

PUBLIC HEARING NO. 1

AQUIFER PROTECTION PERMIT
LEACH PROPERTIES, LLC, APPLICANT
SUIT-KOTE CORPORATION, OWNER
LORING CROSSING
TAX MAP #77.00-04-11.111 & #77.00-04-11.112

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 an application for an Aquifer Protection Permit submitted by Leach Properties, LLC to consolidate an 8.25+/- acre parcel and a 2.26+/- acre parcel and to subdivide the newly created 10.51+/- acre parcel into two parcels of 9.36+/- acres and 1.15+/- acre lot as an access road, parking area and equipment storage for an existing adjacent transfer station, for property located approximately 550' east of the intersection of Loring Crossing and NYS Route 13, owned by Suit-Kote Corporation, tax map #77.00-04-11.111 & #77.00-04-11.112.

Members present:

Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, Ronal L. Rocco
Councilman, John C. Proud
Councilman, Gregory K. Leach*
Town Clerk, Karen Q. Snyder, RMC

* Left the Board table and joined the audience.

Others present were: Town Attorney, John Folmer; Attorney Donald Armstrong; Barb Leach; Andrea Niggli; Patrick and Sarah Leach; Lesa Williams; Lisa Soler; Pam Jenkins; Larie and Bill Cifaratta; Nick and Alysha Dunn; Michael Barylski; Ken Angel; Steven Moffitt; Marie Kautz; Colin Cummins; Andrea Rankin; Joe and Kathy Compagni; Mary Beilby; News Reporters: Eric Mulvihill from WXHC, Tyrone Heppard from the *Cortland Standard*, Melanie Arnold from Channel 2, Access TV, and Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the Public Hearing to order.

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

Supervisor Tupper explained that this was a Public Hearing for an Aquifer Protection Permit. He stated that the Board would be glad to listen to comments regarding the Aquifer Permit process. He offered privilege of the floor to the applicant.

Attorney Donald Armstrong introduced himself stated he appreciated the opportunity to address the Board on Mr. Leach's behalf and provide a bit of clarification. The application was for approval of an Aquifer Protection Special Permit with respect to the planned use of an approximate 9 acre parcel. The parcel would be combined with the existing business parcel owned by Mr. Leach, which he and his family have maintained in business for over 30 years. The planned use for the property includes the installation of a driveway from the east boundary of the current property line to the south side of Loring Crossing. It would be gravel. It also includes the installation of a gravel parking area for storage containers and the parking of some equipment.

On behalf of Mr. Leach, Attorney Armstrong submitted copies of an equipment list to the Board. He noted that the items on the list are on Mr. Leach's property now. Most of the equipment listed are containers, which if they are being used are not always on site. The list showed the maximum number of the items to be stored. The parking area would be used for storage of the items on the list.

Attorney Armstrong explained that the driveway would allow some of the truck traffic to enter and exit from Loring Crossing rather than only from Route 13 as is present. The parking and storage of the items from the list that Attorney Armstrong provided would allow for a more efficient business operation.

Attorney Armstrong stated that if you were to observe the parcel as it is right now it is a "scrub lot". He explained that when finished it would have a clear and neat driveway, a clear and defined parking area for storage, it would have some landscaping, and the scrub would be cleaned off of the site. Mr. Leach invited members of the Board to visit his business operation in the past, and Attorney Armstrong extended the invitation again. The area would be cleaned up to accommodate the driveway and parking, and to use it as an accessory to the current business.

Attorney Armstrong addressed the “gorilla in the room” which he stated may be why some people were in attendance tonight. He stated that there is some information out there that the application by Mr. Leach is part of some agreement with the County related to the County’s landfill situation. Attorney Armstrong stated that the belief is based on rumor, speculation or innuendo. Attorney Armstrong indicated that Mr. Leach has had discussions with people at the County level, however there is no agreement and there never was.

Attorney Armstrong stated that Mr. Leach has maintained his business for over 30 years and at various times over the last 30 years has had communications with the County representatives and will continue to for any number of reasons. In terms of this application being part of some agreement or plan, Attorney Armstrong stated that the application should not be reviewed with that thought in mind.

Attorney Armstrong stated that this application is another step in a process that Mr. Leach has followed that began several months ago relating to a subdivision and a variance. The applications were for a 9 acre parcel for a limited change in use that has been submitted to the various boards in the Town and implemented upon final approval and nothing more.

