

PUBLIC HEARING NO. 1

AQUIFER PROTECTION PERMIT  
CLIFTON LAND COMPANY, LLC  
NYS ROUTE 13  
TAX MAP #95.16-02-78.100

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 Clifton Land Company, LLC requesting to construct a 2,366+ sq. ft. automatic wash bay at an existing car wash which includes four self-serve wash bays and one automatic wash bay, for property located on the east side of NYS Route 13, approximately 100' north of the NYS Route 13 & Lime Hollow Road intersection, tax map #95.16-02-78.100.

Members present:

Supervisor, Richard C. Tupper  
Councilman, Theodore V. Testa  
Councilman, John C. Proud  
Councilman, Gregory K. Leach  
Councilperson, Kristin E. Rocco-Petrella  
Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John B. Folmer; Highway Sup't. Carl A. Bush, Jr.; Town resident, Barb Leach; Steve Terwilliger; Cortlandville Zoning Board of Appeals Member, Lenore Lafevre; Chuck Feiszli; Captain, Robert Derksen of the Cortland County Sheriff Department; Sharon Stevans from Channel 2, Access TV and Robert Creenan from the *Cortland Standard*.

Supervisor Tupper called the Public Hearing to order.

Town Clerk, Karen Q. Snyder, read aloud the published, posted and filed legal notice.

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

No comments or discussions 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, Gregory K. Leach  
Councilperson, Kristin E. Rocco-Petrella  
Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John B. Folmer; Highway Sup’t. Carl A. Bush, Jr.; Town resident, Barb Leach; Steve Terwilliger; Cortlandville Zoning Board of Appeals Member, Lenore Lafevre; Chuck Feiszli; Captain, Robert Derksen of the Cortland County Sheriff Department; Sharon Stevans from Channel 2, Access TV and Robert Creenan from the *Cortland Standard*.

Supervisor Tupper called the meeting to order.

RESOLUTION #

AUTHORIZE PAYMENT OF VOUCHERS - JUNE

Motion by Councilman Proud  
Seconded by Councilman Testa  
VOTES: AYE – Tupper, Testa, Proud, Leach  
ABSTAIN- Rocco-Petrella  
ADOPTED

NAY – 0

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

Funds A, B, DA, DB	Voucher #530-569	
	General Fund A	\$ 20,204.10
	General Fund B	\$ 3,668.76
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$146,566.49
Funds CD1, CD3, CD4	Voucher # (None)	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 0.00
Fund HA, HB, HC, HD, HE, SS, SW	Voucher #211-223	
	Luker Rd Water HA	\$ 220.67
	Owego St Water HB	\$ 73.55
	Oakcrest/Pendleton Sewer HD	\$ 214.78
	Saunders Rd Sewer HE	\$ 0.00
	Sewer SS	\$ 712.15
	Water SW	\$ 11,274.56
Funds SF, TA, TE	Voucher #22-55	
	C’Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 33,774.77
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to Captain, Robert Derksen of the Cortland County Sheriff Department.

Captain Robert Derksen reported he was present at the request of Sheriff Mark Helms. He acknowledged the Town Board for being supportive and for providing funds for the Sheriff Department’s projects. He relayed that past funding from the Town had gained their Department new equipment and a second canine unit. Captain Derksen explained that Sheriff Helms asked him to head the next project which would utilize the funds Cortlandville sets aside for the department. His plan for a project this year would be to equip detectives or investigators with the same patrol rifles that patrol officers carry, as currently detectives do not have access to secondary weapons. He justified a need by referring to school shootings or gunman attacks. Such events would require more investigators on duty than patrol officers as there would be more response needed.

There would be more search warrants executed and the detectives would be at a tactical disadvantage. Captain Derksen said that the detectives are already trained and there would be no added expense in that regard. Councilman Proud asked if it was the officer or the vehicle that would be equipped to which Captain Derksen replied the vehicle. Supervisor Tupper remarked that funding was available in the Cortlandville Town budget and also thanked the Sheriff Department for their diligent service.

