

PUBLIC HEARING NO. 1

SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
AND
COMMUNITY REVITALIZATION PROGRAM

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 submitting applications in 2013 to the New York State Office of Community Renewal for funding under the federal Small Cities Community Development Block Grant Program and the Community Revitalization Fund Program.

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; Karen Howe; Bernie Thoma from Thoma Development Consultants; Steve Flatt; Gareth McDonald and Hu Roberts from TCI; Sonya Rocco; Michael Barylski; Denise Knight; Victor Siegle; Paul Heider; Althea Heider; Randy Young; Chris Bushnell; Bob Beard; Roy Hurlbert; News Reporters: Sharon Stevans for Channel 2, Access TV, and a News Reporter from the *Cortland Standard*,

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 Bernie Thoma.

Bernie Thoma from Thoma Development Consultants explained there were two applications for funding that the Town could apply for. First, the Town had the opportunity to apply for additional funds for the Town's Housing Rehabilitation Program. The due date of the application was not known, however this public hearing would satisfy the requirement.

The second item was a special allocation of Community Development Block Grant funds that was made available to the Central New York Regional Economic Development Council. The Cortland County BDC worked with a business in the Town named Innovative Manufacturing Solutions (IMS) and helped the company get approved for a \$100,000 CDBG. Because the grant is from CDBG funds the money has to come through the municipality, similar to the grant the Town received in 2012 for Precision Eforming. Mr. Thoma explained that Thoma Development was notified of the award but the grant application had not been submitted. The grant application was due Tuesday, June 28, 2013.

Mr. Thoma provided a handout regarding IMS. He explained that the Town would be applying for a \$100,000 grant, of which \$90,000 would go to the company to help complete the financing of a \$276,000 project. IMS agreed to create more jobs as a result of the expansion project.

Supervisor Tupper stated that the grant would just pass through the Town. Mr. Thoma agreed and stated that IMS would sign an agreement that if they do not meet the requirements of the grant it would then be repaid the Town.

Supervisor Tupper questioned whether the application for funding was for a grant or a loan. Mr. Thoma explained that it was a deferred payment loan, however if IMS met their investment and job goals then it would become a grant.

No further comments or discussions were heard.

The Public Hearing was closed at 5:10 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; Karen Howe; Bernie Thoma from Thoma Development Consultants; Steve Flatt; Gareth McDonald and Hu Roberts from TCI; Sonya Rocco; Michael Barylski; Denise Knight; Victor Siegle; Paul Heider; Althea Heider; Randy Young; Chris Bushnell; Bob Beard; Roy Hurlbert; News Reporters: Sharon Stevans for Channel 2, Access TV, and a News Reporter from the *Cortland Standard*,

Supervisor Tupper called the meeting to order.

Supervisor Tupper moved agenda item I-5 to the beginning of the agenda, which was to receive and file correspondence regarding the proposed Local Law for Wind Energy Facilities. Supervisor Tupper explained that comments were accepted until Monday, June 17, 2013. He read aloud the names of the people who submitted comments to the Town, and mentioned that one comment was postmarked June 18, 2013 and was not considered. Supervisor Tupper explained that all of the comments were reviewed and were added to the final product of the Local Law.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the following correspondence regarding the Local Law for Wind Energy Facilities in the Town of Cortlandville.

Robert Tobias, 3811 Mulcahy Rd., Cincinnati, NY 13040, received June 11, 2013
 Gary Soshinsky, 4172 Soshinsky Rd., McGraw, NY 13101, dated June 10, 2013
 Gregory Soshinsky, 4070 Soshinsky Rd., McGraw, NY 13101, dated June 10, 2013
 John Soshinsky, 4040 Soshinsky Rd., McGraw, NY 13101, dated June 10, 2013
 Kathleen Ducharme, 9255 N. Magnolia Ave. 273, Santee, CA 92071, dated June 10, 2013
 Louis Cranson, 2888 Parks Rd., McGraw, NY 13101, received June 17, 2013
 TCI Renewables, Suite 520, 485 McGill St., Montreal, Canada, dated June 4, 2013
 Todd Miller, dated June 12, 2013
 Michael Niswender, PO Box 505. Little York, NY 13087, dated June 9, 2013
 Leon McUmbler, 4382 Lapp Rd., McGraw, NY 13101, dated June 10, 2013
 Alison B. King, LLC, dated June 5, 2013

All voting aye, the motion was carried.

Supervisor Tupper referred to Attorney Folmer with regard to adoption of the proposed Local Law for Wind Energy Facilities.

Attorney Folmer explained that there were several procedural things to be done before a motion could be made to adopt the proposed Local Law. The first item had to do with the Cortland County Planning Board. Attorney Folmer recalled that the County Planning Board reviewed the proposed ordinance and submitted recommendations to the Town. The County Planning Board recommended the Town Board adopt the ordinance with 10 conditions. The Wind Turbine Committee that was appointed by the Town Board indicated that 8 of the 10 conditions were included or appropriately dealt with in the proposed local law. However, condition #3 was rejected by the Committee. Condition #3 provided the ability to apply for a variance or a waiver of the site distances if it could be demonstrated that it's unlikely to be an area of future residential construction. The Committee found that to open the door to a speculation as to future use of property would be inappropriate, and therefore did not recommend the Board adopt that particular recommendation. Attorney Folmer suggested a motion be made to approve all of the recommendations of the County Planning Board with the exception of condition #3.

Supervisor Tupper indicated that a super majority vote was needed. Attorney Folmer agreed and explained that a super majority vote was needed because the Board was not acting in accordance with the County's recommendations. He also asked that a roll call vote be taken.

RESOLUTION #122 APPROVE CONDITIONS FROM THE CORTLAND COUNTY
PLANNING BOARD REGARDING THE TOWN OF
CORTLANDVILLE'S PROPOSED LOCAL LAW FOR WIND
ENERGY FACILITIES WITH THE REJECTION OF
CONDITION #3

Motion by Councilman Rocco

Seconded by Councilman Leach

VOTES: Supervisor Tupper	Aye
Councilman Testa	Aye
Councilman Rocco	Aye
Councilman Proud	Aye
Councilman Leach	Aye
ADOPTED	

WHEREAS, the Town Board submitted the proposed Local Law for Wind Energy Facilities to the Cortland County Planning Board for review and recommendations, and

WHEREAS, the Cortland County Planning Board reviewed the proposed Local Law and returned 10 recommendations to the Town as Resolution No. 13-01, dated January 16, 2013, and

WHEREAS, the Town's Wind Turbine Committee indicated that 9 of the 10 conditions were included or appropriately dealt with in the proposed Local Law, and

WHEREAS, the Town Board has and rejected the Cortland County Planning Board's condition #3, which read "that the Town require a minimum setback equal to the setback requirement from a residence for Wind Energy Conversion Systems from all site boundary lines which may be reduced if it can be demonstrated by the applicant that due to the topography, existing land use, or distance from a public road of a site, it is unlikely to be an area of future residential construction", therefore

BE IT RESOLVED, the Town Board does hereby approve the conditions from the Cortland County Planning Board, Resolution No. 13-01, dated January 16, 2013, regarding the Town of Cortlandville's proposed Local Law for Wind Energy Facilities, with the rejection of condition #3.

Attorney Folmer gave some background information about the process surrounding the proposed Local Law. He explained that approximately two years ago the Town Board decided it wanted a regulation written that would permit the location of a wind tower facility within the Town if it could be done in a reasonable safe and responsible basis. The Board appointed a committee consisting of Councilman Proud, Councilman Rocco and Attorney Folmer. The Committee had a series of meetings both with the engineers, with members of the Town Board, among themselves, and among interested community members who were involved in the development of the proposal. They also heard from the public in a public hearing, and provided over a month in time for people to make comments, both written and oral. During that period of time numerous oral comments were received, and over 50 pages of written comments were received; all of which were reviewed and discussed by the Committee.

Attorney Folmer stated that it was a long, hard, and difficult job to do. Councilman Proud and Councilman Rocco had different perspectives, however the longer it was discussed the more they were able to come together and agree on a reasonable proposal. Attorney Folmer stated that the Committee had excellent help from Victor Siegle and Michael Barylski and from a lot of other sources. Attorney Folmer presented the scientific materials that were reviewed and taken into consideration as the Committee put the proposed ordinance together, and asked that the materials be received and filed.

Councilman Rocco mentioned that additional scientific materials would eventually be added to what Attorney Folmer presented, to which Attorney Folmer agreed.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the scientific materials used in drafting the Town of Cortlandville's Local Law for Wind Energy Facilities. All voting aye, the motion was carried.

Attorney Folmer indicated that Town Clerk Snyder was asked to make copies of the materials so there would be one set for permanent retention, one for Attorney Folmer, and one for public review.

Attorney Folmer apprised the Board he also had a document which indicated by name the person who submitted written comments and the result of the Committee's discussion. He explained that in some of the instances the Committee decided that the particular concern had already been handled in the Local Law; decided that some were not going to be changed; and some were changed and included in the text of the final proposed Local Law. Attorney Folmer thanked those people who made comments for not waiting to submit their comments until five minutes before the deadline date of 12:00 p.m. June 17, 2013. The earlier submissions gave the Committee time to review the comments in detail and to deal with each and every one. Attorney Folmer requested the Board receive and file the Committee's comment review.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the Cortlandville Public Hearing Comments Review, dated June 17, 2013, regarding the comments reviewed for the Town of Cortlandville's proposed Local Law for Wind Energy Facilities. All voting aye, the motion was carried.

Attorney Folmer stated that the next item to accomplish was the SEQRA review of the proposed Local Law. He explained that SEQRA review process was not really designed for the enactment of a local law because if the local law was adopted and nothing else happened, nothing affecting the environment would take place. Attorney Folmer explained that only when an application is made under the terms of the ordinance that the environmental concerns become apparent. The majority of the questions that the Committee reviewed in the Full EAF, they hoped and recommended, would be answered in the negative because the adoption of the Local Law does not accomplish any negative affect for the environment. Attorney Folmer stated that the Board would go through the basic categories to make sure the Committee's recommendations are understood by the Board. Attorney Folmer also asked the Board to keep in mind that the Committee spent a great deal of time and effort to be certain that their work was aimed at providing an ordinance that they felt was appropriate for any wind farm that wanted to make an application. They were careful not to deal with any particular group, entity or individual.

