

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; Deputy Highway Sup’t. Larry Drach; Town Residents: Thomas Williams; Jay Cobb; Jeffrey Guido; Pamela Jenkins; Robert Martin; and Stephen Flatt.

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Testa, to approve the Draft Special Town Board Minutes of October 15, 2019. All voting aye, the motion was carried.

Councilman Testa made a motion, seconded by Councilman Withey, to receive and file the Cortlandville Zoning Board of Appeals Minutes of October 29, 2019. All voting aye, the motion was carried.

The Draft Town Board Minutes of November 6, 2019 were presented to the Board for their review.

RESOLUTION #260

AUTHORIZE SUPERVISOR TO SIGN PURCHASE
ORDER #0156

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 #0156 submitted by Assessor Briggs to be paid to Global Industries Inc., NY State Contract PC 68336, c/o Hummel’s Office Equipment Co Inc, to purchase a desk and table unit with drawers for the Assessor’s Clerk, for the total cost of \$2,228.34.

RESOLUTION #261

AUTHORIZE PAYMENT OF VOUCHERS – DECEMBER

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 #1759-1820		
	General Fund A	\$	20,726.75
	General Fund B	\$	85,042.44
	Highway Fund DA	\$	0.00
	Highway Fund DB	\$	60,003.41
	Gutchess Lumber SC Project HG	\$	110.00
	C’Ville Fire District SF	\$	0.00
	Sewer Fund SS	\$	3,735.87
	Water Fund SW	\$	5,661.71
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 #(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 commented on agenda item I-3, to receive and file the Cortland County Planning Board and Cortland County Planning Department review and recommendations regarding the Aquifer Protection Permit application submitted by McLean Solar 1, LLC. Ms. Jenkins noted that there was also a letter from Mr. Dineen indicating that there was no action taken on the matter because there were 3 votes in favor, 3 votes against, and 1 abstention.

Supervisor Tupper assured Ms. Jenkins that the Board was in receipt of the letter and was aware of the votes. He thanked Ms. Jenkins for her comments.

RESOLUTION #262 ACCEPT PROCEDURES AND FINDINGS REPORT FROM
PORT, KASHDIN & MCSHERRY FOR THE PERIOD ENDING
DECEMBER 31, 2018 FOR THE TOWN OF CORTLANDVILLE
COURT

Motion by Councilman Withey

Seconded by Councilman Proud

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

ADOPTED

BE IT RESOLVED, the procedures and findings report submitted by Port, Kashdin & McSherry for the period ending December 31, 2018 for the Town of Cortlandville Court is hereby accepted and shall be received and filed.

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

Councilman Proud questioned whether CEO Campbell submitted her monthly report and noted that the last monthly report submitted was from August 2019. Supervisor Tupper indicated that a report was not submitted.

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 November 2019. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file correspondence from Charter Communications, dated November 26, 2019, regarding programming services. All voting aye, the motion was carried.

Under new business, Town Clerk Rocco-Petrella reported that she was in communication with the Town's insurance company, Bailey Place, with regard to the renewal of the Town's Commercial Crime Coverage Policy for elected officials, appointed officials and other Town employees for the year 2020.

Attorney DelVecchio Reported:

Contract with Siemens Industry:

Attorney DelVecchio apprised the Board that he had negotiated revisions of certain provisions of the contract with Siemens Industry. Everything had now been addressed other than the financing associated with the contract, which Supervisor Tupper was working on. Supervisor Tupper explained that he was in communication with Siemens with regard to the required \$970,000 escrow, and explained

that the lease could be paid off in 12 to 20 years. He was waiting for more information before determining the best way to proceed.

Attorney DelVecchio reminded the Board that they previously authorized the execution of the contract, subject to his approval. While the contract had been revised, he advised the Board that it was in the Town's best interest to commit to financing before moving forward with the contract.

Councilman Proud mentioned that the projected interest rate for financing was 2.75%, however Supervisor Tupper indicated that the rate could be lower. Councilman Withey questioned whether the interest rate would be a fixed rate for the term of the financing, which Supervisor Tupper indicated that it would be.

There was discussion regarding the review and recommendations made by the Cortland County Planning Board and Cortland County Planning Department with regard to the Aquifer Protection Permit application submitted by McLean Solar 1, LLC. Councilman Ross commented that at the time the Board referred the matter to the Town and County Planning Board, the Town Board made it clear that no action would be taken until the Zoning Board of Appeals made its determination. Supervisor Tupper agreed. He commented that there were 11 recommendations on the report. The County Planning Board did not take action on the matter because the vote was 3 in favor, 3 against, and 1 abstain.

