYSERDA – Battery Storage Law and PILOT Resolution:

Attorney DelVecchio apprised the Board that he contacted representatives from NYSERDA to schedule an informational meeting with the Board with regard to the consideration of a Battery Storage Law and PILOT Resolution. After discussion, the Board agreed that an informational meeting on October 22, 2019 at 5:00 p.m. or 7:00 p.m. would be beneficial. Supervisor Tupper stated that he would invite officials from surrounding municipalities.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file the fully executed Grant Agreement from DASNY regarding the award to the Town in the amount of \$250,000 for the Gutchess Lumber Sports Complex. All voting aye, the motion was granted.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Notice of Order from the New York State Department of Transportation, received September 25, 2019, regarding the 45 MPH speed limit on Pendleton Street from Saunders Road to Ahrens Road. All voting aye the motion was carried.

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RESOLUTION #225                      AMEND THE 2019 BUDGET AND AUTHORIZE  
SUPERVISOR TO TRANSFER FUNDS

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Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, the Supervisor is hereby authorized and directed to transfer funds to adjust the accounts of the 2019 Budget for the Town of Cortlandville, to correct the clerical error made to the personnel budget line for the Code Department as follows:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
B7110.12	B8664.1	\$2,042.23

RESOLUTION #226      AMEND THE 2019 BUDGET AND AUTHORIZE  
SUPERVISOR TO ESTABLISH A NEW BUDGET ACCOUNT  
(SNOW REMOVAL EQUIPMENT) AND TO TRANSFER  
FUNDS

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Motion by Councilman Proud

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 the Supervisor to amend the 2019 Budget to establish a new budget account DB5142.2 Snow Removal Equipment, to be used for the purchase of the 2019 International Truck as approved by Purchase Order #1409, and to transfer funds as follows:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
DB5142.4	DB5142.2	\$52,987.00

RESOLUTION #227      ACKNOWLEDGE RECEIVING 2020 TENTATIVE BUDGET

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Motion by Councilman Testa

Seconded by Councilman Proud

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

ADOPTED

BE IT RESOLVED, the Town Clerk received the 2020 Tentative Budget on September 30, 2019 and has presented it to the Town Board members, in accordance with Town Law.

There was discussion regarding agenda item I-7, to receive and file the Aquifer Protection Permit Application of McLean Solar 1, LLC; to forward the application to the Town and County Planning Boards for review and recommendations; and to request that the Town Planning Board act as Lead Agency. Attorney DelVecchio recalled that the applicants, McLean Solar 1, LLC initially filed a change of use application with the Town Planning Board, which morphed into an overlay zone request, which the Town Board ultimately turned down. The same applicants decided to file an application for a Use Variance before the Town Zoning Board of Appeals (ZBA), which triggered the Aquifer Protection Permit application. Attorney DelVecchio explained that the only action to be made by the Board at this time was to receive and file the Aquifer Permit application, to forward the application to the Town and County Planning Boards for review and recommendations, and to ask the Town Planning Board to act as Lead Agency, with the understanding that the application will hinge completely on the ZBA issuing a Use Variance. The ZBA would schedule and hold a public hearing. If the Use Variance is denied, the application would die. If the ZBA grants the Use Variance, then the applicant would have to go before the Planning Board for a Conditional Permit application. Attorney DelVecchio reiterated that no consideration would be given to the Aquifer Protection Permit application unless the Use Variance is granted.

A lengthy discussion ensued regarding the need to forward the Aquifer Protection Permit application to the Town and County Planning Boards at this time. Councilman Withey and Councilman Ross were not in favor of forwarding the application at this time or requesting that the Planning Board act as Lead Agency. Councilman Ross stated that he would rather the Town and County Planning Board not comment on a proposal that at this time does not have the right to be there. He questioned whether there was an advantage to the Town and County Planning Boards receiving the application at this time.

Attorney DelVecchio explained that customarily, and according to protocol, the application in its entirety is forwarded at the same time to the Town and County Planning Boards. He commented that Planning and Zoning Officer (PZO) Weber is diligent to follow protocol. Councilman Proud added that in his experience, the Town's standard procedure was to receive and file and forward the application. He suggested that if protocol was to be changed, that it not be done on a case-by-case basis.

Attorney DelVecchio explained that the ZBA would meet on October 29, 2019. If the Town Board makes referrals to the Town and County Planning Board, nothing that the ZBA does affects the assessment. He reminded the Board that they only have jurisdiction over the Aquifer Permit.

Councilman Ross did not agree that the Town and County Planning Boards should be doing an assessment on an application that at this time is not an allowed use.

Supervisor Tupper suspected that PZO Weber was trying to move the paperwork for applications at the same time in order to save time and not cause delays for the applicants; the process can be very lengthy. Councilman Ross stated that he appreciated that, but thought that sometimes formalities and optics were important.

Supervisor Tupper called for a vote on the matter.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Aquifer Protection Permit Application of McLean Solar 1, LLC; to forward the application to the Town and County Planning Boards for review and recommendations; and to request that the Town Planning Board act as Lead Agency. All voting nay, the motion failed.

Councilman Ross made a motion, seconded by Councilman Withey, to receive and file the Aquifer Protection Permit application submitted by McLean Solar 1, LLC for property owned by Farm East LLC, located at 415 McLean Road, tax map #95.00-01-33.100. All voting aye, the motion was carried.

Councilman Ross commented that the applicant's request for a Use Variance was based on the "public utility criteria for a use variance, which are different from everyone else's criteria for a use variance." He stated that the applicant was right that the criteria are different, but the question would be whether the applicant fit the "public necessity" exception.

Attorney DelVecchio stated that on the self-created hardship aspect of the use variance analysis there is a public utility exception that will be an argument the applicant would put in the forefront of the ZBA. He stated that he would advise, research and prepare the ZBA on the legalities of the issues involved, and that the ZBA would be ready to apply the law correctly.

Supervisor Tupper acknowledged receipt of a memo from Water & Sewer Sup't. Alteri, dated October 2, 2019, with regard to the re-permitting of the Town's wells through the Susquehanna River Basin Commission (SRBC). Sup't. Alteri provided the Board with information on the SRBC, its mission, programs and activities. The Board thanked Sup't. Alteri for providing the information.

With no further comments or discussion to be heard, Attorney DelVecchio requested the Board convene to an Executive Session to discuss pending litigation.

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

The meeting was recessed at 5:55 p.m.

No action was taken in Executive Session.

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

The Executive Session was adjourned at 6:15 p.m.

No further comments or discussion were heard.

Councilman Ross made a motion, seconded by Councilman Withey, 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 October 17, 2019.  
The final version of this meeting was approved as written at the Town Board meeting of November 6, 2019.