

PUBLIC HEARING NO. 1

2016 PRELIMINARY BUDGET

A Public Hearing was held by the Town Board of the Town of Cortlandville at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, concerning the 2016 Preliminary Budget.

Members present:

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

Excused:

Councilman, John C. Proud

Others present were: Town Attorney, John Folmer; County Legislator, Joe Steinhoff; Pam Jenkins; Bob Martin; Mary Beilby; Barbara Leach; Andrea Niggli; Patrick and Sarah Leach; Charlotte Faris; Lesa Williams; News Reporters: Eric Mulvihill from WXHC, Leann Hlebica from the *Cortland Standard*, Sharon Stevans from Channel 2, Access TV.

Supervisor Tupper called the Public Hearing to order.

Town Clerk, Karen Q. Snyder read aloud the Legal Notice as published, posted and filed.

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

No requests were made.

Supervisor Tupper commented that the Town tax rate should remain at \$3.06 per thousand of assessed value, which it has been for 11 years. He did not anticipate a water or sewer rate increase for 2016. He also mentioned that the Cortlandville Fire District tax rate decreased for 2016.

Supervisor Tupper thanked Town Bookkeeper Marcia Hicks and the department heads for their time and hard work on the budget. He stated that the budget process is very complicated and takes about two months to complete.

No further comments or discussion were heard.

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

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Raymond G. Thorpe Municipal Building, Cortland, New York, with Supervisor Tupper presiding.

Members present:

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

Excused:

Councilman, John C. Proud

Others present were: Town Attorney, John Folmer; County Legislator, Joe Steinhoff; Pam Jenkins; Bob Martin; Mary Beilby; Barbara Leach; Andrea Niggli; Patrick and Sarah Leach; Charlotte Faris; Lesa Williams; News Reporters: Eric Mulvihill from WXHC, Leann Hlebica from the *Cortland Standard*, Sharon Stevans from Channel 2, Access TV.

Supervisor Tupper called the meeting to order.

Councilman Leach made a motion, seconded by Councilman Rocco, to approve the Draft Town Board Minutes of October 7, 2015 as written. All voting aye, the motion was carried.

RESOLUTION #

AUTHORIZE PAYMENT OF VOUCHERS – NOVEMBER

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

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

Funds A, B, DA, DB	Voucher #982-1023	
	General Fund A	\$ 96,732.50
	General Fund B	\$ 24,800.24
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 28,420.15
Funds CD1, CD3, CD4	Voucher #51-52	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 19,555.86
	Business Devl CD4	\$ 0.00
Fund HA, HB, HC, HD, HE, SS, SW	Voucher #400-417	
	Luker Rd Water HA	\$ 2,040.00
	Owego St Water HB	\$ 1,540.00
	NYS Rt 13 Sewer Rehab HC	\$ 11,127.00
	Oakcrest/Pendleton Sewer HD	\$ 8,070.22
	Saunders Rd Sewer HE	\$ 0.00
	Sewer SS	\$ 429.18
	Water SW	\$ 5,179.36
Funds SF, TA, TE	Voucher #(None)	
	C’Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 0.00
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to Pam Jenkins.

Town resident, Pam Jenkins, read from a prepared statement and asked that it be made part of the record, in its entirety, which is as follows.

Comments Leach CV newest

Comments Cortlandville 11 4 2015 Leach

I ask that these comments be made part of the meeting record, in their entirety.

At the Cortlandville ZBA Public Hearing of 10/27/2015,

It appears that the ZBA was arbitrary and capricious in granting the use variance Mr Leach requested...It appears that they violated their own protocol:

At the ZBA Public Hearing, it appeared that Mr Leach did not claim or demonstrate hardship, indeed he talked about his successful business, purchasing other property in the area, and new truck and new 2000 gallon fuel tank that was recently installed.

... even if he had given any hint of a claim to hardship, the hardship is absolutely self-created because he chose to build in an area where many of his business activities are prohibited by numerous zoning codes...he knew this before he ever built anything on the property, and the proposed property expansion is in the same zone where his uses are prohibited.

Mr Leach stood in front of the ZBA and turned and pointed and **yelled at** me and Lesa Williams several times, while we remained seated on the benches.

This bullying intimidation directed at me by Mr Leach, prevented me from standing at the Public Hearing to ask:

“Exactly how is Mr Leach claiming or proving hardship? What has the ZBA required of the applicant as proof of hardship, what review of finances was done?” I was too afraid of being targeted again by the applicant to speak again at the Public Hearing.

I want to know what the ZBA review of the applicant’s claim of hardships was that resulted in the ZBA granting the use variance.

What did the ZBA require of Mr Leach to prove hardship, because this was not discussed at the Public Hearing. Did Mr Leach submit anything in writing to prove hardship? When did this review of applicant’s claim of hardship take place? Where is it documented? What are the findings statements of the ZBA?

Mr Leach does not have any legal right to continue to expect to be exempted from Cortlandville zoning regulations.

There can be no expectation by the applicant of any further use variances simply because a use variance was granted before. That prior granting was not conditioned on any further expansions being allowed.

Repeated requests for variances and exemptions is an approach that project sponsors use in attempting to get controversial projects built...variance after variance, permit after permit for non-conforming and prohibited uses, endless exemptions, piecemeal development, before anyone recognizes the real scope of a project....

Luckily, this piecemeal approach to development and zoning exemptions is also the subject of successful Article 78 legal challenges...