Attorney Armstrong suggested that the timing of the purchase may fit in well with what the County may or may not be planning. For informational purposes, he apprised those in attendance that Mr. Leach has been trying to purchase the parcel for years. The parcel became available this year and Mr. Leach pursued the purchase by entering into the contract and started the permit process. Attorney Armstrong stated that the timing of the application had nothing to do with anything other than his desire to improve the operation of his business.

With respect to the environmental issue itself and the Aquifer Protection law, Attorney Armstrong stated that the planned use of the parcel conforms fully with the concerns of the Town and does not present any threat to the aquifer or to the environment in general. The use would be for the driveway to be installed and for storing containers that are on the adjoining site right now. Attorney Armstrong stated that the Board should conclude that there is no environmental risk, no risk to the aquifer, and should grant the Aquifer Permit. He also acknowledged that the Stormwater plan needs to be completed.

In closing, Attorney Armstrong acknowledged that the granting of the approvals received so far, and if the Aquifer Permit is approved, addresses only this parcel and only the limited change in use planned for the parcel, whether it be Greg Leach who owns the parcel in the future or somebody else. He stated that the “application relates to a limited piece, a limited use, and does not in any way affect any future ability to use the parcel beyond what this application or the applications before the other boards have asked for review and approval of.”

Attorney Armstrong stated they would be glad to answer any questions.

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

Pam Jenkins introduced herself and stated that she was speaking on behalf of a few other people who couldn’t be in attendance.

Ms. Jenkins stated that Mr. Leach’s application applies to the 10.51 acres which he plans to purchase, and referenced page 2 of the Cortland County Planning Department’s report dated October 16, 2015, which she stated points out that the application applies to the 10.51 acres. Ms. Jenkins stated that SEQRA law defines anything which affects 10 or more acres as a Type I action, and that a full environmental assessment form must be filled out. She read an excerpt from 6 CRRNY 617.4 regarding Type I actions and 10 acres.

Ms. Jenkins stated that after the SEQRA process has been completed, Mr. Leach can apply to divide the purchase into parcels, but the application applies to the 10.51 acres as noted in the County’s document dated October 16, 2015. The Short Environmental Assessment Form that the applicant began and asked the Board to complete is not the correct form to complete for the Type I action. Ms. Jenkins requested the Board adjourn the public hearing and require a Full Environmental Assessment Form (Full EAF) be completed for the 10.51 acres that is the subject of Mr. Leach’s application.

Ms. Jenkins stated that any decisions or action that has been taken before the SEQRA process is complete are improper as SEQRA says that you must complete the SEQRA process before any use variances or Planning Board recommendations are given. Ms. Jenkins stated that SEQRA has not been completed and no action can be taken on the application until the Full EAF has been completed.

Ms. Jenkins stated that at the last Town Board meeting she documented and presented to the Board how the use variance was granted improperly; the applicant did not claim or prove hardship. Supervisor Tupper interjected and reminded Ms. Jenkins that the variance dealt with the ZBA and did not have anything to do with an Aquifer Permit. Ms. Jenkins stated that she wanted to point out that permits should not be continued to be granted. She also mentioned that she was asking Attorney Folmer to instruct the ZBA to rescind their use variance. She stated it

would be premature to grant further permits until this matter is settled by Attorney Folmer, the ZBA, or the court.

Regarding the Aquifer Protection Permit, Ms. Jenkins reiterated that a Full EAF was required. She stated there was no information available regarding the numbers of truckloads or the tons of fill required to make Mr. Leach's proposed road and paved areas in the low-lying flood plain. She questioned what impact this would have on the downstream properties.

Ms. Jenkins pointed out Cortland County Planning Board Recommendation #2 is for a list of the type and number of pieces of equipment on the expansion, which was not submitted until tonight. The Aquifer Permit application is for a road and parking area, but Ms. Jenkins stated that Mr. Leach told the ZBA and the Planning Board that he wanted more room for his equipment and for his subcontractor's equipment. She repeated that she has not seen such list.

Ms. Jenkins recapped her comments. The threshold for Type I actions is 10 acres. Mr. Leach's application applies to the 10.51 acres he plans to purchase and cannot be subdivided until SEQRA is completed; he therefore meets the threshold for a Type I action. Ms. Jenkins suggested that even if the Board just considers the 9.36 acres, it should be treated as a Type I action with a Full EAF required because of the aquifer and the floodplain, and also because Mr. Leach did not provide enough information for the Board to make an informed decision. She requested the Board label the 10.51 acre expansion as a Type I action under SEQRA, require a Full EAF, and adjourn the public hearing until the Full EAF is available for the public and officials to review.