Attorney Folmer and the Board reviewed and completed the SEQRA Full Environmental Assessment Form. The Board answered "No" to all questions with the exception of the last question, "Is there, or is there likely to be public controversy related to potential adverse environmental impacts?" Attorney Folmer read aloud the following answer, which the Board did not object to.

"At the outset, there were differing opinions as to whether the proper course of action was a Ban on construction of wind facilities in the Town, or enactment of a regulation for such construction. This difference of opinion was effectively resolved by the Town Board directing its Committee to draft a Local Law regulating these facilities. Since then there has not been significant controversy relative to the necessity of a Local Law, but there have been various and differing opinions expressed concerning its content. The Board has received innumerable verbal comments concerning the Local Law and has received over 50 pages of written comments, each of which has been reviewed and evaluated by the Committee and several suggested changes have been incorporated in the final version."

Councilman Rocco clarified that if an application was made for a wind energy facility the answers to the SEQRA questions that the Board just reviewed would have to be addressed in a different manner. Attorney Folmer agreed and stated that the answers to the SEQRA Full EAF had nothing to do with any individual project, but merely the enactment of the Local Law itself.

RESOLUTION #123 DECLARE NEGATIVE IMPACT FOR
LOCAL LAW NO. 1 OF 2013

Motion by Councilman Leach
Seconded by Councilman Testa
VOTES: Supervisor Tupper Aye
 Councilman Testa Aye
 Councilman Rocco Aye
 Councilman Proud Aye
 Councilman Leach Aye
ADOPTED

WHEREAS, the Town Board as Lead Agent, duly reviewed and completed the Full Environmental Assessment Form for Local Law No. 1 of 2013, therefore

BE IT RESOLVED, the Town Board as Lead Agent, does hereby declare that Local Law No. 1 of 2013 shall have no significant environmental impact.

At this point, Attorney Folmer stated that the Board was prepared to adopt Local Law No. 1 of 2013 which would amend the Zoning Code of the Town of Cortlandville to add to the code article XIX-A titled Wind Energy Facilities.

Councilman Rocco stated that the process took over 2 ½ years and that he appreciated the hard work of the Committee and all those who participated, especially all those people who made comments whether they were in writing, over the telephone, or out in public. He stated that the Committee spent a lot of time reviewing the comments and pulled a lot of information from them. All of the comments were considered, argued about, and discussed. Councilman Rocco mentioned that many people who made comments were not from the Town of Cortlandville, which he thought should be recognized since a local law such as this affects the entire county. Councilman Proud concurred with Councilman Rocco's comments and sentiments.

On behalf of the entire Board, Supervisor Tupper thanked Councilman Rocco, Councilman Proud and Attorney Folmer for their efforts over the past 2 ½ years. He stated that it would have been cumbersome for the entire Board to try to do the same. He stated that they appreciated the Committees hard work, expertise, and applauded them for what they have done.

RESOLUTION #124 ADOPT LOCAL LAW NO. 1 OF 2013
WIND ENERGY FACILITIES

Motion by Councilman Proud
Seconded by Councilman Rocco
VOTES: Supervisor Tupper Aye
 Councilman Testa Aye
 Councilman Rocco Aye
 Councilman Proud Aye
 Councilman Leach Aye
ADOPTED

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Cortlandville for a public hearing to be held by said Board to hear all interested parties on a proposed Local Law for Wind Energy Facilities in the Town of Cortlandville, and

WHEREAS, notice of said public hearing was duly published in the Cortland Standard, the official newspaper of the said Town, and posted at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, as required by law, and

WHEREAS, said public hearing was duly held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Town Board as Lead Agent, duly reviewed and completed the Full Environmental Assessment Form for Local Law No. 1 of 2013, and

WHEREAS, the Town Board of the Town of Cortlandville, after due deliberation, finds it in the best interest of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Cortlandville hereby adopts said Local Law as Local Law No. 1 of 2013, Wind Energy Facilities, amending the Town of Cortlandville's Zoning Code to add Article XIX-A, a copy of which is attached hereto and made a part hereof, and the Town Clerk is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Cortlandville, and to give due notice of the adoption of said Local Law to the Secretary of State.

Be it hereby enacted by the Town Board of the Town of Cortlandville as follows:

Section 1: Local Law No. 1 of 2013, entitled "**WIND ENERGY FACILITIES**," is hereby adopted to read in its entirety as follows:

Article I WIND ENERGY FACILITIES

§1 Title.

This Local Law may be cited as the "Wind Energy Facility Law of the Town of Cortlandville, New York."

§2 Purpose.

The Town Board of the Town of Cortlandville adopts this Local Law to promote the effective and efficient use of the Town's wind energy resource through Wind Energy Conversion Systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

§3 Authority.

The Town Board of the Town of Cortlandville enacts this Local Law under the authority granted by:

- A. Article IX of the New York State Constitution, §2(c)(6) and (10).
- B. New York Statute of Local Governments, § 10(1) and (7).
- C. New York Municipal Home Rule Law, § 10 (1)(I) and (ii) and §10 (1)(a)(6), (11), (12), and (14).
- D. New York Town Law § 130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25) Building lines).
- E. New York Town Law § 135 and 138.
- F. New York Town Law §64(17-a) protection of aesthetic interests), (23)(General powers).

§4 Findings.

The Town Board of the Town of Cortlandville finds and declares that:

- A. Wind energy is an abundant and renewable energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
- B. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and existing power distribution systems can be used to transmit electricity produced.

- C. Regulations of the siting and installation of wind turbines are necessary for the purpose of protecting the health, safety, and welfare of participating and non-participating neighboring property owners and the general public.
- D. If not properly sited, Wind Energy Facilities can represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects.
- E. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods
- F. If not properly sited, Wind Energy Facilities may present an undue risk to bird, bat and other wildlife populations.
- G. If not properly sited, Wind Energy Facilities could conceivably present the risk of diminution of property values of non-participating or adjoining properties.
- H. Wind Energy Facilities may be significant sources of noise, shadow flicker and vibrations, which can negatively impact the health of non-participating or adjoining property residents.
- I. Without proper planning, regulation, and construction of Wind Energy Facilities can create traffic problems and damage local roads.
- J. If improperly sited, Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.
- K. The installation of Wind Energy Facilities may affect ground water supplies.
- L. Distance of setbacks should take into consideration the potential hazards of ice throws, blade breakage, and tower collapse
- M. Wind Energy Facilities may have an effect on future sub-divisions, commercial, residential, or any other development.

§5 Permits Required; Transfer; Modification.

- A. A wind energy permit is required for any Wind Energy Facility constructed in the Town of Cortlandville.
- B. All construction and any restoration or modifications of any Wind Energy Facility, WECS, Small Wind Energy Conversion System, Wind Measurement Tower or part thereof that is located in agricultural areas will be done to the maximum extent practicable according to the New York State Dept. of Agriculture and Market Guidelines for Agricultural Mitigation for Wind Power Projects, subject to landowner approval. Local zoning laws shall govern the placement of each WEF.
- C. No Wind Measurement Tower greater than 18 feet high shall be constructed, reconstructed, modified, or operated in the Town of Cortlandville except pursuant to a Wind Energy Permit issued pursuant to this local law. No permit shall be issued for such construction, reconstruction, modification or operation except in those areas zoned Agricultural.
- D. No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Cortlandville except pursuant to a Wind Energy Permit issued pursuant to this local law. This law shall not govern small Wind Energy Conversion Systems constructed prior to the effective date of this local law unless they are reconstructed or modified.

- E. Exemptions. No permit or other approval shall be required under this Local Law for mechanical non-electrical WECS utilized solely for agricultural operations, provided the Town Board finds such proposed system or structure exempt or otherwise issues a waiver pursuant to provisions of Article V hereof. In considering an exemption, the Town Board shall find that the proposed location and height of such structure/system does not adversely affect the public health, safety and welfare of the adjoining parcels and property owners.
- F. Transfer. No transfer of any Wind Energy Facility, Wind Energy Permit or sale of the entity holding the permit for such facility or the sale of more than 15% of the stock of said Permitted (not counting sales of shares on a public exchange), to a third party, will occur without prior approval of the Town. Said approval shall be granted only upon the Town Board finding that the Transferee has provided a written assumption of all the Transferor obligations under this Local Law of the Wind Energy Permit, including but not limited to the Host Agreement, Pilot Agreement, Cash Deposits and such other agreements relative to the Wind Energy Facility, in a form acceptable to the Town Attorney. No transfer shall reduce the Permittee or any other party's total obligations owed to the Town under this Local Law, except in the manner as provided herein.
- G. Notwithstanding the requirements of this Section, replacement in kind of a Wind Energy Facility requires Town Board approval. Due to technology changes, the possible reasons for all WEF replacements require full review under this ordinance.

§6 Definitions.

As used in this Local Law, the following terms shall have the meanings indicated:

AMBIENT SOUND – Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The near-by and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

ANSI – refers to or means the AMERICAN NATIONAL STANDARDS INSTITUTE.

APPLICANT – The person or entity filing an application and seeking license under this local law.

BACKGROUND SOUND – Background Sounds are those heard during lulls in the Ambient Sound environment and represent the quietest 10% of the time, for example the quietest six minutes during a sixty-minute interval

dBa – A-Weighted Sound Pressure Level. A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low frequencies with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be "Weighted" and the units are "dBA". Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, 51.43-1997 for Type 1 instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this law dBA means LAeq unless specified other wise.

dBc – C-Weighted Sound Pressure Level. Similar in concept to the A-Weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a C-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI SI.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this law dBC means L unless specified other wise.

DECIBEL (dB): Means a standard unit for measuring the sound pressure level. It is equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to a reference pressure, which is 20 micropascals.

