

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the J.M. McDonald Center, Fairgrounds Drive, Cortland, New York, with Supervisor Tupper presiding.

Members present: Supervisor, Richard C. Tupper
Councilman, Theodore V. Testa
Councilman, John C. Proud
Councilman, Gregory K. Leach
Town Clerk, Karen Q. Snyder, RMC

Absent: Councilman Ronal L. Rocco

Others present were: Town Attorney, John Folmer; Highway Sup't., Carl Bush; Allen Stauber; David Alexander; Karen Howe; Steven Howe from the *Cortland Standard*; Barb Leach; Jackie Hartnett from Cortland County 4-H; Cortland County Dairy Princess, Mikayla MacNeill; and Richard Bush from the Cortland County Fair.

Supervisor Tupper called the meeting to order.

Councilman Leach made a motion, seconded by Councilman Proud, to approve the Draft Town Board Minutes of June 19, 2013 as submitted. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the Cortlandville Planning Board Minutes of May 28, 2013. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the Cortlandville Zoning Board of Appeals Minutes of May 28, 2013. All voting aye, the motion was carried.

RESOLUTION #132 AUTHORIZE PAYMENT OF VOUCHERS – JULY

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

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

Funds A, B, DA, DB	Voucher #600-672	
	General Fund A	\$ 20,415.81
	General Fund B	\$ 10,743.75
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$235,291.77
Funds CD1, CD3, CD4	Voucher #(none)	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 0.00
	Business Devl CD4	\$ 0.00
Fund HC, SS, SW	Voucher #210-237	
	NYS Rt 13 Sewer Rehab HC	\$ 0.00
	Sewer SS	\$ 82,632.79
	Water SW	\$ 5,518.07
Funds SF, TA, TE	Voucher #(none)	
	C'Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 0.00
	Expendable Trust TE	\$ 0.00

The monthly reports of the Code Enforcement Officer, Fire & Safety Inspection Report, Town Clerk, Supervisor, and the Water & Sewer Department for the month of June 2013, and the Cortland County SPCA 2nd Quarter Report 2013, were on the table for review and are filed in the Town Clerk's office.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated July 3, 2013, regarding programming services. All voting aye, the motion was carried.

Supervisor Tupper apprised the Board he received a letter from Robert Calvert in appreciation of the Town Board granting his family permission to place an additional monument at the grave of their ancestor John Calvert, at the South Cortland Cemetery. Mr. Calvert and his family held a dedication ceremony at the cemetery on June 15, 2013, which Town Historian Jeff Guido and other area historians attended. Mr. Calvert thanked the Town for taking such good care of the cemetery which has been closed for years.

Town Clerk Snyder informed the Board that while she had not yet received formal notification from the Secretary of State for the filing of Local Law No. 1 of 2013, Wind Energy Facilities, her Deputy contacted the State and was informed that the Local Law was filed on June 24, 2013.

Supervisor Tupper questioned whether the filing notice formally ended the Town's Moratorium on Wind Energy Facilities.

Attorney Folmer explained that according to the Resolution that extended the Moratorium, the Moratorium would terminate at 12:00 noon on the first business day following the filing with the Secretary of State, or July 10, 2013, whichever occurred first. The Town no longer had a Moratorium on Wind Energy Facilities because the Local Law was in effect.

Attorney Folmer reported:

CDBG – Precision Eforming:

Attorney Folmer apprised the Board he reviewed the agreement regarding the CDBG for Precision Eforming, which would be discussed later in the meeting. He stated that the agreement was satisfactory according to him, Bernie Thoma from Thoma Development Consultants, and Precision Eforming. It was therefore appropriate for the Board to adopt a resolution authorizing the Supervisor to sign the document.