Supervisor Tupper questioned whether there was anyone else who wished to speak.

Mike Barylski thanked the Board for the opportunity to speak. Since Attorney Armstrong brought up the "gorilla in the room" he asked for a little latitude with his remarks so he could convey to the Board that the perception of the public is "being shaped by what has been happening here" and by Mr. Leach's presence on the Board.

Mr. Barylski stated that over the years he has seen Mr. Leach running a clean operation near Loring Crossing. He has observed a hard-working, concerned citizen, and business person contributing to this community. Mr. Barylski stated that some of the aspects that you don't see is that the mere presence of Mr. Leach on the Board has had a negative effect on many of the people of the County as there are projects that come to both the Town Board and the County. He felt that Mr. Leach's position as a member of the Board has intimidated people from speaking about projects because of the concern for retaliation. He recalled the wind turbine project in the past, and stated that he was fearful of coming out and speaking his mind and correcting some of the false statements Mr. Leach made about flow-control. He stated that Mr. Leach has misled the community to a great extent over that.

Mr. Barylski stated that having Mr. Leach as the applicant on a project that is being voted on by members of the ZBA when he has a vote in appointing them, and having to put the members of the Town Board in the position of voting on the project, is inappropriate. He stated that even if it is not illegal it has the appearance of corrupt town government. Mr. Barylski stated that Mr. Leach should do one of two things. He could withdraw his application at this time and remove himself as a member of the Board. Mr. Barylski started to discuss the variance that was granted and stated that it was a self-created hardship. Supervisor Tupper asked Mr. Barylski to focus on the aquifer protection permit as the ZBA has already made a determination and the Board is relying on that.

Mr. Barylski stated that based on the knowledge the Board has, he would recommend that the Board could also decide to deny the proposal without prejudice and allow Mr. Leach to apply as a member of the public and not as a member of the Board, so that the perception by members of the community does not continue to exist.

Supervisor Tupper questioned whether there were any more comments to be made.

Patrick Leach introduced himself as the Manager of Leach's Custom Trash. He stated that his father is a member of the public and anyone on the Board can attest that there are a limited number of people who want to be on the Board. He stated that favoritism is not shown and that his father is the most honest man he knows.

Mr. Leach stated that there have been a lot of changes in the business in the last eight years. They have the opportunity to purchase the land finally and as his grandfather would say, "you buy land when you can because they don't make it anymore." He stated that the bottom line was that they need a driveway and they need more access.

Mr. Leach explained that they would not be blacktopping the driveway; it was a rumor. The plans were to put in 2-foot of material for the driveway, and that it would not be built up. Mr. Leach felt that Attorney Armstrong covered the rumors well.

Mr. Leach stated that he has been the Manager for 8 years and that his father “runs a tight ship”. In the 10 years that they have been running the transfer station they have had spot DEC checkups, and have never failed any inspection. He stated that what they were looking to do was to put in a driveway and for the storage.

Lisa Soler stated that it has been about 20 years since she has been in front of the Board. She stated that she thinks very highly of Mr. Leach and that he is a good business man, is a good neighbor, and that she is a customer of his. She also mentioned that her parents are the owners of the Yellow Lantern Campground.

She apprised the Board that 20 years ago she came before the Board regarding an application made by Suit-Kote Corporation. She questioned whether the lots being discussed tonight were the same lots that Suit-Kote was denied for spot zoning 20 years ago.

Councilman Testa stated that he believed they were, however Supervisor Tupper stated they were not certain it was the same property.

Ms. Soler stated that it was the same property and discussed her concern with what could happen if the plans go through, and the next generation of her family is running the campground, and Mr. Leach chooses to sell the property back to the seller. She understood that the use would be different, but her fear, which she wanted made public, was that precedent would be set that could not be reversed. She realized that there are laws in place and that there is always a way to “fix”, but that they had to fix by way of legal venue last time. She thought it should be known that this is the same property and the seller of the property is the person they fought initially. Ms. Soler stated that this was a concern for many neighbors in the area who won’t come forward.

Ms. Soler stated that whatever use is granted for the property – whatever comes as a result of this – she didn’t want it to transfer so that the “nightmare that went away 20 years ago comes back.” She stated she was speaking on behalf of her entire family. She was worried about the future and asked the Board to take that into consideration.