Because it appears that Mr Leach was improperly granted the requested use variance by the ZBA on 10/27/2015, without appearing to demonstrate hardship, and if there had been an iota of hardship it has been self created,

I am asking Mr Folmer, the Town Attorney, to explain this: what is the proper procedure to negate or reverse what appears to be an improper ZBA decision?

Thank you for your attention to this matter.

Pam Jenkins
Cortlandville resident
4023 Collegeview Drive
Cortland NY 13045

Attorney Folmer commented that in earlier correspondence from Ms. Jenkins, she asked the Town Board to take the steps necessary to rescind or revoke the actions of the Zoning Board of Appeals (ZBA) and the Planning Board with regard to Mr. Leach’s application. Attorney Folmer stated that the Town Board “has no legal or other authority to rescind or revoke the action of either the Zoning Board of Appeals or the Planning Board.” Ms. Jenkins stated that she learned that in the last day.

Attorney Folmer stated that the proper way to attack a determination made by any administrative agency of any municipality is to commence and prosecute an Article 78 Proceeding

according to the provisions of the Civil Practice Law and Rules. There is a time frame within which that proceeding must be commenced, which is four months from the date the action that someone wishes to challenge has been made.

Ms. Jenkins stated she also learned that she has 30 days from the time that the Town Clerk receives the ZBA decision to file with the Town Clerk that she is appealing the decision. Attorney Folmer indicated that an Article 78 Proceeding is not filed with the Town Clerk. Ms. Jenkins stated there is something in New York State Law that says she has to file something with the Town Clerk. She stated that she would follow up.

The monthly reports of the Code Enforcement Office, Town Clerk, and Water and Sewer Department for the month of October were on the table for review and are filed in the Town Clerk's office.

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

With Councilman Leach recusing himself, Councilman Testa made a motion, seconded by Councilman Rocco, to receive and file recommendations from the Cortland County Planning Department, dated October 16, 2015, and Cortland County Planning Board Resolution #15-30, dated October 21, 2015, regarding the Aquifer Protection Permit application submitted by Leach Properties, LLC, for property located off of Loring Crossing, tax map #77.00-04-11.111 & #77.00-04-11.112. All voting aye, the motion was carried.

RESOLUTION #	SCHEDULE PUBLIC HEARING FOR AQUIFER PROTECTION PERMIT SUBMITTED BY LEACH PROPERTIES, LLC FOR PROPERTY LOCATED OFF OF LORING CROSSING
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Motion by Councilman Testa

Seconded by Councilman Rocco

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

ABSENT - Proud

ADOPTED

BE IT RESOLVED, a Public Hearing shall be scheduled for November 18, 2015 at 5:00 p.m. at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, for the Aquifer Protection Permit application submitted by Leach Properties, LLC, for property located off of Loring Crossing, tax map #77.00-04-11.111 and #77.00-04-11.112.

Attorney Folmer stated that the public hearing on November 18, 2015 would deal with the Aquifer Permit request, that is part and parcel of the actions that the Zoning Board of Appeals and the Planning Board have taken with regard to the Leach application. He suggested Ms. Jenkins be prepared to speak at the public hearing.

RESOLUTION #	AUTHORIZE SUPERVISOR TO SIGN THE OWNER-OCCUPIED LOAN AGREEMENT BETWEEN THE TOWN AND KLARON C. & JANICE D. SMITH FOR THE TOWN'S 2013 COMMUNITY DEVELOPMENT BLOCK GRANT TOWN-WIDE HOUSING REHABILITATION PROGRAM
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Motion by Councilman Leach

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize the Supervisor to sign the Owner-Occupied Loan Agreement between the Town of Cortlandville and Klaron C. & Janice D. Smith, 3671 Pendleton Street, Cortland, New York, for a 100% deferred loan for the 2013 Community Development Block Grant Town-Wide Housing Rehabilitation Program in the amount of \$2,429.32.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the application for a Zoning Map Amendment submitted by Leonidas Group of Virgil, LLC for property located off of Starr Road, tax map #96.10-01-19.100. All voting aye, the motion was carried.

Supervisor Tupper questioned whether the Board should refer the application for a Zoning Map Amendment to the Town and County Planning Boards. Attorney Folmer indicated that the Town and County Planning Boards already have the application. He explained that the developer for the Leonidas Group submitted the plan to the Town Planning Board and asked that it be forwarded to the County Planning Board for review. It was acknowledged that the plan was not a final completed plan, but that the developer wanted to get preliminary input from the County Planning Board if possible. The County sent a report back to the Town. The Town Planning Board discussed the matter at its meeting in October, and reminded itself that the application submitted was not considered by them to be a final or complete application. The Town Planning Board decided that they would send it back to the County as a final and complete application because the clock with regard to public hearings and determinations begins to run when the application is final and complete.

Attorney Folmer believed the Planning Board's intention was to send it to the Town Board for review, and then request that they send it back to the Planning Board with comments. The Planning Board understands that this is a complicated matter, and depending on the nature of the comments made by the County on the final plan, and by the Town Board, the Town Planning Board may discuss engaging the services of CHA to review and recommend various things; primarily concern with density and the water problem that may exist.

Supervisor Tupper commended all of the candidates who ran for public office at the General Election, and thanked the voters who went to the polls. He congratulated those who won the election.

No further comments or discussion were heard.

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

The meeting was adjourned at 5:20 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 November 13, 2015.

The draft version of this meeting was approved as written at the Town Board meeting of _____.