

PUBLIC HEARING NO. 1

CONVERSION OF PROPERTY FROM
PUBLIC SPACE TO RESIDENTIAL
WALDEN OAKS SUBDIVISION
MARK AND DENISE MITAL, OR
BENNIE ROAD
TAX MAP #105.08-02-45.000

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 a conversion of property from public space to residential in the Walden Oaks Subdivision, for property owned by Mark and Denise Mital located north of Bennie Road, tax map #105.08-02-45.000.

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

Others present were: Town Attorney, John Folmer; Highway Sup't. Carl Bush; David Alexander; Joe Steinhoff; Cortland County Legislators: Susan Briggs and Kevin Whitney; Walt Kalena from Clough Harbour & Associates; Steve Flatt; James Fellows; and Pam Jenkins.

Supervisor Tupper called the Public Hearing to order.

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

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

No requests were made.

No further comments or discussions were heard.

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

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, with Supervisor Tupper presiding.

Members present:

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

Others present were: Town Attorney, John Folmer; Highway Sup’t. Carl Bush; David Alexander; Joe Steinhoff; Cortland County Legislators: Susan Briggs and Kevin Whitney; Walt Kalena from Clough Harbour & Associates; Steve Flatt; James Fellows; and Pam Jenkins.

Supervisor Tupper called the meeting to order.

Councilman Rocco made a motion, seconded by Councilman Leach, to approve the Draft Town Board Minutes of September 18, 2013 as submitted. All voting aye, the motion was carried.

Councilman Rocco made a motion, seconded by Councilman Leach, to approve the Draft Town Board Minutes of October 2, 2013 as submitted. All voting aye, the motion was carried.

RESOLUTION #183

AUTHORIZE SUPERVISOR TO SIGN
PURCHASE ORDER #0143

Motion by Councilman Leach
Seconded by Councilman Proud
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 #0143 submitted by Water & Sewer Sup’t. Alteri to be paid to Seneca Well Drillers Inc. for a test well in Blodgett Mills, for the cost of \$3,178.00.

RESOLUTION #184

AUTHORIZE PAYMENT OF VOUCHERS – OCTOBER

Motion by Councilman Leach
Seconded by Councilman Proud
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:

| | | |
|---------------------|--------------------------|--------------|
| Funds A, B, DA, DB | Voucher #955-1005 | |
| | General Fund A | \$100,217.36 |
| | General Fund B | \$ 14,767.48 |
| | Highway Fund DA | \$ 0.00 |
| | Highway Fund DB | \$ 80,926.31 |
| Funds CD1, CD3, CD4 | Voucher #36-41 | |
| | BMills Rehab CD1 | \$ 0.00 |
| | Town Wide Rehab CD3 | \$ 13,622.00 |
| | Business Devl CD4 | \$ 2,387.66 |
| Fund HC, SS, SW | Voucher #333-356 | |
| | NYS Rt 13 Sewer Rehab HC | \$ 875.00 |
| | Sewer SS | \$ 25,138.62 |
| | Water SW | \$ 10,817.58 |
| 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.

Pam Jenkins provided the Board with more information regarding the proposal to turn the Cortland County Dump into an ash dump. She informed the Board that Cortland County applied to renew its 2004 Solid Waste Management Plan. However, she stated that it was not really a renewal they were seeking because they added the language “industrial waste” and “BUD” (Beneficial Use Determination). Ms. Jenkins stated that the County would then seek permit modifications and variances in order to import 90,000 tons of waste.

Ms. Jenkins discovered that the NYS DEC could not provide proof that Cortland County has ever been permitted to take BUD or industrial waste. However, the dump has taken 4,600 tons of contaminated soil to date without a permit.

Ms. Jenkins stated that the County was trying to establish an ash dump using a method called segmentation, in which things are broken down into small steps so you don’t have to look at the entire project as a Type I action. She informed the Board that she complained to the DEC and asked them to extend the comment period on the permit renewal to October 25, 2013, since many of the records she needed in order to comment on the permit renewal were not located at the DEC office in Cortland. Councilman Rocco suggested Ms. Jenkins contact the DEC office in Syracuse as they would know the permits that were issued. Ms. Jenkins indicated that she just started working with the Syracuse office.