Supervisor Tupper questioned if there were any further comments.

Councilman Rocco encouraged people to speak as it was a public hearing. He stated that he did not want anyone to feel intimidated in the room.

Andrea Niggli introduced herself as Mr. Leach’s daughter. She appreciated Ms. Soler speaking highly of her father. She stated that if the property gets passed on its getting passed on to family. She stated that the process before the Board is for the driveway and that is all this is. Miss Niggli stated that her father was not intimidating and that to hear people saying such was hurtful.

Supervisor Tupper questioned whether anyone else wished to speak from the public.

No further comments or discussions were heard.

The Public Hearing was closed at 5:40 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, Cortland, New York, with Supervisor Tupper presiding.

Members present:

Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, Ronal L. Rocco
Councilman, John C. Proud
Councilman, Gregory K. Leach*
Town Clerk, Karen Q. Snyder, RMC

* Returned to the Board table.

Others present were: Town Attorney, John Folmer; Attorney Donald Armstrong; Barb Leach; Andrea Niggli; Patrick and Sarah Leach; Lesa Williams; Lisa Soler; Pam Jenkins; Larie and Bill Cifaratta; Nick and Alysha Dunn; Michael Barylski; Ken Angel; Steven Moffitt; Marie Kautz; Colin Cummins; Andrea Rankin; Joe and Kathy Compagni; Mary Beilby; News Reporters: Eric Mulvihill from WXHC, Tyrone Heppard from the *Cortland Standard*, Melanie Arnold from Channel 2, Access TV, and Peter Blanchard from the *Cortland Voice*.

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Rocco, to receive and file the Cortlandville Zoning Board of Appeals Minutes of July 28, 2015, August 25, 2015, September 29, 2015, and October 27, 2015. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Rocco, to receive and file the Cortlandville Planning Board Minutes of July 28, 2015, August 25, 2015, September 29, 2015, and October 27, 2015. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to approve the Draft Town Board Minutes of October 21, 2015 and November 4, 2015 as written. All voting aye, the motion was carried.

RESOLUTION # AUTHORIZE SUPERVISOR TO SIGN
PURCHASE ORDER #118

Motion by Councilman Proud
Seconded by Councilman Leach
VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach NAY – 0
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #118 submitted by Water & Sewer Sup’t. Alteri to be paid to Scadatek, Inc., for control panel upgrades and engineering services for the Water Control System – Lime Hollow Upgrade, for the total cost of \$7,480.00.

RESOLUTION # AUTHORIZE PAYMENT OF VOUCHERS – NOVEMBER

Motion by Councilman Rocco
Seconded by Councilman Leach
VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach NAY – 0
ADOPTED

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

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| Funds A, B, DA, DB | Voucher #1024-1073 | |
| | General Fund A | \$315,536.48 |
| | General Fund B | \$ 20,979.94 |
| | Highway Fund DA | \$ 0.00 |
| | Highway Fund DB | \$265,557.43 |

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| Funds CD1, CD3, CD4 | Voucher #53-53 | | |
| | BMills Rehab CD1 | \$ | 0.00 |
| | Town Wide Rehab CD3 | \$ | 5,200.00 |
| | Business Devl CD4 | \$ | 0.00 |
| Fund HA, HB, HC, HD, HE, SS, SW | Voucher #418-441 | | |
| | Luker Rd Water HA | \$ | 0.00 |
| | Owego St Water HB | \$ | 0.00 |
| | NYS Rt 13 Sewer Rehab HC | \$ | 0.00 |
| | Oakcrest/Pendleton Sewer HD | \$ | 0.00 |
| | Saunders Rd Sewer HE | \$ | 0.00 |
| | Sewer SS | \$ | 167,507.04 |
| | Water SW | \$ | 51,245.36 |
| Funds SF, TA, TE | Voucher #38-38 | | |
| | C'Ville Fire District SF | \$ | 0.00 |
| | Trust & Agency TA | \$ | 521.76 |
| | Expendable Trust TE | \$ | 0.00 |

The monthly reports of the Supervisor and Town Justices for the month of October were on the table for review and are filed in the Town Clerk's office.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from Time Warner Cable, dated November 18, 2015, regarding programming services. All voting aye, the motion was carried.

*Councilman Leach removed himself from the Board table at this time and left the meeting room.