RESOLUTION #                      AUTHORIZATION TO EXPEND \$19,999.63 FROM THE  
PUBLIC SAFETY – LAW ENFORCEMENT ACCOUNT FOR  
THE CORTLAND COUNTY SHERIFF'S DEPARTMENT

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Motion by Councilman Leach

Seconded by Councilman Proud

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to expend a total of \$19, 999.63 from the Public Safety – Law Enforcement Account B31974 for the Cortland County Sheriff's Department for purchase of rifles for the Sheriff Department.

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

RESOLUTION #                      ACCEPT AUDIT REPORT OF THE FISCAL AFFAIRS OF THE  
TOWN OF CORTLANDVILLE FROM INSERO & CO. CPAs,  
LLP FOR THE PERIOD ENDING DECEMBER 31, 2016

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Motion by Councilman Leach

Seconded by Councilman Proud

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Audit Report of the fiscal affairs of the Town of Cortlandville from Insero & Co. CPA's, LLP for the period ending December 31, 2016 is hereby accepted and shall be received and filed.

RESOLUTION #                      ACCEPT 2017 TAX COLLECTOR'S SUMMARY

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Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the 2017 Tax Collector's Summary is hereby accepted and shall be received and filed.

RESOLUTION #                      DECLARE NEGATIVE IMPACT FOR AQUIFER PROTECTION  
PERMIT APPLICATION #3 OF 2017 SUBMITTED BY CLIFTON  
LAND COMPANY, LLC FOR PROPERTY LOCATED AT 876  
ROUTE 13

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Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

WHEREAS, an Aquifer Protection Permit application was submitted by Clifton Land company, LLC requesting to construct a 2,366 ± sq. ft. automatic wash bay at an existing car wash, which includes four self-serve wash bays and one automatic wash bay, located on the east side of NYS Route 13, approximately 100 ft. north of the intersection of the NYS Route 13/Lime Hollow Road intersection, tax map #95.16-02-78.100, and

WHEREAS, the Town Board as Lead Agent, duly reviewed and completed the Short Environmental Assessment form, therefore

BE IT RESOLVED, the Town Board as Lead Agent does hereby declare the proposed project of Clifton Land Company, LLC, Aquifer Protection Permit application #3 of 2017, shall have no significant environmental impact.

RESOLUTION #                      AUTHORIZE SUPERVISOR TO SIGN SEQRA APPLICATION  
OF AQUIFER PROTECTION PERMIT APPLICATION #3 OF  
2017

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Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Supervisor is hereby authorized and directed to sign the SEQRA application relating to Aquifer Protection Permit application #3 of 2017, submitted by Clifton Land Company, LLC.

RESOLUTION #                      APPROVE AQUIFER PROTECTION PERMIT APPLICATION  
#3 OF 2017 SUBMITTED BY CLIFTON LAND COMPANY,  
LLC FOR PROPERTY LOCATED AT 876 ROUTE 13  
SUBJECT TO CONDITIONS

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Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
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 application #3 of 2017, submitted by Clifton Land Company, LLC, requesting to construct a 2,366 ± sq. ft. automatic wash bay at an existing car wash, which includes four self-serve wash bays and one automatic wash bay, located on the east side of NYS Route 13, approximately 100 ft. north of the intersection of the NYS Route 13/Lime Hollow Road intersection, tax map #95.16-02-78.100, subject to conditions from the Town and County Planning Boards:

1. The applicant receiving approval of the stormwater pollution prevention plan for the site per the Town's stormwater ordinance.
2. Compliance with SEQR requirements.

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

Town Clerk Snyder had no business to report but ask for a few minutes at the close of the Town Board meeting to make an announcement.