EAF - Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

NON-PARTICIPANT – Any and all Cortlandville landowners having no contractual relationship with a wind developer.

PARTICIPANT – Any and all Cortlandville landowners having any contractual relationship with a wind developer.

QUALIFIED ACOUSTICAL CONSULTANT – A person with demonstrated competence in the specialty of community noise testing and evaluation who is contracted by the Town for purposes of noise measurement or evaluation of noise analysis or noise complaints. An example is a person with full membership in the Institute of Noise Control Engineers (INCE) or other specialist who is qualified by education and experience in acoustics and regularly engaged in community noise testing. While such a consultant is preferably also a licensed professional engineer, such licensure does not by itself establish qualification for community noise testing or analysis without further qualification. The Qualified Independent Acoustical Consultant can have no financial relationship with the Wind Energy Facility developer or related entity.

RESIDENCE - means any building suitable for habitation existing in the Town of Cortlandville on the date an application is received. A Residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

ROTOR DIAMETER – The diameter of the largest swept area of a rotating turbine blade.

SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SETBACKS – a distance measured from the centerline of the road right-of-way, property lines, village limits, edge of wetlands, or closest point of non-participating property line to the base of the turbine or measurement tower.

SHADOW FLICKER – the visual effect of viewing the moving shadow of the Wind Energy Conversion System (WECS) rotor blades when they are in a position between the receptor (person viewing them) and the sun and/or the “strobe” lighting effect of this condition as perceived by the receptor whether directly or indirectly (as in a reflection off a light colored wall).

SITE - The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple contiguous lots are in the same ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property, which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement should not be considered off-site.

SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS")-- A wind energy conversion system that consists of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW and which is intended to primarily reduce consumption of utility power at that location.

SOUND LEVEL - also referred to as Noise Level, means the sound pressure level (SPL) obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications of sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). The unit of measurement is the decibel. If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND PRESSURE LEVEL -- means the level which is equaled or exceeded a stated percentage of time. An L10 - 50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes in an hour. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 6 1400-1 1), or other accepted procedures, utilizing the most current method applicable to wind turbines as determined by either the Town of Cortlandville Town Engineer, or by the Town of Cortlandville Qualified Independent Acoustical Consultant

TOTAL HEIGHT-- The height of the tower to the furthest vertical extension of the WECS. This is to be measured from pre-existing original grade.

TOWER HEIGHT – The height of the tower from the finished ground elevation at the tower base to the center of the hub forming the attachment point for turbine blades.

WIND ENERGY CONVERSION SYSTEM (WECS) - A machine that converts the kinetic energy in the wind into a usable form (commonly known as a wind turbine or windmill), and is intended for commercial use, as opposed to the small WECS

WIND ENERGY FACILITY (WEF) -- Any Wind Energy Conversion System, Small Wind Energy Conversion System or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures to such systems.

WIND MEASUREMENT TOWER - A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND ENERGY PERMIT - A permit granted pursuant to this Local Law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

YEAR - As used in this Local Law, a year shall be measured from the date of permit issue.

§7 Applicability.

- A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law, including any wind Energy Facility applied for, but not yet approved, prior to the date of this local law.
- B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that:
 - 1. Any such preexisting Wind Energy Facility, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Local Law prior to recommencing production of energy.
 - 2. No modification or alteration to a preexisting Wind Energy Facility shall be allowed without full compliance with this Local Law.
 - 3. Any Wind Measurement Tower greater than 18 feet high existing on the effective date of this Local Law shall be removed no later than twenty-four (24) months after said effective date, unless a Wind Energy Permit for a Wind Energy Facility is obtained.

§ 8-9 Reserved for Future Use

Article II Wind Energy Conversion Systems

§10 Applications for Wind Energy Permits for Wind Energy Conversion Systems.

An application for a Wind Energy Permit for individual Wind Energy Conversion System shall include the following:

- A. Name, address, telephone number of the Applicant. If the Applicant is represented by an agent, the application shall include the name, physical address and telephone number of the agent as well as an original signature of the Applicant authorizing the representation.
- B. Name, address, telephone number of the property owner. If the property owner is not the Applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
- C. Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number, and coordinates.
- D. A description of the project, including the number and maximum rated capacity (i.e. 1MW, 1.5MW, etc.) of each Wind Energy Conversion System.
- E. A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - a. Property lines and physical dimensions of the Site;
 - b. Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and properties within five hundred (500) feet of the boundaries of the proposed Wind Energy Conversion System site.
 - c. Location and elevation of each proposed WECS identified by specific I.D. #, to be assigned by the Town
 - d. Location of all above ground utility lines, transformers, power lines, interconnection point with transmission lines and other ancillary facilities or structures on the Site or within 1,500 feet of the Wind Energy Conversion System.
 - e. Location and size of structures above 35 feet within a 1,500-foot radius of a proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - f. To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower location equal to:
 - i. Two times the Total Height.
 - ii. Five times the Total Height of the proposed WECS.
 - iii. 3,280 feet (1,000 meters).
 - g. Location of all structures with residences on the Site
 - h. Location of all structures with residences within 3,280 feet of the proposed WECS.
 - i. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - j. The names and addresses of all property owners within a one mile radius of each WECS, together with evidence of the current use of all such property.
- F. Vertical drawings of the Wind Energy Conversion System showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing must be submitted for each Wind Energy Conversion System of the same type and total height.
- G. Landscaping Plan to scale depicting existing vegetation and describing any areas to be cleared and the species proposed to be added, identified by species and size of species at installation and their locations.
- H. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the certification by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, the Wind Energy Permit shall require the determination be provided prior to commencement of construction of the WECS.
- I. Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) ensuring that funds will be available for decommissioning and restoration consistent with Section §17 C; 5) acknowledgment that the decommissioning costs shall be re-estimated, by a licensed engineer, every three years, and that the decommissioning cost will be kept current indexed to inflation; 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of 4 feet, restoration of the soil, and restoration of

vegetation (consistent and in substantial compliance with pre-existing conditions and with surrounding vegetation), except any fencing or residual minor improvements requested by the landowner and approved by the Planning Board.

- J. Complaint Resolution: The application will include a statement that the operator will adhere to the Cortlandville complaint resolution process.
- K. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:
 - a. A construction schedule describing commencement and completion dates
 - b. Blasting schedule if known at the time of application
 - c. A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
- L. Completed Part I of the Full Environmental Assessment Form (FEAF).
- M. Applications for Wind Energy Permits for Wind Measurement Towers subject to this Local Law may be jointly submitted with the WECS application.
- N. For each proposed WECS, include make, model, photograph and manufacturers specifications, including noise decibel data and wind speed specifications. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- O. If the Applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Lead Agency may issue a positive declaration of environmental significance or if a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. In either case, the following studies shall be submitted:
 - (a) Shadow Flicker: The applicant shall conduct a study on potential shadow flicker. The study shall accurately identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences or highways and detail measures that will be taken to mitigate or eliminate such interference.
 - (b) Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of each proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
 - (c) Fire Protection/Emergency Response Plan: A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Wind Energy Facility to address coordination with local emergency/fire protection providers during any construction or operation phase emergency, hazard or other event.
 - (d) Noise Analysis: A noise analysis by a competent acoustical consultant selected by the Town of Cortlandville documenting the estimated noise levels associated with each proposed WECS. The study shall document worst-case estimated noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the Cortlandville Planning Board may modify this requirement). The noise analysis shall be performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11), or other procedure accepted by the Town Planning Board, and shall include both a dBA analysis and dBC analysis. Worst-case noise impact will be estimated at night under stable wind conditions where minimal wind occurs at ground level, but turbines are operating. It shall also include a report prepared by a qualified professional that analyzes the preexisting background noise levels. The report shall describe the project's proposed noise-control features.

- (e) Property Value Analysis: Property value analysis prepared by a licensed appraiser and approved by the Cortlandville Planning Board in accordance with industry standards, regarding the potential impact of the project on values of properties in the Town of Cortlandville. The application must include the Real Estate Property Value Assurance Plan (REPVAP) as outlined in §27 of this Local Law.
- (f) Electromagnetic Interference: An assessment of potential electromagnetic interference with microwave, radio, television, satellite systems, personal communication systems, heart pacemakers, and other wireless communication, weather and other radar shall be prepared.
- (g) Transportation Impacts: An analysis of impacts on local transportation shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Transportation impacts to be considered shall include, at a minimum, potential damage to local road surfaces, road beds and associated structures; potential traffic tie-ups by haulers of WECS' materials; impacts on school bus routes; impacts of visitors to the WECS' facilities. Local roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.
- (h) Transportation Plan: A transportation plan describing routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction. Roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.
- (i) Environmental Impacts: An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related, but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase. A geotechnical report shall include: soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing, a depth-to-bedrock profile within one (1) mile of the Site, information on depth of well, average flow rate, and with permission by owner, test of water quality for all wells within 500 feet of the Site, grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.
- (j) Cultural, Historical and Archeological Resources Plan: An analysis of impacts on cultural, historical and archeological resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. This assessment shall be conducted in accordance with the New York State Office of Parks, recreation and Historic Preservation.
- (k) Wildlife Impacts: An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, insects), as well as wild creatures existing at ground level. An assessment of the impact of the proposed development on the local flora and fauna will include migratory and resident avian species, bat species. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must at a minimum consist of pre-construction data of three years, and literature survey for threatened and endangered species that provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for three-year post-installation studies.
- (l) Operation and Maintenance Plan: An operation and maintenance plan providing for regular periodic Wind Energy Facility schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.