There was discussion regarding the Aquifer Protection Permit application submitted by Leach Properties, LLC for property located off of Loring Crossing.

Supervisor Tupper stated that the Board was planning on doing the long form. Attorney Folmer stated that the Board has a Part II and III of the Short Environmental Assessment Form.

Supervisor Tupper first commented on the different board positions in the Town. He stated that the members of the Board are part time and have businesses and may have the necessity to go before the ZBA or Planning Board for a permit. He stated that there is no intimidation from members of the Board to anyone on the ZBA or the Planning Board. The members of the ZBA and Planning Boards are appointed for a five-year term, cannot be fired, and are not intimidated by members of any other board. Supervisor Tupper stated that the Board relies on the members of the ZBA and Planning Board to do their job properly.

Supervisor Tupper explained that when applications come before the Board like the Aquifer Protection Permit that is before the Board tonight, the Board looks at the application, the County approved it, the Planning Board approved it, and the ZBA approved it. The Aquifer Protection permit application is solely based on a driveway and a storage facility.

Supervisor Tupper suggested Attorney Folmer proceed with the SEQR review.

Attorney Folmer asked if there was any discussion the Board would like to have first.

Councilman Rocco indicated that he had some questions. First he asked if the driveway would be stone or blacktop. After discussion it was clarified that the driveway would be 2 feet of gravel.

Councilman Rocco asked about the spot zoning issue.

Attorney Folmer explained that the ZBA granted a variance to expand a non-conforming use. It was not a change of zone. The zoning would remain exactly the same, but there would be a variance attached. If in the future someone wants to change or expand that non-conforming use, they would have to come back before the ZBA and Planning Board. Attorney Folmer added that if a governmental agency that is superior in jurisdiction to the Town becomes involved, then the Town's regulations cannot control it.

Councilman Rocco questioned what would happen if the County purchased the property. Attorney Folmer stated that if the County bought the property they could only do what they are permitted to do subject to DEC regulations regarding stormwater, flood management, etc. The Town would not have control.

Councilman Rocco asked whether the property was 10.5 acres or 9 acres. Attorney Folmer read from page 6 of the County Planning Department's report, which stated "Finally, this proposal is considered an Unlisted Action under SEQR. The applicant completed Part I of the Short Environmental Assessment Form. Part II and Part III should be completed by the Town to

determine if there may be any significant adverse environmental impacts as a result of the proposed use.” Attorney Folmer stated that if the County was looking at a proposal for 10.5 acres they would have had to say it was a Type I Action, but they said it was an Unlisted Action. He then referred to page 4 of the County Planning Department’s report which read as follows:

“The applicant is now requesting a subdivision, use variance, conditional permit, aquifer protection district special permit and development permit for flood hazard areas to consolidate an 8.25 +/- acre parcel and a 2.26 +/- acre parcel and to subdivide the newly created 10.51 +/- acre parcel into two parcels of 9.36 +/- acres and 1.15 +/- acre for use of the 9.36 +/- acre lot as an access road, parking area and equipment storage for an existing adjacent transfer station.”

Attorney Folmer stated that the County Planning Department then concludes on page 6 that it is an Unlisted Action.

Councilman Rocco voiced his concern that he was put in a difficult position as he knew Mr. Leach his family for many years and spoke of mixing business with pleasure. Councilman Proud stated that he was not mixing business with pleasure and suggested they stick to business.

Councilman Rocco stated that was concerned about the operation getting larger and larger as it was is a flood zone. He recalled that 10 years ago he made the motion allowing for the transfer station, “thinking that it was just home trash and that if the river floods they should be okay.” He was concerned about the property being in the flood zone and that it should be at least a Type I action.

Councilman Rocco asked what the driveway would be used for. Attorney Armstrong stated that the driveway would be used for ingress and egress off of Loring Crossing. Right now the only access to the property was from Route 13. The driveway would be an ancillary entry and exit to and from the property from Loring Crossing.

Councilman Rocco questioned whether the list of equipment provided by Attorney Armstrong would be the only items to be stored on the parcel. Attorney Armstrong stated that the Board could impose as a condition of approval that those are the items that are allowed to be parked on the parcel. If that is what is included as a condition of the approval then Mr. Leach or a subsequent owner of the property would be going by that.