Ms. Jenkins provided the Board with the comments that she and Robert Martin, P.E. submitted to the NYS DEC, in addition to comments from Stephanie Urso Spina, Ph.D. and Charles J. Spina regarding environmental and health concerns. She also presented Supervisor Tupper with a history of the landfill. Ms. Jenkins stated that it was time for people to get involved as the project was a 20 year project that could have long-term ramifications. She mentioned that the landfill was already a state superfund site as of July 9, 2012.

Councilman Rocco stated that it was his understanding that according to the federal government incinerator ash is considered hazardous material, however the NYS DEC says it is not. Ms. Jenkins explained that incinerator ash comes under hazardous waste laws because the fly ash is very heavy in furans, dioxins and heavy metals. She explained that what OCRRA does is they knock the hazardous material down into the bottom ash, add lime, and say that the ash is not that bad after all. She was concerned with what would happen when the lime leaches out with the combination of 40” of rain per year for 20 years, in a landfill located on the sole source aquifer.

Councilman Rocco mentioned some of the concerns he had with the County landfill, such as that the County was trying to make money on a dump that was supposed to last county residents 30 years. He questioned what the County would do with its trash once the dump was full. He was also concerned about contaminants such as mercury, cadmium, and lead that would eventually get into the drinking water through feeder streams. He mentioned that the feeder streams were put on the dump without a permit for a period of 11 years.

In closing, Ms. Jenkins mentioned that the Highway Department was on record for taking money out of the landfill fund and using it for other things, and then stating that the landfill was going broke.

Supervisor Tupper moved to the last item on the agenda. He corrected the agenda to read the Preliminary Land Use/Comprehensive Plan for the Town of Cortlandville rather than the Final, and stated that the Board would not receive and file the plan tonight. Supervisor Tupper offered privilege of the floor to Walt Kalena from Clough Harbour & Associates to discuss the plan.

Walt Kalena explained that he met with the Advisory Committee last week and was in the process of making some revisions to the Preliminary Draft Plan. He anticipated that the Preliminary Draft Plan would be provided to the Board at the November 6, 2013 Town Board Meeting.

Supervisor Tupper thanked Mr. Kalena and the committee members, and stated that the Board was looking forward to reviewing the Committee’s final result.

The Cortland County SPCA 3rd Quarter Report 2013 was on the table for review and is filed in the Town Clerk’s Office.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the 2012 Annual Report for the Cortland County Area Agency on Aging. All voting aye, the motion was carried.

Under new business there was discussion regarding the application for a conversion of property from public space to residential in the Walden Oaks Subdivision. Attorney Folmer explained that when the Walden Oaks Planned Unit Development (PUD) was established the particular lot was set aside with the intent that a church would be constructed on the property. The plan had not developed, and therefore the owners of the parcel were requesting that the Board change the classification from public space to residential so it could be sold as a residential lot. Supervisor Tupper stated that the change would not have any effect on the PUD because there was plenty of community space or green space in the PUD.

Supervisor Tupper questioned whether a zone change was required, and what the Planning Board's thoughts were. Attorney Folmer explained that all the Board had to do was approve the classification within the PUD. The Town Planning Board had no objection to the change in classification.

RESOLUTION #185 GRANT A CLASSIFICATION CHANGE FOR A WALDEN
OAKS SUBDIVISION PUD PARCEL FROM PUBLIC USE TO
RESIDENTIAL USE

Motion by Councilman Proud

Seconded by Councilman Leach

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

WHEREAS, a letter dated August 29, 2013 was presented to the town's Zoning and Planning Officer for a parcel in the Walden Oaks subdivision for a PUD classification change by the current owner of record, Mark and Denise Mital, and

WHEREAS, said parcel within the Walden Oaks PUD has been set aside and is designated as a "Public Use – Church Parcel", and

WHEREAS, said owners of record were not aware of any lot restrictions nor were they informed at the time of purchase in 2008 of such restrictions, and

WHEREAS, the current owner of record has the parcel for sale as a single family residence, and

WHEREAS, the Town Planning Board review said request and recommended to the Town Board that they grant the classification change, now therefore

BE IT RESOLVED, the Town Board does hereby grant a classification change for a Walden Oaks subdivision PUD parcel, tax map #105.08-02-45.000 from "Public Use – Church Parcel" to "Residential Use - Single Family Residence."