- (m) Blade Throw and Ice Throw Report: A report from a New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade may be thrown. (The basis of the calculation and all assumptions must be disclosed.) The incidence of reported ice and blade throws and the conditions at the time of the ice and blade throw must be included.
 - (n) Stray Voltage Report: An assessment, pre- and post-installation, of possible stray voltage impacts on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.
 - (o) An analysis of the impact of vibration on structures from the WECS on adjacent, adjoining or non-participating properties.
- P. The applicant shall, prior to approval of this project by the Cortlandville Planning Board, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant shall also provide proof of complying with Public Service Commission power purchase requirements.
- Q. A statement, signed under penalties of perjury that the information contained in the application is true and accurate.
- R. Proof of continuous liability insurance in the amount of \$5,000,000 per occurrence with a total policy minimum of \$20,000,000 per year. This shall be submitted to the Town of Cortlandville indicating coverage for potential damages or injury to landowners.
- S. Disclosure of Financial Interests. For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Applicant shall disclose in a separate section of the application the Municipal Officer or his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person. The disclosure shall include all such instances of financial interest of which the Applicant has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.
- T. An accurate twelve-month survey of wind speed data obtained from an independently installed wind measurement tower and certified by NYSERDA to determine if it meets the minimum wind speed criteria in NYS for efficient wind power production.
- U. Copies of all applications and proposed plans shall be made available to the public within seven days of receipt by the Cortlandville Planning Board and placed in the Town Clerk's office and placed on the Town of Cortlandville web site by the Town Clerk.

§11 Application Review Process.

- A. Applicants may request a pre-application meeting with the Planning Board or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.
- B. Ten copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any waiver of any provision of this Article is requested then an application for a waiver and fee shall be submitted, together with the application for a WECS. The waiver application shall comply with Article V and provide in detail the requirement that is being requested to be waived and address the factors in Article V. All waiver requests shall be publicly noticed and shall be heard and may be considered with, prior to or concurrently with the Application for a Wind Energy Permit. Applicant may submit a combined application for WECS and associated WEF
- C. Town Clerk shall forward notice of the Application to the Planning Board. The Planning Board shall designate a Consultant to review the Application and direct the Clerk to forward a copy of the application to the Consultant. The Consultant shall, within 45 days of receipt review the application to determine if all information required under this local law has been

provided. With the written consent of the Planning Board, this period may be extended no more than an additional 90 days. If the application is found not to comply the Consultant shall provide the Planning Board a written statement detailing the missing information.

- D. If the application is incomplete, the Planning Board shall provide the Applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional application fee shall be required upon submittal of the additional information unless the number of WECS proposed is increased or the application is substantially changed, for the purpose of this provision adding additional properties to the WECS Site shall be deemed a substantial change. Upon a resubmission, the application shall be returned to the Consultant for their determination as provided in subparagraph 11 (C) hereof, any additional fees for review by the Consultant shall be paid by the Applicant.
- E. Upon receipt of a notice from its Consultant that the application is complete, the Town Clerk shall transmit the application to the Planning Board to schedule a hearing as required hereunder. No application shall be Noticed for Hearing until it has been found to comply with the provisions of this Article. The Consultant's finding that the application complies with the filing requirement of this Article shall not be a finding on the merits or sufficiency of the content in the application or otherwise preclude a review of the EAF or DEIS for the SEQR process on the application, nor shall it restrict the need for further information for said SEQR process determination.
- F. The Planning Board shall hold at least one public hearing on the Application, and the applicant is required to attend. The public hearing shall be held only after the Town Clerk has advised the Planning Board that the application complies with filing requirements of this article and the Planning Board accepts the application. Notice of the application being found compliant, together with a summary of the application shall be given by first class mail to all property owners within three miles of the boundaries of any property where a WECS is proposed (Site), and published in the Town's official newspaper, no less than ten nor more than twenty days before any public hearing. Where any public hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required, but in the discretion of the Planning Board such additional notice may be directed. The Applicant shall mail the Notice of Public Hearing to all property owners within three miles of the Site, and shall submit an affidavit of service indicating all persons and entities to whom mailed. The assessment roll of the Town shall be used to determine mailing addresses. The Town shall publish the Notice. Failure of any addressee to receive the notice shall not in any manner affect the validity of the proceedings taken thereon.
- G. The Town Board shall act as Lead Agency for purpose of SEQR Review subject to SEQR rules.
- H. The public hearing for an Application hereunder may be combined with public hearings on any Environmental Impact Statement, other SEQR Process or requested waivers (see Article V).
- I. SEQRA reviews. Applications for WECS are deemed a Type I project under SEQRA.
- J. The Town shall require an escrow agreement and deposit for the engineering, legal, and all reasonable costs related to the review of the application and any environmental impact statements before commencing its review. The Town Board shall determine the amount of such deposit.
- K. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which Statement may also serve as the Town's decision on the application.
- L. Once the Town has accepted the application, held a public hearing, and completed the SEQRA process, the Town Board may then approve, approve with conditions, or deny the application, in accordance with the standards in this Article.

§12 Standards for WECS.

A. The following standards shall apply to all Wind Energy Conversion Systems, unless specifically waived by the Town Board as part of a Wind Energy Permit.

1. All power transmission lines from the tower to any building or other structure shall be located underground unless a variance is granted where it is impossible to bury underground or where actual duress can be shown.
2. No television, radio or other communication antennas may be affixed or otherwise made part of any Wind Energy Conversion System, except pursuant to the Town Code. Applications may be jointly submitted for Wind Energy Conversion System and telecommunications facilities.
3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
4. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Wind Energy Facility development plan. All such lighting required for the project shall be dark sky compliant. The application shall include a commitment to retrofit the project with a radar-activated system within two years of being notified by the Town Board. It is understood that these systems are not currently available, but may be in the future.
5. The Applicant shall use measures to reduce the visual impact of Wind Energy Conversion System to the extent possible. The Wind Energy Conversion System shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finish color or a camouflage scheme. Wind Energy Conversion Systems within a multiple Wind Energy Conversion System project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
6. The use of guy wires is prohibited.
7. No Wind Energy Conversion Systems shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No Wind Energy Conversion System shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a Wind Energy Conversion System is causing electromagnetic interference, the operator shall take the corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties.

If a signal transmission or reception problem occurs with any existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems, it shall be the WECS' operators responsibility to prove that the WECS is not the cause of the problem or else shut down the WECS until the problem is otherwise resolved. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Permit for the specific Wind Energy Conversion System or the entire site causing the interference.

8. All solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all applicable local, New York State, and federal rules and regulations. Any environmental hazard created must be cleaned up to the maximum extent possible, restoring the area to its pre-existing condition.
9. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All topsoil disturbed during construction, reconstruction or modification of each WECS will be stockpiled and

returned to the site upon completion of the activity, which disturbed the soil. Compliance with the current New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects is required.

10. Wind Energy Conversion Systems shall be located in a manner that minimizes significant negative impacts on rare, threatened or endangered species in the vicinity, particularly bird and bat species.
11. Wind Energy Conversion Facilities shall be located in a manner consistent with all applicable State and Federal wetland laws and regulations.
12. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable Local, State and Federal laws and regulations.
13. The maximum Total Height of any Wind Energy Conversion System shall not exceed 500 feet from existing/original grade.
14. Construction of the Wind Energy Conversion System shall be limited to the hours of 7 AM to 7 PM. No work shall be completed on Saturday or Sunday. The Town may impose reasonable conditions to any requested change in work hours, and may issue waivers of this requirement in its sole discretion.
15. If it is determined that a WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the approval for the specific WECS causing the problems.
16. WECSs shall be located in a manner that minimizes significant negative impacts on the historical and cultural aspects of the community (i.e. high concentration of historic stone houses and buildings). This shall be done in coordination with the New York State Office of Parks, Recreation and Historic Preservation. In addition, the review of NY's Department of State guidelines for Scenic Areas of Statewide Significance should be respected. Negative impacts must be eliminated to the maximum extent possible.

§13 Required Safety Measures.

- A. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. Fencing: A ten-foot-high (10') fence with a locking portal shall be required to enclose each substation and each tower or group of towers, unless the applicant demonstrates in its Application that the Tower(s) is non-climbable and otherwise safe. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications, as safety needs dictate.
- C. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of any fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information. The Town may require additional signs based on safety needs.
- D. No climbing pegs or tower ladders shall be located closer than twenty (20) feet above ground level at the base of the structure.
- E. The minimum distance between the ground and any part of the rotor or blade system shall be fifty feet, provided it complies with all other provisions of this law.
- F. Wind Energy Conversion Systems shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

- G. WECS shall be set back from residences a sufficient distance, based on a flicker study, to demonstrate that shadow flicker does not adversely affect residences, whether such residences are in or outside of the Town of Cortlandville.

§14 Traffic Routes.

- A. Construction of WECSs poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs or the associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Wind Energy Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. No land can be taken by eminent domain to create any route.
- B. Roads shall remain in existing condition status throughout construction and the Applicant shall insure that such roads shall be usable by the general public during construction. The applicant shall fix any damage to the roadways as required by the Town within 48 hours.
- C. The Applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. A cash deposit shall be made prior to the issuance of any Wind Energy Permit in an amount, determined by the Town, sufficient to compensate the Town for any damage to local roads. Such deposit shall be made in a banking institution in which the Town has a banking relationship.

§15 Setbacks and Noise Standards for Wind Energy Conversion Systems.

A. Requirements:

- a. The equivalent noise level (LEQ), for any ten-minute period of the day, generated by a noise source shall not exceed the limits listed in Table below when measured at the property line

	Daytime 7 a.m. to 7 p.m.	Evening 7 p.m. to 10 p.m.	Nighttime 10 p.m to 7 a.m.
A-weighted (dB)	45	40	35
C-weighted (dB)	63	58	53

- b. In all cases, the corresponding C-weighted limit shall be the operable A-weighted limit (from Table above) plus 18 dB.
- c. In the event audible noise is due to any operation that contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in Table above shall be reduced by five (5) dB; for impulsive noises the standards in Table above shall be reduced by 7 dB; and the standards shall be reduced by 12 dB for highly impulsive noise (ANSI S12.9 Pt. 4).

B. Estimating Noise Impacts:

At the discretion of the Planning Board and at applicant's expense, an application will require certification by an independent acoustical engineer as to the estimated maximum A- and C-weighted sound levels at potentially impacted residential property lines. The firm with which the engineer is associated shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the independent acoustical engineer shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The predicted noise levels shall then be reviewed by the Town's consulting engineer, or their agent, to establish the validity of the predicted impacts.