Councilman Rocco stated that he did not have any more questions, but stated it weighs heavily when you pass the first variance and see a business grow in a flood zone, and when there is concern for the aquifer. He questioned whether the business would continue to grow and whether the applicant would keep coming in for variances, and if the Board would continue to grant variances. Councilman Proud clarified that the Town Board does not grant variances but that the ZBA grants variances. Attorney Folmer suggested Councilman Rocco pose his questions to the ZBA.

Councilman Rocco asked Attorney Folmer for his recommendation.

Attorney Folmer stated that his recommendation would be that the ZBA, Planning Board, and the Town Board abide by the provisions of the statutes that say this is the way you determine whether or not a variance is to be granted or denied.

Discussion continued. Supervisor Tupper suggested that Councilman Rocco was asking questions that have no bearing on whether the Board issues an Aquifer Permit or not.

There were no further questions. Supervisor Tupper and Councilman Proud both indicated that they read all of the literature that came before them regarding the Aquifer Protection Permit application.

Supervisor Tupper asked Attorney Folmer to start the SEQR review.

First, Attorney Folmer suggested the Board abide by the determination made by the County Planning Board that this is an Unlisted Action, which means the Board would be completing a Short Environmental Assessment Form.

Secondly, to respond to the request made by Pam Jenkins for Attorney Folmer to rescind the action of the ZBA, he stated that did not have such authority nor does the Board. He mentioned that one of the things SEQRA prohibits is a “segmented SEQRA process”; you are not supposed to it piece by piece but rather do it once and the way the requirements exist. To ask the ZBA to do a SEQRA, for the Planning Board to do a SEQRA, and the Town Board to do a SEQRA is a segmented SEQRA process and is not consistent with SEQRA regulations.

Attorney Folmer asked the Board to review the 8 conditions contained in the County Planning Board’s recommendations, and asked they consider a condition of their own limiting the storage of the materials on the subject property to the list, which was submitted to the Board this evening. There would be a total of 9 conditions attached to the permit. The County Planning Board’s conditions include the stormwater regulation as well as flood plain development regulations, per their document dated October 16, 2015.

Councilman Proud asked Attorney Folmer to read the 8 conditions set by the County Planning Board. Attorney Folmer read all 8 conditions out loud.

Supervisor Tupper questioned whether the Board should receive and file the list of equipment to be stored on the property that was submitted by the applicant this evening. Attorney Folmer suggested the list be received and filed.

Councilman Rocco made a motion, seconded by Councilman Proud, to receive and file the detailed list of equipment to be stored on property located off of Loring Crossing, tax map #77.00-04-11.111 and #77.00-04-11.112, provided by Attorney Donald Armstrong on November 18, 2015, in relation to the Aquifer Protection Permit application submitted by Leach Properties, LLC. All voting aye, the motion was carried.

Councilman Rocco questioned if the applicant would have to go before the ZBA for a variance if he wanted to modify the list of equipment. Attorney Folmer explained that the applicant would have to come before the Town Board for a modification of his Aquifer Protection Permit.

Attorney Folmer and the Board reviewed the SEQR Short Environmental Assessment Form. There was a difference in opinion regarding question number 10, "Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?" Councilman Rocco thought there would be a moderate impact, while the rest of the Board thought there would be a small impact. After discussion, Attorney Folmer stated he would mark the box as a small impact based on the majority of those present.

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| RESOLUTION # | DECLARE NEGATIVE IMPACT FOR AQUIFER PROTECTION PERMIT #6 OF 2015 SUBMITTED BY LEACH PROPERTIES, LLC FOR PROPERTY LOCATED OFF OF LORING CROSSING |
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Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud NAY – Rocco RECUSED – Leach
ADOPTED

WHEREAS, an Aquifer Protection Permit application was submitted by Leach Properties, LLC to permit the consolidation of an 8.25+/- acre parcel and a 2.26+/- acre parcel and to subdivide the newly created 10.51+/- acre parcel into two parcels of 9.36+/- acres and 1.15+/- acre lot as an access road, parking area and equipment storage for an existing adjacent transfer station, for property located approximately 550' east of the intersection of Loring Crossing and NYS Route 13, owned by Suit-Kote Corporation, tax map #77.00-04-11.111 & #77.00-04-11.112, 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 Leach Properties, LLC, Aquifer Protection Permit #6 of 2015, shall have no significant environmental impact.