South Hill Dump:

Attorney Folmer reported that the Department of Environmental Conservation (DEC) asked the Town to provide them with a conservation easement for the former South Hill Dump property. The purpose of the easement would be to place some restrictions on the use of the property and require that the DEC be involved in any activity proposed for the property. The DEC wanted to be sure that if the property is going to be used, that it would be done in an environmentally appropriate manner. Attorney Folmer explained that since money was used from the superfund to clean the property, the DEC wanted to ensure that the property would not be made useless once again.

Attorney Folmer recommended the Board adopt a resolution authorizing the execution of the easement to the DEC. He stated that the resolution would indicate that by adopting the resolution and granting the easement the Town was in no way acknowledging responsibility in connection with the costs of the remediation.

RESOLUTION #133	AUTHORIZE SUPERVISOR TO SIGN THE EASEMENT BETWEEN THE TOWN OF CORTLANDVILLE AND THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGARDING THE FORMER SOUTH HILL DUMP PROPERTY
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Motion by Councilman Leach

Seconded by Councilman Proud

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the Easement between the Town of Cortlandville and the New York State Department of Environmental Conservation regarding the former South Hill Dump property, tax map #109.00-01-02.000, and it is further

RESOLVED, that the Town Board of the Town of Cortlandville in no way acknowledges responsibility in connection with the costs of the remediation of the former South Hill Road Dump property.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from New York State Homes & Community Renewal, dated June 21, 2013, regarding the Grant Agreement 6-month Completion Notice for the Town-wide Housing Rehabilitation Project (CDBG). All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file three correspondences from New York State Homes & Community Renewal, dated June 25, 2013, regarding the Request for Project Status Reports for the following Community Development Block Grants: Town-wide Housing Rehabilitation Project; Pyrotek; and Byrne Dairy, Inc. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from New York State Homes & Community Renewal, dated June 28, 2013, regarding the award of the Community Development Block Grant to assist in the expansion of Byrne Dairy, Inc. All voting aye, the motion was carried.

RESOLUTION #134 AUTHORIZE SUPERVISOR TO SIGN THE NEW YORK
STATE COMMUNITY DEVELOPMENT BLOCK GRANT
AGREEMENT FOR BYRNE DAIRY, INC.

Motion by Councilman Leach

Seconded by Councilman Proud

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the New York State Community Development Block Grant Agreement between the Town and New York State Homes & Community Renewal for the expansion of Byrne Dairy, Inc. in the amount of \$750,000.00.

There was discussion regarding the authorization to post a notice for the request for proposals (RFP) from qualified firms or individuals to provide Program Delivery and Administration Services in conjunction with the recently awarded NYS CDBG Economic Development Grant for Byrne Dairy, Inc. and the NYS CDBG Small Business Grant for Innovative Manufacturing Solutions, Inc. (IMS). Town Clerk Snyder questioned the due date for the proposals. Per the agenda proposals would be due by 12:00 p.m. on August 5, 2013. However, Town Clerk Snyder explained that the notice must be published at least 21 days prior to the RFP due date. While there would not be a problem for publication in the *Cortland Standard*, there could be a problem for publication in the *Minority Newspaper* in Syracuse which only publishes twice per month. Attorney Folmer suggested the resolution indicate that the RFP due date was contingent upon being able to maintain the proper publication schedules. The Board suggested the proposal due date be changed to 12:00 p.m. on August 19, 2013, and to utilize Attorney Folmer's suggested language in the event that the publications could be accomplished to allow for the August 5, 2013 due date.

RESOLUTION #135 AUTHORIZE TOWN CLERK TO REQUEST PROPOSALS FOR
THE DELIVERY AND ADMINISTRATION OF SERVICES
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANTS
FOR BYRNE DAIRY, INC. AND INNOVATIVE
MANUFACTURING SOLUTIONS, INC. (IMS)

Motion by Councilman Leach

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Town Clerk to request proposals for the delivery and administration of services for the Community Development Block Grant - Economic Development for Byrne Dairy, Inc. and the Community Development Block Grant - Small Business for Innovative Manufacturing Solutions, Inc. (IMS), and it is further

RESOLVED, the proposals are due no later than 12:00 p.m. on Monday, August 19, 2013 and shall be awarded at the Regular Town Board Meeting, Wednesday, August 21, 2013, and it is further

RESOLVED, the due date of the proposals shall be contingent upon being able to maintain the proper publication schedules for the public notice in the required newspapers.