C. Enforcement:

- a. Enforcement shall be by measurement. The Town, using the services of the Town Engineer, shall be responsible for and may contract for any enforcement measurements. The Town's engineering contractor shall be a member of the National

Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The following protocol may be modified as certain situations may require by the acoustical engineer as long as modifications are in general conformance with the procedure described below.

- b. Initially a preliminary study shall be conducted for 30 consecutive minutes during the period of highest expected noise level exposure. During the thirty- (30) minute period, the equivalent level (LEQ) generated by the noise source shall be measured. The measurement location shall be on complainant's property line, nearest the noise source. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the noise source shall operate continuously (if normal operation) during the thirty- (30) minute measurement.
- c. If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The applicant shall fully cooperate with Town officials and their agents to ensure accurate measurements, including turning on and off as required.
- d. For both types of surveys, the microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.
- e. A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.
- f. A windscreen shall be used as recommended by the sound-level meter manufacturer.
- g. An anemometer shall be used to document wind speed and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ± 2 miles per hour (± 0.9 meters per second).
- h. For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one- third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be less than 5 dB in each and every one-third-octave band.
- i. For all measurements, the surface wind speed, measured at a 1.5- m height, shall be less than 5 m/s.
- j. The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one- third octave band noise floors, if utilized, for each sound-level meter used.

D. Setback distances:

Each WECS shall be setback from Site boundaries, measured from the center of the WECS:

1. 3,280 feet from the nearest site boundary property line.
2. Five times the total height of the proposed WECS from the nearest public road.
3. 3,280 feet from the Village of McGraw and City of Cortland boundaries.

4. Five times the total height of the proposed WECS from any non-WECS structure or above-ground utilities.
5. Two times the total height of the proposed WECS from state and federal wetlands.
6. Five thousand feet from the property lines of a school, hospital, community center, or church (not to include church-owned cemetery).
7. Notwithstanding the foregoing, in the event of a difference in setback requirements herein and those recommended by the manufacturer of the equipment to be installed, the larger setback shall apply.
8. From all Site Boundary lines the first 100 feet shall be a green buffer zone to provide natural screening. For the purpose of this law a green buffer zone shall be defined as an area without structures and left naturally vegetated or in an agricultural use. Cutting and clearing within the green buffer zone is prohibited except in connection with agricultural uses or as necessary to construct and maintain WEF access roads and electric lines.

§16 Issuance of Wind Energy Permits.

- A. Upon completion of the review process, the Planning Board shall, upon consideration of the standard in this Local Law issue a written decision with its findings in support of its approval, approval with conditions or disapproval, fully stated, and forward such decision and its recommendation to the Town Board.
- B. If approved, the Town Board will issue a Wind Energy Permit upon satisfaction of all conditions for said Permit and completion of the SEQRA process, and upon Applicant demonstrating compliance with the Uniform Fire Prevention and Building Code and the other pre-construction conditions of this Local Law.
- C. The decision of the Town Board shall be filed within 5 days in the office of the Town Clerk and a copy mailed to the Applicant by registered mail, return receipt requested.
- D. If any approved Wind Energy Facility has not commenced construction within one year of issuance of the Wind Energy Permit, the Wind Energy Permit shall expire. Upon written request of the Owner, the Wind Energy Permit may be extended for one year so long as the project is unchanged

§17 Abatement.

- A. The Applicant will supply an annual report of electrical production by turbine. If any WECS fails to generate electricity for a continuous period of one year the Town Board may determine that it is "non-functional or inoperative", and require the Owner (for the purpose of this Section 17 an Owner is the holder of the Wind Energy Permit) to remove said WECS at its own expense. Removal of the WECS shall include at least the entire above ground structure and connected facilities down to 4 feet below grade, including transmission equipment and fencing and such other associated parts as the Town Board may direct. This provision shall not apply if the Town finds that the Owner has been making good faith efforts to restore the Wind Energy Conversion System to an operable condition, or if the non-functional or inoperative condition is the result of a force majeure event beyond the Owner's control. Nothing in this provision shall limit the Town's ability to order a remedial action plan after hearing. The Town shall provide Owner with at least 15 days notice of the hearing. The Owner may present evidence at the hearing on the functioning or operation of the system, or explanation for delay in repair during such period. At such hearing, in order to warrant decommissioning of the system or any part thereof, the Town must first find by a preponderance of the evidence submitted and presented, that the WECS or any part thereof has been non-functional or inoperative continuously for 12 months. The Town after such hearing may order the removal of the WECS system or any part thereof (down to 4 feet below *grade*) that it finds has been non-functional or inoperative. Upon direction by the Town Board to the Owner of a WECS to remove any system or part thereof and the failure of the Owner to comply with such directive or to substantially commence such removal within 30 days of the directive, then the Town may proceed against the cash deposit as established hereinafter in compliance with paragraph 17(C) hereof.

- B. Generation of electricity (or lack thereof) by a WECS may be proven by reports or documents provided to the Public Service Commission, NYSERDA, New York Independent System Operator, or other reporting agencies or by lack of generation of revenues from the sale of energy. The Owner shall make available (subject to a non-disclosure agreement) to the Town Board all reports to and from the purchaser of energy from the Wind Energy Conversion Systems, if requested, and such other reports it finds necessary to prove the WECS is functioning. All such reports submitted by the Owner may be redacted as necessary to protect proprietary information. Failure to provide such information as requested shall be the basis for the revocation of any operating permit.
- C. Decommissioning Fund: The Owners shall continuously maintain a cash deposit, in a form and from a Provider approved by the Town for the removal of nonfunctional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This cash deposit shall be adjusted every three years for changes in costs of decommissioning and restoration as well as adjusted for inflation. The cash deposit shall be maintained in a bank licensed and authorized to do business in the State of New York, or such other financial institution so authorized and approved by the Town Board. All costs of the financial security shall be borne by the Owner. The cash deposit shall be fully in place before commencement of construction of any portion of Wind Energy Conversion System. Any Wind Energy Permit issued shall restrict construction until the deposit has been approved and accepted by the Town Board

§18 Limitations on Approvals; Easements on Town Property.

- A. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- B. Future construction of Residence or dwellings within a distance of one and half times the tower height from any Tower on an approved Site shall be restricted and not allowed unless an application for a waiver and modification of such Approved Site is made and approved by the Town Board. The application for the Waiver shall comply with Article V hereof.
- C. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

§19 Permit Revocation.

- A. Testing fund: A Wind Energy Permit shall contain a requirement that the Owner fund periodic noise testing by a qualified independent third-party acoustical measurement consultant approved by the Town Board, which may be required every two years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Wind Energy Permit and this Local Law and shall also include an evaluation of any complaints received by the Town. The Owner shall have 15 days after written notice from the Town Board, to cure any deficiency. An extension of the 15-day period may be considered by the Town Board, but the total period may not exceed 90 days. The complainant shall be notified of any request for such extension. The Town Board has the right to shut down the WEF immediately if the Town Board determines that an emergency has occurred.
- B. Operation: A Wind Energy Conversion System shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a Wind Energy Conversion System become inoperable, or should any part of the Wind Energy Conversion System be damaged, or should a Wind Energy Conversion System violate a permit condition, the owner shall remedy the situation within 15 days after written notice from the Town Board. The Owner shall have 15 days after written notice from the Town Board, to cure any deficiency. An extension of the 90-day period may be considered by the Town Board, but the total period may not exceed 90 days.

- C. Notwithstanding any other abatement provision under this Local Law, and consistent with §19(A), if the Wind Energy Conversion System is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance: (1) order either remedial action within a particular time frame, or (2) order revocation of the Wind Energy Permit for the Wind Energy Conversion System and require the removal of the Wind Energy Conservation System within 90 days. If the Wind Energy Conservation System is not removed, the Town Board shall have the right to use part or all of the cash deposit to remove the Wind Energy Conversion System.

Article III

Wind Measurement Towers

§20 Wind Site Assessment.

The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted on the issuance of a Wind Energy Permit in accordance with this Local Law.

§21 Applications for Wind Measurement Towers.

A. An application for a Wind Measurement Tower shall include:

1. Name, physical address, telephone number of the Applicant, and the names and addresses of principals of Applicant. If the Applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the Applicant authorizing the representation.
2. Name, address, telephone number of the property owner. If the property owner is not the Applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Coordinates of each proposed tower location, including Tax Map section, block and lot number.
4. Proposed Development Plan and Map.
5. Decommissioning Plan, including a cash deposit for removal.

§22 Standards for Wind Measurement Towers.

- A. The distance between a Wind Measurement Tower and the property line of the Site shall be at least one and a half times the Total Height of the tower. The tower shall not be located nearer than one and half times the Total Height of the tower to any Residence. Site can include more than one piece of property. Exceptions for neighboring properties are also allowed with the written consent of those property owners.
- B. Wind Energy Permits for Wind Measurement Towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board in accordance with the procedure of § 16(D).

Article IV

Small Wind Energy Conversion Systems

§23 Small wind systems (WECS).

Intent. This section regulates and provides standards for small wind energy systems (WECS) designed for on-site home and farm use, and that are primary used to reduce on-site

consumption of public-utility-generated and distributed electricity. The intent of this section is to encourage the development of small wind energy systems and to protect the public health, safety and community welfare.

A. Permit required.

1. No WECS shall be constructed, reconstructed, modified or operated in the Town of Cortlandville except in compliance with this section.
2. No wind measurements tower shall be constructed or operated except in conjunction with and as part of an application for a small WECS.
3. No transfer of real property on which a small WECS is situated shall eliminate the liability of the owner of such property from compliance with this section and the conditions of the conditional permit issued for such WECS.
4. Notwithstanding the requirements of this section, replacement in kind of a small WECS may occur without Town approval when:
 - (a) There will be no increase in total height;
 - (b) No change in location;
 - (c) No additional lighting or change of facility color;
 - (d) No increase in noise produced by the WECS.

B. Permitted areas:

Agricultural District on lots greater than two acres.

R-1 District on lots greater than two acres.