Councilman Rocco asked if he could explain his Nay vote. He stated that he believed it was a 10.5 acre parcel and required a Type I action. He stated that he did not like the fact that they didn't know about the road and when it would be completed. He felt that it would affect the aquifer, as the property is located in the primary district of the aquifer. He also stated that the County could buy the property and could do whatever they want with it, so perhaps the Board's deliberations would not matter.

RESOLUTION # AUTHORIZE SUPERVISOR TO SIGN SEQRA
APPLICATION OF AQUIFER PROTECTION
PERMIT #6 OF 2015

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud NAY – Rocco RECUSED – Leach
ADOPTED

BE IT RESOLVED, the Supervisor is hereby authorized and directed to sign the SEQRA application relating to Aquifer Protection Permit #6 of 2015, submitted by Leach Properties, LLC.

RESOLUTION # APPROVE AQUIFER PROTECTION PERMIT #6 OF 2015
SUBMITTED BY LEACH PROPERTIES, LLC FOR
PROPERTY LOCATED OFF OF LORING CROSSING
SUBJECT TO CONDITIONS

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Proud NAY – Rocco RECUSED – Leach
ADOPTED

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

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

BE IT RESOLVED, the Town Board does hereby approve Aquifer Protection Permit #2 of 2015, submitted by Leach Properties, LLC permitting the consolidation of an 8.25+/- acre parcel and a 2.26+/- acre parcel and to subdivide the newly created 10.51+/- acre parcel into two parcels of 9.36+/- acres and 1.15+/- acre lot as an access road, parking area and equipment storage for an existing adjacent transfer station, for property located approximately 550' east of the intersection of Loring Crossing and NYS Route 13, owned by Suit-Kote Corporation, tax map #77.00-04-11.111 & #77.00-04-11.112, subject to conditions from the Town and County Planning Boards:

1. The applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship as is necessary before any use variance may be granted.
2. The applicant's submittal of a detailed description to the Town as to the number and type of equipment to be stored in the proposed parking area.
3. The applicant adhering to any applicable outdoor storage regulations in the Town of Cortlandville zoning code.
4. The applicant preparing and receiving approval of a stormwater pollution prevention plan for the site per the Town's stormwater ordinance since this proposal would result in an increase in impervious surface on the site of at least 10,000 sq. ft.
5. The applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) per the NYS Phase II Stormwater Regulations if it is determined that more than one acre of land would be disturbed as a result of this project.
6. Any development in the floodplain adhering to the Town's floodplain development regulations.
7. The applicant filing with the Town, a County Highway Law Section 136 Permit signed by the County Highway Superintendent approving the proposed new driveway/private road entrance to Loring Crossing and any other work that is planned to occur within the County Highway right of way since Loring Crossing is a County road.

8. Compliance with SEQR requirements.
9. The equipment to be stored on the property shall be limited to the detailed list provided by the applicant and received and filed at the Town Board Meeting of November 18, 2015.

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

RESOLUTION # ADOPT THE TOWN BUDGET FOR FISCAL YEAR OF 2016

Motion by Councilman Proud

Seconded by Councilman Testa

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

WHEREAS, on the 4th day of November, 2015 the Town Board of the Town of Cortlandville, held a Public Hearing on the Preliminary Budget and proposed amounts to be raised by the benefit tax on benefited properties in the Town Sewer and Town Water Improvement Districts, approved by the Town Board, and filed with the Town Clerk for fiscal year commencing January 01, 2016, and having heard all persons in favor of, or against any items therein contained, therefore

BE IT RESOLVED, the Preliminary Budget is hereby approved as filed, and the same is hereby adopted and established as the annual budget of this Town for the fiscal year beginning January 01, 2016, and such annual budget, as so adopted, is filed with the Town Clerk, and it is further

RESOLVED, that the Town Clerk of this Town shall prepare and certify, as provided by law, duplicate copies of the annual budgets, hereby adopted, together with the assessment rolls for the benefit of improvement for the Sewer and Water Funds, adopted pursuant to Section 202-a of the Town Law and within five days thereof, deliver two copies to the Supervisor of the Town and the Supervisor shall present the copies of the annual budget to the Legislature of Cortland County within ten days after his receipt thereof from the Clerk.

Neither Town Clerk Snyder nor Attorney Folmer had any new business to report.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from Kathleen Wright, Animal Health Inspector for NYS Agriculture & Markets, dated November 2, 2015, regarding the Dog Control Officer Inspection Report completed on October 29, 2015. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file correspondence from Kathleen Wright, Animal Health Inspector for NYS Agriculture & Markets, dated November 2, 2015, regarding the Municipal Shelter Inspection Report completed on October 29, 2015. All voting aye, the motion was carried.