RESOLUTION #186 SCHEDULE PUBLIC HEARING REGARDING THE 2014
PRELIMINARY BUDGET

Motion by Councilman Leach

Seconded by Councilman Proud

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

BE IT RESOLVED, a Public Hearing is hereby scheduled to be held on November 6, 2013 at 5:00 p.m. regarding the 2014 Preliminary Budget, and it is further

RESOLVED, that copies shall be made available for distribution to the public on November 6, 2013.

RESOLUTION #187

SCHEDULE DATE TO ADOPT 2014 PRELIMINARY
BUDGET AS THE 2014 ADOPTED BUDGET

Motion by Councilman Leach

Seconded by Councilman Proud

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

BE IT RESOLVED, the Town Board shall adopt the 2014 Preliminary Budget as the 2014 Adopted Budget at the Regular Town Board Meeting on Wednesday, November 20, 2013 at 5:00 p.m.

Councilman Rocco questioned whether copies of the budget were available to the public. Town Clerk Snyder explained that copies of the budget were available to anyone interested in obtaining a copy at no charge. Supervisor Tupper mentioned that the budget would also be posted on the Town's website once training on the new website was complete.

With regret, Town Clerk Snyder apprised the Board that Bonnie Hand, the Town Clerk/Tax Collector of Virgil passed away. The Town Clerks of Cortland County were assisting the Town of Virgil in any way they could and wished them well during this time.

Town Clerk Snyder was pleased to announce that Town of Cortlandville Assessor, David Briggs received the Fellow Award from the NYS Assessor's Association at their recent conference held in Lake Placid, New York. Since the Association was established in 1940 only 24 people have received the prestigious award. The award was based not only on what the individual contributed to the towns, but on education, and his work with other Assessors. Mr. Briggs was a teacher and was also past President of the Association. Town Clerk Snyder and the Board congratulated Mr. Briggs on his great achievement.

Attorney Folmer reported:

Conservation Easement – South Hill Dump Site:

Attorney Folmer recalled that at the September 18, 2013 Town Board Meeting the Board adopted a resolution authorizing the Supervisor to execute a Conservation Easement with the New York State Department of Environmental Conservation relating to the South Hill Dump Site. The Conservation Easement restricted and controlled the use of the site for the future. Its provisions would become covenants which attach to the land. The document was signed by the Supervisor and the DEC, and was filed in the County Clerk's Office on October 11, 2013.

Attorney Folmer requested the Board receive and file the signed and filed easement.

Councilman Proud made a motion, seconded by Councilman Testa, to receive and file the Environmental Easement Granted Pursuant to Article 71, Title 36 of the New York State Environmental Conservation Law, between the Town of Cortlandville and the New York State Department of Environmental Conservation relating to the South Hill Dump Site, which was filed with the Cortland County Clerk on October 11, 2013. All voting aye, the motion was carried.

Litigation - Cortland MHP Associates:

As the Board was aware, the Town was involved in a litigated matter with Cortland MHP Associates, owners of the trailer park located on Route 13. Originally, a claim was made for approximately \$90,000 however motions to dismiss the majority of the claim were made. What little of the claim remained would be subject to a lengthy discovery process. Attorney Folmer explained that a negotiated settlement of the claim was agreed upon for the sum of \$15,000. The settlement would take care of claims for water charges and benefit tax. Attorney Folmer stated that while he was not always in favor of paying sums of money for litigation when he thought the Town could be successful, he firmly believed that the costs of discovery and the preparation for a trial would exceed \$15,000. Attorney Folmer requested the Board approve the settlement to be accomplished by a settlement agreement approved by himself and Attorney Krough who represented the Town in the matter.

