

## 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, Ronal L. Rocco  
Councilman, Gregory K. Leach  
Town Clerk, Karen Q. Snyder, RMC

## Absent:

Councilman, John C. Proud

Others present were: Town Attorney, John Folmer; Highway Sup't. Carl Bush; Don and Sheila Williams; Bob Henry; Nancy Meo; Lucas Meo-Henry; Attorney Meira Hertzberg; News Reporters: Tyrone Heppard from the *Cortland Standard*, and Eric Mulvihill from WXHC.

Supervisor Tupper called the meeting to order.

Councilman Leach made a motion, seconded by Councilman Testa, to approve the Draft Town Board Minutes of July 16, 2014 as written. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Zoning Board of Appeals Minutes of July 29, 2014. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Planning Board Minutes of July 29, 2014. All voting aye, the motion was carried.

RESOLUTION #                      AUTHORIZE SUPERVISOR TO SIGN  
PURCHASE ORDER #0107

---

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 and direct the Supervisor to sign Purchase Order #0107 submitted by Water & Sewer Sup't. Alteri to be paid to W2 Operator Training Group, LLC to replace the sewer lift station rail system in Polkville, for the total cost of \$6,800.00.

RESOLUTION #                      AUTHORIZE SUPERVISOR TO SIGN  
PURCHASE ORDER #0108

---

Motion by Councilman Leach

Seconded by Councilman Rocco

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #0108 submitted by Water & Sewer Sup't. Alteri to be paid to Old Stage Electric to supply and install all materials and labor to the generator at the Terrace Road Pump House, for the total cost of \$5,681.77.

---

**RESOLUTION #                      AUTHORIZE PAYMENT OF VOUCHERS - AUGUST**


---

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 #801-846	
	General Fund A	\$101,784.89
	General Fund B	\$ 3,109.99
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$119,812.03
Funds CD1, CD3, CD4	Voucher #12-12	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 125.00
Fund HC, SS, SW	Voucher #326-347	
	NYS Rt 13 Sewer Rehab HC	\$ 6,788.00
	Sewer SS	\$ 8,168.23
	Water SW	\$ 18,222.39
Funds SF, TA, TE	Voucher #26-28	
	C'Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 36,298.54
	Expendable Trust TE	\$ 0.00

Councilman Rocco made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated August 20, 2014, regarding programming services. All voting aye, the motion was carried.

Supervisor Tupper offered privilege of the floor to Sheila Williams.

Sheila Williams stated that about 12 years ago a request was made for public sewer to be installed on Pendleton Street from the City limits to Saunders Road and the entire length of Oakcrest Street because septic systems were failing. Residents were told it would be looked into by the Town. One of her neighbors, who was planning to build a house at the time, received a letter stating that sewer would be constructed during the year 2002, which did not occur. The neighborhood of 21 houses has now decided to petition the Town for the request for public sewer as they still have failing septic systems.

Councilman Testa informed Mrs. Williams that he and Supervisor Tupper recently discussed her concern with Town Engineer, Hayne Smith. Supervisor Tupper stated that after the letter Mrs. Williams mentioned was mailed, the Board decided not to go through with the project for financial reasons.

Mrs. Williams requested a meeting be held in the near future between the residents, the Board and the Engineer to answer questions.

Councilman Testa questioned how many of the septic systems were failing. Mrs. Williams could not answer the question. Bob Henry of Oakcrest Street informed the Board that he replaced his septic system 2 years ago.

No further requests were made for privilege of the floor.

Town Clerk Snyder apprised the Board she received notification from Deputy Highway Sup't. Robert Buerkle, Cortland County Highway Department, that he forwarded the Town's request for a reduced speed limit on Ahrens Road in the Town of Cortlandville to the NYS DOT.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from Deputy Highway Sup't. Robert Buerkle, Cortland County Highway Department to the Regional Traffic Engineer, Region 3, NYS DOT, dated August 18, 2014, regarding the request for a lower speed limit on Ahrens Road in the Town of Cortlandville. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Consent to Change Attorneys regarding General Electric Capital Corporation vs. UC Cortland Housing, LLC. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Renewal Application Notice Form from the Cortland Country Club Inc., dated August 13, 2014, regarding the renewal of the liquor license for the Cortland Country Club, located at 4514 Route 281 in the Town of Cortlandville. All voting aye, the motion was carried.