RESOLUTION # AUTHORIZE SUPERVISOR TO SIGN THE AFFIDAVIT
REGARDING THE TOWN'S 2013 COMMUNITY
DEVELOPMENT BLOCK GRANT TOWN-WIDE HOUSING
REHABILITATION PROGRAM BETWEEN THE TOWN AND
MARIE A. VOGT

Motion by Councilman Proud

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby authorize the Supervisor to sign the Affidavit regarding the Town's 2013 Community Development Town-Wide Housing Rehabilitation Program, between the Town of Cortlandville and Marie A. Vogt, 4632 Route 41, McGraw, New York regarding the extension of loan funds by the Town's CDBG Program for the total amount of \$1,200.00.

RESOLUTION # AUTHORIZE SUPERVISOR TO TRANSFER FUNDS FROM
FUND BALANCES INTO ESTABLISHED RESERVE
ACCOUNTS

Motion by Councilman Testa

Seconded by Councilman Rocco

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to transfer the following funds from fund balances into the following reserve accounts:

- \$50,000.00 from DB fund balance into Highway Equipment Capital Reserve Fund DB 231

- \$15,000.00 from Water fund balance into Water Improvement Capital Reserve Fund SW 231

- \$25,800.00 from Sewer fund balance into Sewer Improvement Capital Reserve Fund SS 231

There was a brief discussion regarding the request made by Pyrotek, Inc. to adjust the 3rd Quarter sewer charge and water and sewer penalties for property located at 641 Route 13, Account #2123. Councilman Proud clarified that the adjustment was to remove the sewer charge in the amount of \$3,811.17; to remove the water penalty in the amount of \$273.29; and to remove the sewer penalty in the amount of \$381.12. The sewer was not installed until after that the 3rd Quarter readings were done.

RESOLUTION # AUTHORIZE TOWN CLERK TO ADJUST SEWER CHARGE
AND WATER AND SEWER PENALTY FOR 3RD QUARTER
BILLING OF PYROTEK, INC. FOR PROPERTY LOCATED AT
641 ROUTE 13

Motion by Councilman Proud

Seconded by Councilman Rocco

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

WHEREAS, a request was received from Pyrotek, Inc. to remove the sewer charge, and the water and sewer penalty for the 3rd Quarter billing of Account #2143, for service to 641 Route 13, tax map #105.00-03-14.000, and

WHEREAS, Pyrotek, Inc. did not connect to Town sewer until September 17, 2015, which was after the 3rd Quarter readings were completed for billing, therefore

BE IT RESOLVED, the Town Clerk is hereby authorized and directed to remove the 3rd Quarter billing sewer charge in the amount of \$3,811.17; remove the water penalty in the amount of \$273.29; and remove the sewer penalty in the amount of \$381.12, for the 3rd Quarter Billing of Pyrotek, Inc., 641 Route 13, a total adjustment of \$4,465.58.

RESOLUTION # AUTHORIZE CHANGE ORDER NO. 6 FROM VACRI
CONSTRUCTION CORPORATION FOR THE NYS ROUTE 13
SANITARY TRUNK SEWER REHABILITATION PROJECT

Motion by Councilman Proud

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to execute Change Order No. 6 from Vacri Construction Corporation for the Final Quantity Adjustments as part of the Project Closeout, for the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project.

Councilman Proud made a motion, seconded by Councilman Rocco, to receive and file correspondence from Sandy Panzanella, Lisa Panzanella-Soler, Lesa Williams, Cheri & Chuck Sheridan, Alison B. King, Kathy Arnold, Michael Barylski, Pam Jenkins & Colin Cummis, to Town Attorney Folmer and the Cortlandville Zoning Board of Appeals (ZBA), dated November 16, 2015, asking the ZBA to rescind their October 27, 2015 decision to grant a Use Variance to Leach Properties, LLC. All voting aye, the motion was carried.

No further comments or discussion were heard.

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

The meeting was adjourned at 6:25 p.m.

Respectfully submitted,

Karen Q. Snyder, RMC
Town Clerk
Town of Cortlandville

*Note:

The draft version of this meeting was submitted to the Town Board for their review on December 11, 2015.

The draft version of this meeting was approved with changes at the Town Board meeting of December 16, 2015.