Attorney DelVecchio explained that the matter was before the Town Planning Board last night, December 3, 2019, with regard to the issue of SEQRA. The matter was postponed and would be revisited at the Planning Board's next meeting on January 7, 2020.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Cortland County Planning Department review, dated October 11, 2019, and the correspondence from the Cortland County Planning Board, dated October 17, 2019, regarding the Aquifer Protection Permit application submitted by McLean Solar 1, LLC for property located on the south side of McLean Road opposite Deerfield Heights, tax map #95.00-01-33.100. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file Cortland County Planning Board Resolution No. 19-21, dated November 20, 2019, and Cortland County Planning Department recommendations, dated November 15, 2019, regarding the Aquifer Protection Permit application submitted by DG New York CS, LLC for property located off of Riley Road, owned by Douglas Christofferson, tax map #87.00-01-08.100. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Withey, to receive and file Cortland County Planning Board Resolution No. 19-22, dated November 20, 2019, and Cortland County Planning Department recommendations, dated November 15, 2019, regarding the Aquifer Protection Permit application submitted by DG New York CS, LLC for property located off of East River Road, owned by Joanne Condron, tax map #87.00-03-02.110. All voting aye, the motion was carried.

With regard to the two Aquifer Protection Permit applications submitted by DG New York CS, LLC, Attorney DelVecchio informed the Board that it would be premature to schedule public hearings on the matters at this time. The applicants submitted new documentation to the Town Planning Board at their meeting on December 3, 2019. As a result, the Planning Board postponed action and there were no SEQRA findings at this time.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from John P. Sidd, Partner with Barclay Damon, dated November 18, 2019, regarding the Payment in Lieu of Tax Agreement (PILOT) between the Cortland County IDA and Pyrotek Inc., and the payment amount to be adjusted for the year 2019 as a result of the project falling below its minimum number of employees. All voting aye, the motion was carried.

Town Clerk Rocco-Petrella apprised the Board that she was in receipt of the communication and had already billed Pyrotek Inc. for the adjust amount for 2019. She explained that Pyrotek Inc. would be billed according to the schedule for the year 2020 at 0%. Pyrotek Inc. would submit its required report in 2020 and at that time if the number of jobs fell short, the Town would receive a similar notification to adjust the bill.

There was discussion regarding the agreement to hire John McNerney, Youth Bureau Director for the City of Cortland, as the Part-time Recreation Director for the Town of Cortlandville, specifically for the Gutchess Lumber Sports Complex (GLSC). Supervisor Tupper explained that delay in hiring Mr. McNerney as the Part-time Recreation Director for the year was due to the fact that the Town did not have a contract from the City of Cortland for the services of the City Youth Bureau until recently (the contract was adopted at the November 20, 2019 meeting). The City requested more funding than what the Town budgeted for the year which was one reason for the delay. Supervisor Tupper explained that Mr. McNerney would be added to the Town's payroll and would be reported to the New York State and Local Retirement System. The contract, although received late, would be for the 2019 calendar year, and would be paid in the amount of \$5,000.00. The 2020 budget provided for a \$6,000.00 salary.

Councilman Withey questioned why Mr. McNerney's services were not included in the contract with the City of Cortland; why the salary was added to the Town's contract with the City. Supervisor Tupper explained that he had numerous conversations with the Mayor of the City of Cortland and that the Mayor preferred that Mr. McNerney's services not be a part of the contract.

Councilman Proud commented on item 20 in the agreement requiring that Mr. McNerney "report to the Town of Cortlandville annually the GLSC facility usage data – number of games, tournaments and events". Councilman Proud suggested the item be more specific in that Mr. McNerney report to the Supervisor and the Town Board. Supervisor Tupper indicated that he had a meeting earlier in the week with his informal committee, in which Mr. McNerney submitted a calendar of activity for the GLSC for the year 2019, as well as a calendar of the scheduled events for 2020. Supervisor Tupper updated the Board on the events already scheduled for the year 2020, which included several large events.

Councilman Withey requested that Supervisor Tupper provide him with the new information, to which Supervisor Tupper agreed to do. Councilman Withey also suggested the Town add a link to its website of the calendar of events for the GLSC. He also suggested the members of the committee be listed. Supervisor Tupper named several of the individuals that he meets with on a monthly basis, and indicated that the incoming Supervisor planned to create a formal committee for the GLSC, which he agreed was a good idea.

Councilman Proud commented that 2019 was the first year of operation of the GLSC, which he stated was a business enterprise for the Town. The Board must be kept apprised of the activities of the GLSC. He stated that the entire community would benefit economically from the GLSC, although the Town taxpayers are paying for the park. He hoped for financial involvement from surrounding municipalities. Supervisor Tupper mentioned that Cortland County is the only county in the state with no recreation director. He commented on the impact the GLSC has had over the past year with sales tax, and room tax at hotels.