C. Height limitations.

Agricultural District: 100 feet.

R-1 District on lots less than three acres: 40 feet.

R-1 District on lots greater than three acres: 60 feet when documentation shows a need for a height greater than 40 feet.

D. Setback. All WECS shall be set back from all property lines a minimum of 1.5 times the total height of the WECS.

E. Application. A conditional permit, (Article XIV) is required for all WECS. The Planning Board shall hold a public hearing with notification of all property owners adjacent to the proposed tower site or within one mile of the proposed tower site.

F. Standards.

1. Only one small WECS per lot shall be allowed. More than one may be permitted as long as each has the required minimum lot size and the applicant demonstrates that the electric needs of the user exceed the power generation capability of one WECS.
2. The height allowed shall be reduced if necessary to comply with all federal aviation requirements and § 178-115 of the Code of the Town of Cortlandville.
3. The maximum turbine power output is limited to 10 KW unless the applicant demonstrates to the Town Planning Board that a larger turbine is necessary to meet the historical or projected energy needs of the applicant.

4. The system tower and components shall be painted a non-reflective, unobtrusive color that blends the system and components into the surrounding landscape.
5. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails) and from adjacent properties.
6. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
7. All on-site electric wires associated with the system shall be installed underground except for "tie-ins" to a utility company and public utility transmission poles, towers and lines. The Planning Board may modify this standard if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
8. The system shall be operated such that no electromagnetic interference is caused. If it has been demonstrated to the Planning Board that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
9. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm therefrom. No brand names, logo or advertising shall be placed or painted on the tower or components where it would be visible from the ground, except that a system or tower manufacturer's logo may be displayed on a system housing in an unobtrusive manner.
10. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - (a) Tower climbing apparatus located no closer than 12 feet from the ground.
 - (b) A locked anti-climbing device installed on the tower.
 - (c) A locked, protective fence at least six feet in height that encloses the tower.
11. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet in height or sheathed in bright orange or yellow covering from three feet to eight feet above the ground.
12. The minimum height above the ground of the lowest part of the wind turbine blade shall be at least 15 feet.
13. The level of noise produced during WECS operation shall follow the levels established in Section §15A, measured at the boundaries of the closest parcel to the WECS site.
14. All small WECS tower structures shall be designed and constructed to be in compliance with applicable provisions of the New York State Uniform Fire Prevention Building Code, and generally accepted engineering practices.
15. All WECS shall be equipped with manual and automatic overspeed controls. The manufacturer shall certify the conformance of rotor overspeed control design and fabrication, with good engineering practices.
16. No WECS shall be constructed or operated so as to create artificial habitat for raptor prey. Electrical boxes, perching opportunities, etc., shall to the maximum extent possible be minimized.
17. No experimental, home built, or prototype wind turbine shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.

18. A WECS shall be set back at least 1,000 feet from any important bird area as identified by The New York Audubon Society and from state-listed wetlands.
19. All WECS shall be maintained in good condition and in accordance with all requirements of this section
- G. Abandonment of use. A small WECS which is not used to produce electricity for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within nine months after notice from the Town Planning Board.

Article V

Waivers

§24 Waivers.

- A. The Town Board may, after a public hearing (which may be combined with other public hearings on Wind Energy Facilities, so long as the waiver request is detailed in the public notice and the Application), grant a waiver only under conditions of duress or absolute hardship, except as otherwise expressly prohibited herein, from the strict application of the provisions of this Local Law if, in the opinion of the Town Board, the grant of said waiver is in the best interests of the Town.
- B. The Town Board in making its determination on a waiver request shall consider the benefit to the Owner if the waiver is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the waiver; (2) whether the benefit sought by the Owner can be achieved by some method, feasible for the Owner to pursue, other than waiver; (3) whether the proposed waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and the scope of the request.
- C. The Town Board, in the granting of waivers, shall grant the minimum waiver that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- D. The Town Board may attach such conditions, as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

Article VI

Miscellaneous

§25 Fees.

- A. Non-refundable Fees shall be as follows:
1. Wind Energy Conversion System/Wind Energy Permit: \$2,000 per megawatt of rated maximum capacity;
 2. Wind Measurement Towers Wind Energy Permit: \$1,500 per tower, and \$1,000 for any other structure or part thereof not a tower;
 3. Small WECS Wind Energy Permit: \$500 per WECS;
 4. Wind Measurement Tower or Wind Energy Permits renewals/extensions: \$1,000 per Permit/WECS;
 5. The fee for an Article 5 Waiver application shall be \$250.00.
 6. Fees are subject to change by Town Board Resolution
- B. Wind Energy Permits; review, inspection, and approval fees. The Town believes the review of applications for Wind Energy Facilities and compliance monitoring of issued Wind Energy Permit requires specific third party expertise. In addition to the permit fees for the WECS system as provided in 25(E) above, the Owner of the WECS shall pay the costs of such review as follows:

- C. An outside consultant, approved by the Town, to review the plans submitted by the Applicant or its representative for compliance with this regulation and inspection of work, together with monitoring compliance with any issued permit for any WECS. All such expense shall be made by the Applicant, or Holder of such issued permit, if different, providing a cash advance payment to the Town Clerk prior to issuing such permit or such other form of advance payment as the Town Board may direct and approve.
- D. Permit Year Annual Report. The Owner shall file annually a report of the condition and all maintenance and repair work to the WECS system, detailing any improvements, alterations or changes to any WECS or other structure of the system or any of its components, together with a review fee of \$200.00 for each WECS. The report shall be certified by a licensed engineer that such work has not changed any permit condition. The Town, upon notice to the Owner, may refer the report to consultant if it reasonably believes that any work may change or adversely impact a permit condition. The Owner shall be responsible for any costs of any outside consultant, if necessary, to review the report.
- E. Any costs associated with reviewing materials submitted by the Owner or the review of any condition of a permit, including, but not limited to, ensuring the system continues to be safe and compliant with the terms of such permit issued shall be the expense of the owner of the system. Such expense shall be paid by the Applicant/Owner. Prior to incurring such costs, the Town agrees to provide the Applicant/Owner of the system with notice of such costs and reason for the same. The Applicant/owner may protest the costs by filing a protest with the Town Clerk within ten days of such notice. Said protest shall contain a statement of what is protested, and if a cost item is protested then an estimate from an independent person for the costs protested shall be included. Notwithstanding a protest the Town may engage a consultant to review any submission by the Applicant/Owner of the system prior to approving the submission and all such expense and costs shall be an expense of the project (Applicant/Owner of the system). If any such expense shall not be paid the same shall constitute a violation of the permit and be deemed an expense in decommissioning the system or any part thereof in question.
 - 1. The permit fee for Town Board approval for cutting or clearing in a green buffer area within a Site shall be \$100.00 per permit, no permit fee is necessary for maintaining agricultural uses within a green buffer zone.
 - 2. Applications for approval of Transfer of ownership or control pursuant to section 5(G) shall be submitted to the Town Board together with information explaining the proposed change of control or the transfer. Such information shall include the names and addresses of the parties whose interest is being changed or transferred together with their percentage of ownership being transferred and the names and addresses of each person, shareholder, member, partner or individual receiving such interest, together with a fee of \$500.00 and such consultant fees as the Town Board finds necessary to review any financial information submitted therewith. The Town Board reserves the right to request such other information it may reasonably request and finds necessary to complete its review of such application.
- F. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community Agreements with any Applicant to compensate the town for expenses or impacts on the community. The Town shall require any Applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA. Notwithstanding anything to the contrary provided herein, any and all Town agreements or permit conditions pertaining to a Wind Energy Conversion System shall be filed with the Town and in place prior to the issuance of the Wind Energy Permit, unless the approval for such Wind Energy Conversion System permit expressly provides otherwise, including Host Community Agreement, Decommission Plan and proof of Funds or escrow accounts, if required, related to the Wind Energy Conversion System.

§26 Tax Exemption.

The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law §487 for large WECS, pursuant to the authority granted by paragraph 8 of that law.

§27 Real Estate Property Value Assurance Plan

The WEF Owner/operator must provide the Real Estate Property Value Assurance Plan (REPVAP) to all Non-Participating landowners who: 1) own property within one mile, measured horizontally, from the Project Boundary, and 2) have not signed any mitigation waivers. This is a legally binding contract with the Owner/operator and its successors and the landowners. Each one of these contracts must be submitted with the application. The elements of the Real Estate Property Value Assurance Plan are as follows:

A. Establishing the Current Value of the Home

Three neutral real estate agents will be selected from a list of agents licensed in the State of New York and conducting business in the general project area. Each agent shall perform a Comparative Market Analysis (CMA) of the property – in its current state – which will compare the property size and improvements to no less than three similar properties that are listed for sale, using generally accepted CMA methods. The two highest property valuations determined from each CMA will then be averaged to determine the “baseline” property value for REPVAP purposes only. The CMAs will be performed at the Applicant’s expense. The property owner hereby agrees to permit access to the property as required to perform the CMA inspection. Furthermore, the property owner hereby agrees to provide full disclosure of known defects of the property as may be required under New York State Law. The agents preparing the CMAs will provide a written copy of their report to both the property owner and the Applicant. Both the Applicant and the landowner reserve the right to reject CMA results only in the instance of a clear mistake by the agent.

B. Establishing the Future Value of the Home if Listed for Sale.

If at any time during the three year period after a permit to erect the WEF, the property owner lists the property for sale with a realtor, then an “updated” Comparative Analysis will be prepared, again at the Applicant’s expense, using the same procedure outlined above. The updated CMA will explicitly take into account any changes in local market conditions for comparable properties unaffected by the wind project, as well as any improvements to the home and/or lot. In the event that the property has been listed for at least 12 months and sells for less than the market value determined by the updated CMA average, the Applicant will pay the difference in value within 30 days after closing of the sale of the property. The 12-month listing requirement may be waived by Applicant if requested by the property owner at the Applicant’s sole discretion.