Supervisor Tupper agreed with Attorney Folmer. He stated that Town Clerk Snyder, Water & Sewer Sup't. Alteri and Assessor Briggs did a lot of work regarding the matter. While he did not believe the Town was at fault, he agreed that paying \$50,000+/- in legal fees to prove it did not make sense.

RESOLUTION #188 AUTHORIZE SETTLEMENT AGREEMENT BETWEEN THE
TOWN OF CORTLANDVILLE AND CORTLAND MHP
ASSOCIATES, LLP

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 the Settlement Agreement between the Town of Cortlandville and Cortland MHP Associates, LLP with regard to litigation, as approved by Town Attorney Folmer and Guy Krough, Esq. who represented the Town in the matter, for a total amount of \$15,000.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from New York State Environmental Facilities Corp., dated September 30, 2013, regarding the Engineering Agreement Amendment Acceptance for the NYS Route 13 Sewer Rehabilitation Project. All voting aye, the motion was carried.

There was discussion regarding authorizing Town Clerk Snyder to execute a new “License Issuing Agent Agreement” with the NYS DEC for the issuance of conservation licenses. Town Clerk Snyder explained that the agreement was similar to the 2002 agreement in which all NYS issuing agents started utilizing the same software program to issue licenses. Under the new agreement, the State would provide the software, however the Town must utilize its own hardware. Town Clerk Snyder informed the Board that she already returned the State’s computer hardware and purchased a new computer.

Councilman Testa questioned whether the issuance of hunting and fishing licenses was new to the Town Clerk’s office, and inquired about the commission earned. Town Clerk Snyder informed the Board that her office has always issued hunting and fishing licenses. She explained that the commission is approximately \$1.00 per license, even with the sale of nonresident licenses which cost more money. The NYS DEC indicated that there may be an increase in commissions with the new software program, as well as a decrease in fees for some of the hunting licenses as a result of different packages being offered.

Councilman Proud questioned whether sales have decreased as a result of the DECALS automated licensing. Town Clerk Snyder indicated that due to the implementation and acceptance of credit cards in her office sales have increased.

RESOLUTION #189 AUTHORIZE TOWN CLERK TO EXECUTE A NEW “LICENSE
ISSUING AGENT AGREEMENT” WITH THE NEW YORK
STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

Motion by Councilman Proud

Seconded by Councilman Leach

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

ADOPTED

WHEREAS, the NYS Department of Environmental Conservation is authorized by Section 11-0713 of the Environmental Conservation Law and applicable rules and regulations to appoint agents to issue licenses for the privilege of hunting and fishing in New York State, and

WHEREAS, the Town Clerk of the Town of Cortlandville has applied to the NYS Department of Environmental Conservation for appointment as such as a “Licensing Issuing Agent”, and

WHEREAS, the NYS Department of Environmental Conservation has determined that the Town Clerk of the Town of Cortlandville is hereby qualified to be appointed as a “License Issuing Agent”, therefore

BE IT RESOLVED, the Town Clerk is hereby authorized and directed to execute the “License Issuing Agent Agreement” with the NYS Department of Environmental Conservation, and it is further

RESOLVED, this agreement shall remain in effect from the date of execution until a change in the Town of Cortlandville Town Clerk, who entered into said agreement or the NYS Department of Environmental Conservation determines a new agreement would be required.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from Thoma Development Consultants, dated October 16, 2013, regarding the Community Development Block Grant for Tom Wood, 3260 US Route 11, and additional funding in the amount of \$4,268 from the recently acquired HOME Program Income funds, to complete the renovations of his home. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from New York State Homes & Community Renewal, dated October 11, 2013, regarding the Grant Agreement 60-day Completion Notice for the NYS CDBG Town Wide Housing Rehabilitation Project. All voting aye, the motion was carried.

No further comments or discussion were heard.

Councilman Leach made a motion, seconded by Councilman Proud, 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 November 1, 2013.
The draft version of this meeting was approved as written at the Town Board meeting of _____.