Town Clerk Snyder apprised the Board that her office has been issuing the 2014/2015 conservation licenses for the State of New York since August 4, 2014. To her knowledge, the Town of Cortlandville, the Town of Homer, and the Town of Virgil were the only issuing agents in Cortland County at this time. Wal-Mart was having problems with their system. Town Clerk Snyder explained that there was a change in the DEC's software program, which has caused several problems for issuing agents. In order to accommodate the public, Town Clerk Snyder requested permission from the Board for her office to remain open on Thursdays from 4:30 p.m. until 7:00 p.m. from August 21, 2014 through October 1, 2014. She was preparing to run an advertisement in the *Cortland Standard* and wanted to include the extended hours.

RESOLUTION #	AUTHORIZE THE TOWN CLERK'S OFFICE TO REMAIN OPEN ON THURSDAY EVENINGS FROM 4:30 TO 7:00 PM FROM AUGUST 21, 2014 THROUGH OCTOBER 1, 2014
--------------	---

---

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 Town Clerk's office to remain open on Thursday evenings from 4:30 p.m. to 7:00 p.m. from August 21, 2014 through October 1, 2014, to accommodate the public for the sale of conservation licenses.

Attorney Folmer reported:

NBT Interest Payments:

Attorney Folmer discussed the interest payments due to NBT Bank regarding the bond that was issued in 2006 for the construction/renovation of the Raymond G. Thorpe Municipal Building. NBT Bank interpreted the bond one way, and the Town interpreted it another. Attorney Folmer conferred with Bond Counsel and was advised that NBT's interpretation of the interest due was correct. Attorney Folmer explained that when Alliance Bank held the note, they miscalculated the interest and it was underpaid by the Town. NBT Bank realized the problem. As a result of the discussions that Attorney Folmer had, NBT Bank would waive the remaining interest that should have been paid in 2013. Attorney Folmer requested NBT Bank provide him with a letter indicating the amount due for 2014 and a new amortization schedule. Attorney Folmer would provide the information to Town Clerk Snyder once he received it from the bank.

Home Rule Request:

Attorney Folmer apprised the Board the Governor signed the legislation authorizing the conveyance of Town park land to Gutchess Lumber. Attorney Folmer stated that he would be meeting with Gutchess Lumber's attorney after Labor Day to discuss the details of the arrangement that the Town would have with the company over the two year period of time it would take for a new park to be constructed.

## Certiorari Tax Proceeding – Carrol Corporation:

Attorney Folmer informed the Board he recently received a trial note of issue from Carrol Corporation with regard to tax certiorari proceedings that were filed in 2010. In his opinion, Carrol Corporation was not as anxious to have a trial as they are to avoid the court automatically dismissing their claim because they haven't done anything for four years. A telephone conference call was prompted between Judge Rumsey, the attorney for Carrol Corporation, and himself. There was now a schedule of when Carrol Corporation would provide the Town with information and make a proposal so the matter could be resolved out of court.

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 DUSTY MAGEE
--------------	--

---

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 Affidavit regarding the Town's 2013 Community Development Town-Wide Housing Rehabilitation Program, between the Town of Cortlandville and Dusty Magee, 3101 Route 11, McGraw, New York regarding the extension of loan funds by the Town's CDBG Program for the total amount of \$29,612.37.

RESOLUTION #	AUTHORIZE SUPERVISOR TO SIGN THE OWNER-OCCUPIED LOAN AGREEMENT BETWEEN THE TOWN AND DUSTY MAGEE FOR THE TOWN'S 2013 COMMUNITY DEVELOPMENT BLOCK GRANT TOWN-WIDE HOUSING REHABILITATION PROGRAM
--------------	--

---

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 Dusty Magee, 3101 Route 11, McGraw, New York, for a 100% deferred loan for the 2013 Community Development Block Grant Town-Wide Housing Rehabilitation Program in the amount of \$29,612.37.