RESOLUTION #263 AUTHORIZE SUPERVISOR TO HIRE JOHN MCNERNEY AS
THE PART-TIME RECREATION DIRECTOR FOR THE TOWN
OF CORTLANDVILLE

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 the Supervisor to hire John McNerney, Youth Bureau Director for the City of Cortland, as the Part-time Recreation Director for the management of the Gutchess Lumber Sports Complex in the Town of Cortlandville, at a salary of \$5,000.00 for the year 2019, and it is further

RESOLVED, the Supervisor is hereby authorized to execute the agreement between Mr. McNerney and the Town of Cortlandville.

Councilman Withey made a motion, seconded by Councilman Proud, to receive and file correspondence from the Board on Electric Generation Siting and the Environment, dated November 19, 2019, notifying the Town that the Siting Board has opened Case 19-F-0588 to track a possible future application by EDF Renewables Development, Inc. for a certificate to construct and operate a solar generating facility with a maximum generating capability of 90-megawatt (MW) in the Towns of Homer, Cortlandville and Solon, Cortland County; and the requirements under Article 10 that the Town Supervisor is required to nominate four candidates to serve as ad hoc public members, to be named after the applicant has filed a Preliminary Scoping Statement (PSS). All voting aye the motion was carried.

With regard to the possible future application by EDF Renewables, Supervisor Tupper explained that each municipality, Homer, Cortlandville and Solon, would be required to name 4 candidates to serve on the ad hoc committee, however only 2 candidates would be selected to serve on the ad hoc committee. The Town was encouraged to familiarize itself with the nomination process and to begin considering candidates, however the earliest date that EDF Renewables may file a PSS is February 10, 2020.

Supervisor Tupper apprised the Board there were a few items to discuss that were not listed on the agenda.

The first item was in regard to the Town's Workers' Compensation Plan with Cortland County. Supervisor Tupper and Councilman Withey attended the workers' compensation meeting held at the County on December 3, 2019, which was attended by representatives of the County, City and the towns and villages. Supervisor Tupper explained that the County was prepared to move forward with hiring Public Employer Risk Management Association, Inc. (PERMA) as the administrator of the plan. Councilman Withey mentioned the urgency in the adoption of the plan, and the timing issue that was in front of the County.

Councilman Ross made a motion, which was seconded by Councilman Testa, to authorize the Supervisor to execute the contract for workers' compensation benefits as necessary subject to Attorney DelVecchio's review.

Councilman Proud commented on an email communication from Kevin Whitney, Chair of the County Legislature with regard to the current coverage through McNeil & Company and the "no bail clause in the current contract". He questioned the ramifications of such clause.

Attorney DelVecchio apprised the Board that he was not in receipt of the email and was not aware of the clause.

Supervisor Tupper indicated that the County has the contract with McNeil and that the Town has never signed any agreements with McNeil. McNeil has been the administrator of the plan, however the County planned to move forward with PERMA. Councilman Proud stated that if the agreement is not with the Towns but is solely with the County, and as long as the Town is not affected, then he was prepared to move forward.

Councilman Withey stated that the "no bail" matter did not come up in any of the discussions at the workers' compensation meeting last evening. He indicated that there were a lot of concerned entities at the meeting. Regardless, the Town was in need of insurance and a move was necessary.

RESOLUTION #264	AUTHORIZE SUPERVISOR TO SIGN THE NOTICE OF ELECTION BY A POLITICAL SUBDIVISION OR FIRE DISTRICT TO SECURE COMPENSATION AS A SELF-INSURER AND OFFICIALLY APPOINT PUBLIC EMPLOYER RISK MANAGEMENT ASSOCIATION, INC. (PERMA) AS THE TOWN OF CORTLANDVILLE'S SELF-INSURANCE REPRESENTATIVE
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Motion by Councilman Ross

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 the "Election by a Political Subdivision or Fire District to Secure Compensation as a Self-Insurer" and to officially appoint Public Employer Risk Management Association, Inc. (PERMA) as the Town of Cortlandville's self-insurance representative, and it is further

RESOLVED, the authorization is subject to Town Attorney review.

RESOLUTION #265	AUTHORIZE SUPERVISOR TO EXECUTE THE CONTRACT FOR THE TOWN OF CORTLANDVILLE'S WORKERS' COMPENSATION BENEFITS AS NECESSARY SUBJECT TO TOWN ATTORNEY REVIEW
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Motion by Councilman Ross

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 execute the contract for the Town of Cortlandville's Workers' Compensation Plan as necessary, subject to Town Attorney review.