RESOLUTION #136 AUTHORIZE SUPERVISOR TO SIGN THE LOAN AND
SECURITY AGREEMENT BETWEEN THE TOWN OF
CORTLANDVILLE AND PRECISION EFORMING, LLC
REGARDING THE SMALL CITIES COMMUNITY
DEVELOPMENT BLOCK GRANT

Motion by Councilman Leach

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the Loan and Security Agreement between the Town of Cortlandville and Precision Eforming, LLC regarding the Small Cities Community Development Block Grant for Precision Eforming for the loan amount of \$63,000.

There was discussion regarding the proposal from the Cortland County Soil and Water Conservation District (SWCD), dated July 2, 2013, regarding the proposal to conduct a Sustainable Yield Analysis for the Town of Cortlandville's two existing water supply wells located at Lime Hollow Road and Terrace Road. Councilman Proud explained the project to the Board. The SWCD would estimate how much water the Town can currently supply, and how much additional water might be available at the two locations if modifications to the wells or pumps are made. The study would also identify and discuss other locations that may be suitable for expanding the Towns' water supply.

Supervisor Tupper explained that what started the discussion for the SWCD to conduct the study were the Cortland County Planning Board recommendations regarding Byrne Dairy. In the recommendations, the County suggested that by the next time Byrne Dairy wanted to expand the Town should be looking for an alternative water source.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from the Cortland County Soil and Water Conservation District (SWCD), dated July 2, 2013, regarding the proposal to conduct a sustainable yield analysis for the Town of Cortlandville's two existing water supply wells. All voting aye the motion was carried.

RESOLUTION #137 ACCEPT PROPOSAL FROM THE CORTLAND COUNTY
SOIL AND WATER CONSERVATION DISTRICT TO
CONDUCT A SUSTAINABLE YIELD OF THE TOWN OF
CORTLANDVILLE SUPPLY WELLS

Motion by Councilman Leach

Seconded by Councilman Testa

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

BE IT RESOLVED, the Town Board does hereby accept the proposal from the Cortland County Soil and Water Conservation District to conduct a Sustainable Yield Analysis of the Town of Cortlandville Supply Wells for the total cost of \$2,400.00.

RESOLUTION #138 AUTHORIZE SUPERVISOR TO SIGN THE AFFIDAVIT
REGARDING THE TOWN'S 2011 COMMUNITY
DEVELOPMENT BLOCK GRANT HOUSING
REHABILITATION PROGRAM BETWEEN THE TOWN AND
MICHELLE TOWSLEY

Motion by Councilman Leach

Seconded by Councilman Proud

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

BE IT RESOLVED, the Town Board does hereby authorize the Supervisor to sign the Affidavit regarding the Town's 2011 Community Development Housing Rehabilitation Program, between the Town of Cortlandville and Michelle Towsley, 1368 East River Road, Cortland, New York regarding the extension of loan funds by the Town's CDBG Program for the total amount of \$1,035.00.

There was discussion regarding the agreement with the New York State Department of Transportation regarding work affecting state highways. Attorney Folmer explained that there has never been a formal agreement between the State and the Town regarding work being done on State property including highways. The DOT provided the Town with an undertaking agreement, which stated that the Town would give notice as to the time and place when work would be done, and that the property will be restored to the previous condition. If the Town failed to do so, the State would repair the property and charge the Town for the work. Attorney Folmer explained that there was no monetary consideration expressed in the agreement at all.