There was a brief discussion regarding a petition for a Zone Change for four properties located off of Route 13. Supervisor Tupper indicated that a petition was emailed by an attorney and that he did not feel comfortable receiving and filing the petition until the Board received a copy with signatures of the property owners. Attorney Folmer stated that it was perfectly appropriate for attorneys to sign on behalf of clients, however the letter indicated that there were attachments which the Board did not receive either. Attorney Folmer recommended the Board take no action until they receive the full document. No action was taken.

Councilman Rocco made a motion, seconded by Councilman Leach to receive and file the petition submitted by the residents of Pendleton St. and Oakcrest St. in the Town of Cortlandville, dated August 11, 2014, requesting public sewer be constructed on Pendleton St. from the City limits to Saunders Rd., and the entire length of Oakcrest St. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from the USDA, dated August 1, 2014, regarding the Amendment to the Letter of Conditions dated September 3, 2013 for the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project. All voting aye, the motion was carried.

There was discussion regarding the NYS Route 13 Sanitary Trunk Sewer Rehabilitation Project. Attorney Folmer mentioned the advertisement in the *Cortland Standard* regarding the project, which also notified the public that there was no need for access to residences or businesses. He suggested that if someone asks for access to a home or business that the owner should refuse to let them enter. If the person is persistent, the owner should contact the Town.

Supervisor Tupper also explained that the Town's state grant was pulled from the project. The bids for the project came in lower than expected, and the final cost of the project was \$3,155,000. The Town originally expected to borrow \$4 million with a \$350,000 grant from the state.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Cortland County Planning Department recommendations, dated August 15, 2014, regarding the Aquifer Protection Permit Application of Forkey Construction and Fabricating, Inc. for property located on Luker Road, tax map #95.00-05-09.200. All voting aye, the motion was carried.

RESOLUTION #	AUTHORIZE SUPERVISOR TO SIGN THE NEW YORK STATE COMMUNITY DEVELOPMENT BLOCK GRANT LOAN AND SECURITY AGREEMENT FOR BYRNE DAIRY, INC.
--------------	--

---

Motion by Councilman Leach

Seconded by Councilman Rocco

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the New York State Community Development Block Grant Loan and Security Agreement between the Town and New York State Homes & Community Renewal for the expansion of Byrne Dairy, Inc. in the total amount of \$984,000.00.

Supervisor Tupper explained that the CDBG included a \$250,000 loan repayable to the Town at 3% interest, and a \$734,000 grant.

Supervisor Tupper apprised the Board that Town resident Lydia Ferro stopped in recently with a copy of a FOIL request from her daughter Valarie Ferro dated July 25, 2014. A copy of Valarie's letter, as well as a letter from Lydia Ferro dated August 12, 2014, was included in the Board's agenda packets for their review. Supervisor Tupper indicated that Attorney Folmer was responding to the FOIL request.

There was further discussion regarding the zone change request that was discussed earlier in the meeting. Attorney Meira Hertzberg, who arrived late to the meeting, informed the Board she was in attendance to discuss the zone change request. Supervisor Tupper indicated that the Board did not take any action on the request because it was not signed. Attorney Hertzberg presented the signed document with the addendums to the Board. She explained that she initially emailed the request to Planning/Zoning Officer Bruce Weber but did not have the signatures at that time. Attorney Folmer suggested the Board receive and file the document.

Councilman Rocco made a motion, seconded by Councilman Testa, to receive and file the request for a Zone Change submitted by Meira N. Hertzberg, Esq. on behalf of the property owners, to rezone the following four parcels located on Route 13 from B-1 to B-2: tax map #105.00-01-48.200 owned by Donald Osbeck; tax map #105.00-01-48.100 owned by Empire Tractor; tax map #105.00-01-43.111 owned by Farm East LLC; tax map #105.00-01-44.000 owned by John A. Magee. All voting aye, the motion was carried.

Councilman Leach indicated that he was finally able to speak with the gentleman in charge of the railroad crossing in Blodgett Mills, who indicated that it would not be a problem to add a pedestrian walkway across the railroad tracks. Councilman Leach gave the gentleman Highway Sup't. Bush's contact information so arrangements could be made.

No further comments or discussion were heard.

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

The meeting was adjourned at 5:35 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 September 4, 2014.  
The draft version of this meeting was approved as written at the Town Board meeting of \_\_\_\_\_.