Attorney Folmer reported:

Blue Creek Road Easement:

Attorney Folmer briefed the Board that the Town of Cortlandville has been given documentation regarding an easement off Blue Creek Road which is part of the Bell Development. He explained there are three lots and in order to be sure lots two and three, which are furthest from the road, are getting water an easement is necessary. A six hundred foot easement has been created to give the ability to provide water to those two lots. Attorney Ruthig represents Arthur C. Bell, Jr. and has prepared documents that Attorney Folmer believes to be in proper form. Attorney Folmer requested that the Town Board make a motion to accept the easement, subject to final review by Sup't. of Water and Sewer Peter Alteri.

Supervisor Tupper asked if there was a road involved with this easement or if water lines were just being past the lots. Attorney Folmer responded that there was no road involved at this moment.

RESOLUTION #	ACCEPT WATERLINE EASEMENT FOR PROPERTY LOCATED ON BELL CREST DRIVE SUBJECT TO APPROVAL BY WATER AND SEWER SUPERINTENDENT, PETER ALTERI
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Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby accept the waterline easement for property located on Bell Crest Drive, tax map #76.00-07-04.000, subject to approval by Water and Sewer Sup't., Peter Alteri.

John Diescher Lease:

Attorney Folmer discussed with the Board the need to formally accept a lease negotiated with John Diescher to grow crops on a portion of land the town owns, which is the proposed Gutches Lumber Park. He added it would be a season by season lease. Supervisor Tupper stated it was recommended by the Town's engineering firm having Mr. Diescher plow and keep the field clean was advantageous as well as revenue to be received by the Town.

RESOLUTION #	AUTHORIZE SUPERVISOR TO SIGN A ONE YEAR LEASE TO ALLOW JOHN DIESCHER TO GROW CROPS ON A PORTION OF TOWN PROPERTY KNOWN AS GUTCHESS LUMBER PARK
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Motion by Councilman Leach

Seconded by Councilman Proud

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign a one year lease with John Diescher to allow growing crops on a portion of Town property known as Gutches Lumber Park and it is further,

RESOLVED, the cost shall be \$283.75 an acre for a total of eighteen acres at a total amount of \$5,107.50 for one year.

West Law Research Software Program:

Attorney Folmer stated he received a renewal notice regarding his West Law research program software that he currently uses and would like the Board's approval to renew the West Law Software for use in his office.

RESOLUTION #                      AUTHORIZE TOWN ATTORNEY TO RENEW THE ANNUAL  
WEST LAW RESEARCH SOFTWARE PROGRAM

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Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Attorney is hereby authorized and directed to renew his annual West Law Research Software Program.

Bonding for Gutches Lumber Park:

Attorney Folmer informed the Board the Legal Notice has been published and posted by Town Clerk Snyder for the bonding for the future Gutches Lumber Park. The thirty day Permissive Referendum has begun.

Councilman Leach made a motion, seconded by Councilperson Rocco-Petrella to receive and file correspondence dated June 13, 2017 from NYS Homes & Community Renewal regarding Forkey Construction & Fabrication, Grant #287ED798-14 regarding the scheduling of the on-site monitoring of the grant on June 22, 2017 at 12:30 p.m. All voting aye, the motion was carried.

In regards to the following correspondence to be received and file, Supervisor Tupper explained that the Town of Cortlandville's general obligation bond rating increased from an A1 to an Aa3 class. This will lower interest rates by two or three tenths of a percent for the Town. Supervisor Tupper stated it was rare for a Town to be in an Aa3 class. It will be a plus because it shows conservative budgeting, good reserves and good cash flow. He remarked the Town should be proud.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence dated June 16, 2017 regarding the Town's Material Event Notification Rating Upgrade. All voting aye, the motion was carried.