C. Other stipulations

The property owner hereby grants the Applicant the right to purchase the property at the greater amount of the updated CMA average market value or the highest bona fide offer. In the event the property was offered for sale and did not sell or generate any acceptable bona fide offers within 12 months, the Applicant will pay the difference in value between the updated CMA averaged market value and the highest bona fide offer, but only upon reasonable certification by the property owner’s selling agent that the lack of an acceptable offer or sale was attributable solely to the close proximity of the property to the WEF, and not due to any other reason whatsoever including but not limited to market conditions or specific deficiencies related to the property that was otherwise assumed to be satisfactory. If the property does not sell within an 18-month period, the Applicant will have to purchase the property at the updated CMA average market value.

D. Subject to the Applicant’s right to waive any or all these exclusions, the plan outlined herein does not cover a sale or transfer of the property under any of the following conditions.

If the property owner does not have clear and marketable title.

If the property has not been listed for sale for at least 12 months as a continuous period.

If the property is gifted or assigned to another person.

If the property is not listed for sale in accordance with Section D at some point.

If the property is not reasonably maintained in its current condition, reasonable wear and tear excepted.

E. Additional Conditions:

A property owner can participate voluntarily in this plan, under the terms and conditions established herein, but the benefit is not assignable to new or subsequent property owners. If the Applicant sells or transfers ownership of the WEF, it must assign, transfer, pledge, or otherwise dispose of its obligations and interests under this agreement in a form acceptable to the contracting landowners, unless released in writing by contracting land owners. If no agreement

can be reached, then the Applicant shall, before sale of the WEF, place into an escrow account, in favor of the landowner(s) the full value of the property, to be accessed by the landowner(s) if no sale is finalized within the time allocated in Section D.

In the event any landowner experiences health problems directly attributable to the operation of the WEF, such that the home is rendered uninhabitable, and unsellable, the listing period will be waived, and the Applicant will be responsible for all medical expenses incurred, including but not limited to doctor visits, hospital visits and stays, medical procedures, medication and cost of lodging away from the home, up until such time as the Applicant purchases the affected property at its full value before the approval and operation of the WEF reduced the property's worth. It will be the responsibility of the Applicant to prove that the health problems (which weren't present before, and now are) are NOT attributable to the Applicant.

§28 Complaint Resolution Process.

- A. All complaints shall be directed to the Town Code Enforcement Officer who will respond to the complainant within five (5) business days after receipt of such complaint. The Town Code Enforcement Officer shall keep a log of any such complaints received.
- B. Any complaints which cannot be resolved during the initial response shall be subsequently directed to the Planning Board for investigation, and any such investigation shall be undertaken with the full cooperation of the person/ applicant/ operator and in accordance with §29, Enforcement.
- C. If the complaint includes the character or quality of noise, then any subsequent investigation shall use best practices to evaluate the overall level, tonal, and/or temporal nature of the noise prompting the complaint. As outlined in Section §29, Enforcement, the noise source will be shut down as may be needed to properly assess noise impacts.
- D. Testing shall commence within ten (10) business days of the report of the initial investigation, but ultimately testing will be predicated upon conditions that facilitate adequate measurement of the noise source. Testing shall compare actual noise measurements at complainant's property line with and without noise source to confirm operation complies with established noise limits. If sound levels of the noise source exceed sound levels with noise source off by more than 5dB, then the noise shall be deemed out of compliance with this regulation.

§29 Enforcement; Penalties and remedies for violations.

- A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.
- B. Any person owning or operating a Wind Energy Facility shall be responsible for the continued compliance of such facility with this local law and the terms and conditions of the Wind Energy Permit issued for such facility.
- C. A violation of this local law or any provision of the Wind Energy Permit shall subject the Owner or Operator of the facility to a civil penalty of One Thousand (\$1,000.00) Dollars, payable within 10 days of the notice of the violation. In lieu of proceeding with enforcement of this law as an offense the Town may institute a civil proceeding to collect civil penalties in the amount of \$1,000.00 for each violation. Each days continued violation shall constitute and be deemed a separate additional violation
- D. Revocation of Wind Energy Permit; Upon a finding of three separate violations by a court of competent jurisdiction by an Owner or Operator of the facility of a material provision of this Local Law in any one year period, the Town Board may hold a hearing for a revocation of any Wind Energy Permit issued by such Board.
- E. In lieu of a civil proceeding for enforcement of this local law, the Town Board may elect to proceed to charge any Owner or Operator who violates any material provision of this Local Law or be in noncompliance with any material term or condition of any permit issued pursuant to this Local Law, or any order of the enforcement officer with an offense. Each days continued violation shall constitute and be deemed a separate additional violation. Each

such offense shall be punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.

- F. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

§30 Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Cortlandville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

§31 Supercession.

This Local Law shall supercede all Town local laws and other land use regulations and specifically New York Town Law § 131, § 133, §266 and §268 that are contrary and in conflict with the provisions of this Local Law to the extent necessary to give this Local Law full force and effect.

§32 Effective Date.

This Local Law shall be effective immediately upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Attorney Folmer reminded the Board that the moratorium for wind energy facilities in the Town would expire June 30, 2013. However, Local Law No. 1 of 2013 would not become effective until it is filed with the Secretary of State. The process would commence on June 20, 2013 to file the Local Law, however the Town has no control over how long it would take the Secretary of State to accomplish the filing and to let the Town know it has been filed. Therefore, Attorney Folmer requested the Board extend the moratorium from June 30, 2013 to 12:00 p.m. on the day following the date upon which Local Law No. 1 of 2013 is filed with the Secretary of State, or until July 10, 2013, whichever shall first occur.

Councilman Rocco suggested the language read “12:00 p.m. on the first business day following ...” which Attorney Folmer agreed with.

Supervisor Tupper asked Town Clerk Snyder how she receives notification that the local law was filed. He also indicated that the Board would like the local law sent via FedEx to the Secretary State. Town Clerk Snyder informed the Board that she receives notification of the filing through the mail rather than via email.

RESOLUTION #125 AUTHORIZE EXTENSION TO LOCAL LAW NO. 1 OF 2012 –
IMPOSING A MORATORIUM ON PLACEMENT OF
COMMERCIAL WIND FARM FACILITIES

Motion by Councilman Leach

Seconded by Councilman Proud

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

ADOPTED

WHEREAS, on April 4, 2012 the Town Board of the Town of Cortlandville adopted Local Law No. 1 of 2012 “Imposing a Moratorium on Placement of Commercial Wind Farm Facilities”, which was filed with the New York State Department of State effective April 19, 2012, and

WHEREAS, per Section 5 of the Local Law, the moratorium imposed by the Local Law shall be in effect from its effective date until December 31, 2012, unless extended by Resolution of the Town Board, and

WHEREAS, on December 19, 2013 the Town Board adopted Resolution #243 of 2012 authorizing a six-month extension to Local Law No. 1 of 2012 effective until June 30, 2013, and

WHEREAS, the Town Board of the Town of Cortlandville finds that another extension of such moratorium is warranted to allow for the filing of Local Law No. 1 of 2013, Wind Energy Facilities, to be effective with the Secretary of State, therefore

BE IT RESOLVED, the Town Board does hereby authorize an extension to Local Law No. 1 of 2012, “Imposing a Moratorium on Placement of Commercial Wind Farm Facilities” from June 30, 2013 until 12:00 p.m. on the first business day following the date upon which Local Law No. 1 of 2013 is filed with the Secretary of State, or until July 10, 2013, whichever shall first occur.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Planning Board Minutes of March 26, 2013. 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 April 30, 2013. 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 April 30, 2013. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file the Cortlandville Board of Assessment Review Minutes of May 29, 2013. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Rocco, to approve the Draft Town Board Minutes of June 5, 2013 as submitted. All voting aye, the motion was carried.

RESOLUTION #126AUTHORIZE PAYMENT OF VOUCHERS – JUNE

Motion by Councilman Leach

Seconded by Councilman Rocco

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 #546-599	
	General Fund A	\$132,767.64
	General Fund B	\$ 8,467.73
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 53,221.61
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 #193-209	
	NYS Rt 13 Sewer Rehab HC	\$ 0.00
	Sewer SS	\$ 3,074.11
	Water SW	\$ 22,003.60
Funds SF, TA, TE	Voucher #16-18	
	C'Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 33,260.51
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to Gareth McDonald.

Gareth McDonald, representing TCI Renewables, stated that he recently sent a letter to the Board registering TCI's objection to the Local Law for Wind Energy Facilities. He stated that the local law was too prohibitive and goes beyond the protection of residents and the public in TCI's opinion as wind energy developers.

Mr. McDonald mentioned that public hearings were recently held with regard to TCI's wind energy project and the DEIS. Many verbal comments were received and written comments were being submitted as well. With regard to the comments, the SEQRA process would be followed in regard to the Final EIS.

Also contained in TCI's letter to the Town was reference to the Article 10 process which is available to wind developers. Mr. McDonald stated that they wanted to make it clear to the Town that nothing in the letter was meant as an ultimatum or a threat to the Town Board. He stated they were merely outlining their options as a business with regard to SEQRA and the Article 10 process. Mr. McDonald stated that TCI's preference would be to work with the Town to follow the SEQRA process through to the end. He stated that the setbacks in the DEIS were reasonable and sufficient to protect the residents of the Town of Cortlandville and the public and the residents of the project area. He stated that most of the proposed setbacks are of industry standards or in excess of industry standards. Mr. McDonald stated that TCI's letter outlined their wish to create a new law with more reasonable setbacks that would be more acceptable to TCI and the four towns involved. In the past TCI tried to have a harmonized local law created that would apply to all four towns as they believe the setbacks should be the same for a resident of the project area whether the property was in the Town of Cortlandville, Homer, Truxton or Solon. Mr. McDonald stated that if that does not work out, TCI would like to have a local law that does not have as restrictive setbacks as what was in the Town's draft local law.