RESOLUTION #139 ACKNOWLEDGE UNDERTAKING FOR THE BENEFIT OF
THE NEW YORK STATE DEPARTMENT OF
TRANSPORTATION IN CONNECTION WITH WORK
AFFECTING STATE HIGHWAYS

Motion by Councilman Leach

Seconded by Councilman Proud

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

WHEREAS, the undersigned Town of Cortlandville (Municipality, County, Town, City or Village, or any agency of the federal government, hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration.

2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. Payment & Release of liens. Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. Indemnity. In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

RESOLUTION #140 SCHEDULE PUBLIC HEARING FOR AQUIFER
PROTECTION PERMIT SUBMITTED BY LIME HOLLOW
NATURE CENTER, INC. FOR PROPERTY LOCATED ON
GRACIE ROAD

Motion by Councilman Proud

Seconded by Councilman Testa

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

BE IT RESOLVED, a Public Hearing shall be scheduled for August 7, 2013 at 5:00 p.m. for the Aquifer Protection Permit application submitted by Lime Hollow Nature Center for property located on Gracie Road, tax map #105.05-01-12.110 and #105.05-01-13.110.

Attorney Folmer stated there were three small parcels of land located on Commons Ave. and Route 281 that Highway Sup't. Bush was interested in purchasing from the County for the cost of \$1,500.00. Attorney Folmer recommended the Board authorize the expenditure.

Supervisor Tupper informed the Board that he spoke with County Legislator Kevin Whitney regarding the matter. Legislator Whitney and Legislator Susan Briggs were outraged that the County would make the Town purchase the parcels. Supervisor Tupper mentioned that the Town has let the County use the municipal garage for storage of the County's radio equipment for over a year without any charge.

Attorney Folmer suggested the Board authorize the payment of no more than \$1,500.00 for the purchase of three parcels of land. He explained that there is a section of law that permits a municipality to convey property to another municipality at no cost. Attorney Folmer stated that the Town and County have been negotiating the matter for a couple of months, however if he could negotiate the conveyance for no cost he would do so.

RESOLUTION #141 AUTHORIZE THE EXPENDITURE OF NO MORE THAN
\$1,500.00 FOR THE PURCHASE OF THREE PARCELS OF
LAND ON COMMONS AVE. AND ROUTE 281 FROM
CORTLAND COUNTY

Motion by Councilman Proud

Seconded by Councilman Leach

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

BE IT RESOLVED, the Town Board does hereby authorize the expenditure of no more than \$1,500.00 for the purchase of three parcels of land from Cortland County located on Commons Ave. and Route 281, tax map #86.09-04-01.200, 86.09-04-10.100, and 76.14-04-05.000.

Attorney Folmer informed the Board that he would not be able to attend the August 21, 2013 Town Board Meeting.

Supervisor Tupper recognized Village of McGraw Mayor, Allen Stauber who was in attendance, and offered the Town's assistance to the Village when needed.

Supervisor Tupper introduced the Cortland County Dairy Princess Mikayla MacNeill. Miss MacNeill discussed how she became active in the Cortland County 4-H and the different activities that she has been taking part in since being crowned.

Supervisor Tupper announced that Senator Seward would be attending the Cortland County Fair on Thursday, July 11, 2013 at 12:00 p.m.

Jackie Hartnett from Cortland County 4-H invited the Board to attend a reception on Thursday, July 11, 2013 at 6:00 p.m., which Senator Seward would also attend. Mrs. Hartnett thanked the Board for closing the road during the fair, and for the permit issued to conduct the fair. She explained that there were 205 exhibitors at the fair, and over 160 animals on site. She thanked the Board for their continued support.

Councilman Leach thanked Richard Bush, Jackie Hartnett, the Fair Board, and the Cornell Cooperative Extension for all of their work. He mentioned that the County Fairgrounds are constantly improving, mostly due to volunteers. Councilman Leach mentioned that a pie eating contest would be held Thursday and an auction would be conducted Friday, which were fun events to attend.

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 5:30 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 July 26, 2013.
The draft version of this meeting was approved as written at the Town Board meeting of _____.