RESOLUTION #                      REFER AQUIFER PROTECTION PERMIT APPLICATION  
AND ZONE CHANGE REQUEST FOR ABUNDANT SOLAR  
POWER, INC. TO THE TOWN AND COUNTY PLANNING  
BOARDS FOR REVIEW AND RECOMMENDATIONS

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Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Aquifer Protection Permit application and Zone Change request submitted by Abundant Solar Power, Inc. for property located off Wellington Dr., tax map #95.20-03-01.000, shall be forwarded to the Town and County Planning Boards for review and recommendations, and it is further

RESOLVED, THE Aquifer Protection Permit application and Zone Change request is hereby received and filed.

RESOLUTION #                      REFER AQUIFER PROTECTION PERMIT APPLICATION  
FOR PROP, INC. TO THE TOWN AND COUNTY PLANNING  
BOARDS FOR REVIEW AND RECOMMENDATIONS

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Motion by Councilman Proud

Seconded by Councilman Leach

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Aquifer Protection Permit application submitted by Prop, Inc. for property located on 3877 Luker Road., tax map #86.17-01-01.000, shall be forwarded to the Town and County Planning Boards for review and recommendations, and it is further

RESOLVED, the Aquifer Protection Permit application is hereby received and filed.

RESOLUTION #                      AUTHORIZE SUPERVISOR TO CREATE AN ASSISTANT  
BOOKKEEPER POSITION

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Motion by Councilman Leach

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud, Leach, Rocco-Petrella      NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to create an assistant bookkeeper position, a part time civil service position, for the Town of Cortlandville, at an annual salary to be determined.

In reference to the May 17, 2017 Town Board Meeting, Councilman Proud addressed two items of concern from a summarized list of comments as a result of the April 5, 2017 Public Hearing. His intent is to address two items per Town Board Meeting.

Councilman Proud's first item of concern, in regards to the Local Law of 2017, to be addressed was the comment that the Town was not complying with SEQR due to a major issue that does need to be addressed correctly. The second item was a bit generic in saying the Town was not complying with the law, but was not specified. He referred to Attorney Folmer for insight, as he is the best versed to advise the Board.

Councilman Leach asked if he should excuse himself, to which Attorney Folmer answered no.

Attorney Folmer stated that he believes that the reference made to the violation of SEQR and the law stems from the possibility and the understanding that the SEQR regulations have to have an interrelationship with the provisions of the Town Law and if the Town doesn't comply with both, technically the Town has not appropriately dealt with either of those two requirements. Attorney Folmer said that in his view, the purpose of the Legislature enacting the SEQR law and the subsequent regulations was an attempt on the part of the Legislature to require bodies, such as the Town, to engage in a process which would force the Town to take a hard look at the environmental concerns that any individual project might incur. Attorney Folmer stated that unfortunately, and once again strictly in his view, the regulations are technical, they are integrated very inaccurately within the statutory scheme between SEQR and the Town Law and he feels SEQR has become not a shield to protect the environment, but a sword for people to use to technically deny projects of all sorts. Attorney Fomer reiterated that these are his personal opinions.

Attorney Folmer cited a case from the Town of Liberty Planning Board that he felt to be an appropriate example in addressing Councilman Proud's item of concern from the April 5, 2017 Public Hearing. In 2008 the Appellate Division made a determination in a case entitled Kittredge vs. the Planning Board of the Town of Liberty. Although this particular case dealt with a site review, Attorney Folmer felt the court decision was instructive for the proper way to comply with the SEQR process. He relayed that the Town of Liberty Planning Board granted a site plan review approval. He further explained that unhappy petitioners brought about an Article 78, claiming the Planning Board had not proceeded properly because the Board had not held a Public Hearing in connection with their review of the application. The court determined that the Board had in fact utilized experts and reports and had taken the required hard look at the application, in regards to wetlands, etc. However, there was a question as to whether the Board had adequately examined the archeological portion of the application. The Town of Liberty Planning Board indicated that they had and used a letter from an appropriate State agency that stated they had no records of any significant archeological material in those areas.