RESOLUTION #266 AUTHORIZATION TO JOIN THE MUNICIPAL GROUP SELF-INSURANCE PROGRAM

Motion by Councilman Ross

Seconded by Councilman Testa

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

ADOPTED

WHEREAS, the Authorized Representative of the Town of Cortlandville desires to secure the Town of Cortlandville's obligations to provide volunteer firefighters' benefit law, volunteer ambulance workers' benefit law and workers' compensation benefits, as applicable, through participation in a group self-insurance program of which the Town of Cortlandville will be a member, and

WHEREAS, the Authorized Representative of the Town of Cortlandville, duly convened in regular session, does hereby resolve, pursuant to, and in accordance with the provisions of Section 50 3-a of the New York State Workers' Compensation Law and other applicable provisions of law and regulations thereunder, as follows:

Section 1. The Authorized Representative (hereinafter "Representative") of the Town of Cortlandville does hereby resolve to secure the Town of Cortlandville's obligation to provide volunteer firefighters' benefit law, volunteer ambulance workers' benefit law and workers' compensation benefits, as applicable, through participation in a group self-insurance program of which the Town of Cortlandville will be a member;

Section 2. The Representative of the Town of Cortlandville does hereby resolve to become a member of Public Employer Risk Management Association, Inc., a workers' compensation group self-insurance program for local governments and other public employers and instrumentalities of the State of New York;

Section 3. In order to effect the Town of Cortlandville's membership in said group self-insurance program, the authorized officer of the Town of Cortlandville is hereby authorized to execute and enter into the Public Employer Risk Management Association Workers' Compensation Program Agreement, annexed hereto as Exhibit A, on behalf of the Town of Cortlandville;

Section 4. This Resolution shall take effect immediately.

Councilman Proud apprised the Board that he had two matters to discuss.

First, Councilman Proud apprised the Board that he and Councilman Ross completed the job description for the new job title, "Fiscal Officer", as approved by the Board in July 2019. He would correspond with the Cortland County Personnel Department for the necessary approval to put the title in place in keeping with Civil Service requirements. The Board would discuss the matter at a later date.

The second item for discussion was with regard to the Town's street light policy. Councilman Proud explained that he emailed each Board member a memo explaining the Town's current policy for the placement of streetlights in the Town, and what he hoped the Board would consider. Currently, in order for a new streetlight to be installed, residents must petition the Town Highway Superintendent. There are no further requirements for approval other than the Town Highway Superintendent passing the request along to National Grid. Consequently, any resident could have a streetlight installed at a location they requested.

Councilman Proud continued that the cost of street lighting is not segregated in the Town budget; all Town taxpayers are responsible for the cost, including purchasing the fixture, installation and power cost. With the Town's pending agreement with Siemens Corporation to provide LED streetlights, National Grid will no longer be installing or maintaining the Town's street lighting. The Town will be purchasing the existing infrastructure from National Grid, and Siemens will be installing new LED lights. The Town will be responsible for future maintenance.

The Town cost of street lighting has been increasing with electric power costs and the inventory of lighting fixtures has increased through the years under the existing policy. Some of the increase has been for lighting in residential areas where the fixtures are classified as “decorative”. Monthly costs for street lighting are approximately \$10,000.

Councilman Proud stated that he believed the current policy needs to be changed for two reasons. First, all taxpayers are not treated fairly in the distribution of costs versus benefits. Residents with “decorative” lighting fixtures receive a benefit that is paid for by all taxpayers, receiving a disproportionate benefit. Secondly, he suggested that the policy should focus on the benefit to all residents from street lighting, which is to promote public traffic safety. Councilman Proud suggested the Board adopt a new streetlight policy in which requests for new streetlights will be presented in writing to the Town Highway Superintendent and will only be approved by the Superintendent when in his judgment they will address a public traffic or pedestrian safety issue.

Supervisor Tupper explained that as a result of the Town’s forthcoming contract with Siemens for LED streetlights, the Town’s intersections should be better lit. He explained that the Town has been installing “decorative” poles in neighborhoods with underground utilities since the 1990s.

The Board discussed the proposal and agreed that Councilman Proud’s proposal for a new streetlight policy was appropriate at this time.

RESOLUTION #267 ADOPT STREETLIGHT POLICY FOR THE TOWN OF
CORTLANDVILLE

Motion by Councilman Ross

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby adopt a new Streetlight Policy for the Town of Cortlandville, in which requests for streetlights will be presented in writing to the Town Highway Superintendent and will only be approved by the Superintendent when, in his judgment, they will address a public traffic safety issue or a pedestrian traffic safety issue.

With no further comments or discussion to be heard, Supervisor Tupper requested the Board convene to an Executive Session to discuss a personnel matter and 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 5:50 p.m.

Councilman Proud 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 6:30 p.m.

No further comments or discussion were heard.

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

The meeting was adjourned at 6:30 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 December 12, 2019.

The final version of this meeting was approved as written at the Town Board meeting of December 18, 2019.

The amended final version of this meeting was approved as written at the Town Board meeting of December 30, 2019.