The court said that was not sufficient, as the letter only indicated the State agency had no records, not that they didn't exist. The court felt the Planning Board needed an on the ground examination.

Attorney Folmer continued that under SEQR, and according to the mentioned court decision, there is no requirement that any Board dealing with a SEQR review have a Public Hearing until the application is complete. The court indicated it is not complete until the agency has made its determination of significance; that is the determination of either a Negative Declaration or a Positive Declaration. Attorney Folmer reasoned if a Negative Declaration is issued, the SEQR process is over. He said a Positive Declaration calls for the composition and presentation of a Draft Environment Impact Statement. The Draft EIS is now subject to public comment and a Public Hearing is thus required. Attorney Folmer also advised regarding scoping, in which the purpose is to identify those areas in the overall SEQR scheme which are uniquely involved in a particular application. He stated the problem with that, in addition to having SEQR make a determination with regard to a Public Hearing in advance of the final determination of significance, is the Town Law states certain criteria has to be done within sixty two days of the date that the application was submitted and it's entirely possible the SEQR time limit will not match the Town Law time line as to Public Hearings, referrals and so on.

Attorney Folmer made reference to an article he read regarding a "belt and suspenders" approach. The approach suggested when a Town begins its SEQR review that it should give an informal chance for public comment on the application being considered. The Board would have the benefit of public input, while making a determination of significance, in addition to the material at hand by reason of the Town's investigations or by reason of consultants' investigation, then a determination of significance can be made. Attorney Folmer expressed he hoped his summary was adequate for the brief period of time he had.

In conclusion, Attorney Folmer stated the Town needs to envision a way to involve public comment in the initial determination of significance, and then work through SEQR in a timely process in order to meet the sixty two day Town Law requirement with regard to a Public Hearing and determination on the application.

Supervisor Tupper offered the floor to Town Clerk Snyder as she had requested. Town Clerk Karen Snyder made a heartfelt announcement and read from a prepared statement.

"As I have reached a milestone in my career and after deep, deep conversations with my family and much spiritual reflection I have decided not to seek re-election. I will be retiring at the end of my term, December 31, 2017.

I will have served the residents of the Town of Cortlandville for over 30 years. Being a Public Servant has truly had its challenges. But also has had its rewards. I am very proud and honored to have been able to accomplish so much and to of served in this position!

To my staff who I will be leaving behind, Kudos to you! Your loyalty and dedication needs to be recognized along with the knowledge you have gained. Thank you for serving with me as you are the hub of my office and the town. Do not forget what you have earned and learned!

Thank you to all my town residents, other governmental agencies, town departments, fellow Town Clerks, fellow politicians for your belief and trust in me. It was always about US and not ME! Now when I meet up with you in a grocery store, out walking the streets or other places, now we will be able to talk about family, friends, other types of talk and not shop talk!

Again from the bottom of my heart THANK YOU it has been a real pleasure and honor serving the Town of Cortlandville!"

Supervisor Tupper offered comments on Town Clerk Snyder's announcement. He stated he spoke with her and asked her to reconsider and continue on for two more years as the Town Clerk and Tax Collector adding with the support of her family her decision was final. Supervisor Tupper stated thirty years ago Cortlandville was a rural agricultural town. It sure is not that now! He thanked Town Clerk Snyder for her service along with his fellow Board members.

Councilman Proud offered best wishes and a long and happy retirement.



Supervisor Tupper reminded those in attendance the next Town Board meeting will be held at the J. M. McDonald Center on July 5<sup>th</sup> at 5:00 pm during the Cortland County Fair.

No further comments or discussion were heard.

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

The meeting was adjourned at 6:00 p.m.

Respectfully submitted,

Karen Q. Snyder, RMC  
Town Clerk  
Town of Cortlandville

\*Note:

The final version of this meeting was submitted to the Town Board for their review on August 12, 2017.

The final version of this meeting was approved as written at the Town Board meeting of \_\_\_\_\_.