Mr. McDonald explained the process going forward for TCI's Final EIS with Cortland County. The County's consultant was compiling all of the written comments; would receive the transcript from the stenographer; and would continue to receive written comments until July 26, 2013. The County was starting to address the comments and starting the review the DEIS for content rather than for applicability for the final DEIS scope. The County would then address each public comment and where the answer could be found in the DEIS. If there was not an answer in the DEIS then further studies would be completed. Mr. McDonald stated that there were a number of further studies that TCI committed to such as a walkover archaeological study and wetland delineation. Along with public comment, involved agencies such as the DEC and DOT would comment on the document and issue findings.

Mr. McDonald requested a special meeting with the Board to discuss the contents of the Local Law and to reach a middle ground on the terms and setbacks.

Supervisor Tupper offered privilege of the floor to Michael Barylski.

Michael Barylski recognized the Board and Attorney Folmer and their collective efforts in regard to developing the Local Law for Wind Energy Facilities. He stated that a tremendous amount of work and effort and input went into the draft, including all of the work of Councilman Rocco, Councilman Proud, and Attorney Folmer put in to developing a draft. Mr. Barylski also mentioned the consideration and incorporation of comments and recommendations made by the Town and County Planning Boards and the public. He recognized the members of the Town Planning Board for the amount of effort they put into their research to make comments to the Town Board. Mr. Barylski also recognized the Board for keeping the public comment period open until Monday, June 17, 2013 to encourage as much public comment as possible.

In regard to comments made by Mr. McDonald from TCI, Mr. Barylski recalled that several years ago an effort was made to develop a common ordinance that could be adopted countywide, which the Town was involved in. Those efforts were sidelined. Mr. Barylski stated that the TCI application was “putting the cart before the horse,” and that in his 20 years of review he had never seen a situation where so many involved agencies did not have regulations in place for which to entertain. He stated that he had little sympathy for TCI and the fact that the company finds itself with an application that is not consistent with what the towns are now developing.

Mr. Barylski stated that the Town did some very good work recognizing that impacts do not stop at the property line. He stated that it is important to have an ordinance that measures setbacks from the property line, because “the area between the property line and the residence is as near and dear to many people as the area right around the residences themselves.” Mr. Barylski stated that TCI has a number of options available to them.

Supervisor Tupper interrupted Mr. Barylski and reminded him that the Town does not have an application from TCI.

Mr. Barylski thanked the Board again for all of their hard work, and reminded them that there is a DEIS at the County level naming the Town of Cortlandville as an involved agency. He encouraged the Town to review the DEIS and provide comments to the lead agency.

The monthly report of the Town Justice for the month of May 2013 was on the table for review and is filed in the Town Clerk’s Office.

RESOLUTION #127 ACCEPT 2013 TAX COLLECTOR’S SUMMARY

Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, the 2013 Tax Collector’s Summary is hereby accepted and shall be received and filed.

Town Clerk/Tax Collector Snyder apprised the Board she collected 88% of the 2013 taxes, in comparison to the 87% collected in 2012. She attributed the increase in collection to partial payments, which increased from the 2012 tax year, and the actual tax bill having a slight decrease. Town Clerk Snyder stated that participation in the partial payment program would continue to increase over the next few years.

Under communications, Supervisor Tupper announced that the Town of Cortlandville received the Gold Award from the United Way for Cortland County for Employee Campaigns for having the highest percentage of participation among public service groups. Supervisor Tupper congratulated the employees for their contributions.

There was a brief discussion regarding filing an application for funds through the Community Development Block Grant Program. Councilman Leach commented on the success of the CDBG grants within the Town, mentioning the homes that have been rehabilitated and the new sidewalks in Blodgett Mills. He stated that the Town was very fortunate to receive the CDBG's.

Supervisor Tupper agreed, and stated that through the CDBG program between fifty and sixty homes have been rehabilitated in the Town. If the Town is awarded another CDBG it would help rehabilitate approximately twenty more homes. Councilman Rocco acknowledged the Town's grant writing company, Thoma Development Consultants for their assistance in obtaining the grants.

RESOLUTION #128 AUTHORIZATION TO FILE AN APPLICATION FOR FUNDS
TO THE NEW YORK STATE OFFICE OF COMMUNITY
RENEWAL

Motion by Councilman Proud

Seconded by Councilman Testa

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

BE IT RESOLVED, the Supervisor of the Town of Cortlandville is hereby authorized and directed to file an application for funds from the New York State Office for Community Renewal through its Community Development Block Grant Program **2013 CRF APPLICATION**, and it is further

RESOLVED, upon approval of said request, the Supervisor of the Town of Cortlandville is hereby authorized and directed to enter into and execute a project agreement with the State for such financial assistance to the Town of Cortlandville for a Small Business grant.

RESOLUTION #129 AUTHORIZE SUPERVISOR TO SIGN CONTRACT WITH THE
J.M. MURRAY CENTER FOR CLEANING SERVICES AT THE
RAYMOND G. THORPE MUNICIPAL BUILDING

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 the contract with the J.M. Murray Center for cleaning services at the Raymond G. Thorpe Municipal Building from July 1, 2013 through December 31, 2013, for the total cost of \$10,530.00.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from the New York State Environmental Facilities Corp., dated May 31, 2013, regarding the Engineering Agreement Acceptance for the proposed NYS Route 13 Sewer Rehabilitation Project. All voting aye, the motion was carried.

There was discussion regarding Cortland County Legislature Resolution #148-13 regarding the reimbursement of relieved delinquent village and town taxes. Attorney Folmer explained that County Law and Town Law provide that unpaid taxes are relieved by the County. The statute provides that the County is only required to relevy taxes. They are not required to relevy other items such as demolition costs. As an example, Attorney Folmer explained that the Town expended funds for the demolition of the former Golden Skillet on Route 13. Ordinarily the cost for the demolition would be put on the 2014 tax bill. The County would reimburse the Town the full amount relieved on the tax bill, and the County would then attempt to recoup that cost. The County would no longer do this.

Attorney Folmer explained that one of the reasons the County would not relevy other charges anymore had to do with a situation involving a building located next to a creek in the Village of McGraw that is tipping significantly. Both the fourth and third floors of the building collapsed to the floors below. According to the Deputy Mayor of the Village of McGraw, the

lowest estimate they received to demolish the building was \$425,000.00, which the Village could not afford. Under the former system, the \$425,000 would be relieved onto the Town and County tax bill and the County would eventually have the property available for tax sale. Attorney Folmer stated that the tax sale of the particular property would not recoup the cost of the demolition. If the County does not levy such charges then they don't have to worry about assuming that responsibility. Attorney Folmer thought that the situation in the Village was what drove the County's determination.

Attorney Folmer stated that the County Law requires the County to levy town taxes. However, villages must pass a resolution which asks the County to levy the taxes, and the County must pass a resolution to levy the unpaid taxes. Attorney Folmer was not aware if the County and Village went through that process.

Attorney Folmer stated that the Town must come up with another means of collecting the costs the Town expends for things such as the demolitions. Attorney Folmer stated that he and CEO Williams had already taken the first step to recuperate the charges for the demolition of the former Golden Skillet.

Councilman Rocco questioned whether there was any action the Board could take with regard to the County's resolution. Supervisor Tupper indicated that there was not because it was the County's decision. He apprised the Board that delinquent water and sewer charges would still be relieved onto the Town and County tax bill according to state law.

Councilman Leach made a motion, seconded by Councilman Testa, to receive and file correspondence from Michael Park, Chair of the Cortland County Legislature, and Cortland County Legislature Resolution #148-13, "Resolution Regarding Reimbursement of Re-levied Delinquent Village and Town Taxes Real Property Tax Services." All voting aye, the motion was carried.

RESOLUTION #130 AUTHORIZE SUPERVISOR TO SIGN THE GRANT WRITING
SERVICE AGREEMENT BETWEEN THE TOWN AND
THOMA DEVELOPMENT CONSULTANTS FOR A 2013
COMMUNITY DEVELOPMENT BLOCK GRANT –
ECONOMIC DEVELOPMENT FOR INNOVATIVE
MANUFACTURING SOLUTIONS, INC.

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 the Grant Writing Agreement between the Town of Cortlandville and Thoma Development Consultants for the 2013 Community Development Block Grant – Economic Development application for Innovative Manufacturing Solutions, Inc., for the total cost of \$3,000.00.

RESOLUTION #131 AUTHORIZE SUPERVISOR TO SIGN THE AFFIDAVIT
REGARDING THE TOWN'S 2011 COMMUNITY
DEVELOPMENT BLOCK GRANT HOUSING
REHABILITATION PROGRAM BETWEEN THE TOWN AND
CHRIS O. WHIBLE AND WENDY I. WHIBLE

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 the Supervisor to sign the Affidavit regarding the Town's 2011 Community Development Housing Rehabilitation Program, between the Town of Cortlandville and Chris O. Whible and Wendy I. Whible, 5 OK Street, McGraw, New York regarding the extension of loan funds by the Town's CDBG Program for the total amount of \$27,062.89.

Councilman Proud gave the Board an update regarding the installation of new iPerl water meters throughout the Town, a project which started approximately two years ago. Approximately 1500 water meters have been replaced, while 9 customers have not yet upgraded to the new iPerl meter. Councilman Proud stated there was no charge to the customer for the installation of the new meter.

Councilman Proud explained the Town's old meter system and the process for reading the meters, which took about three weeks to accomplish, four times per year. Also, there was no indication of how much water was being used between readings. The new iPerl meters and system allow the Town to obtain daily readings of how much water is pumped from the well, which is important to minimize water loss. Councilman Proud also explained that the new water meters do not contain any lead whatsoever, unlike the old meters. Regulations are being passed by the federal government regarding lead so the Town would have had to eventually replace the water meters.

Councilman Proud stated that the new iPerl meters were a benefit to the residents. With the new program water consumption can be broken down to hourly reads which helps to detect water leaks.

Councilman Proud thanked the Town Clerk's office for their role in the meter replacement process, and the Water & Sewer Department employees for installing the new meters. Councilman Leach thanked Councilman Proud for his role in process and for keeping the Board informed. He stated that the Town's new water metering system was "on the cutting edge" of technology.

Supervisor Tupper reminded the Board and the public that the next Town Board Meeting would be held Wednesday, July 10, 2013 at 5:00 p.m. at the Cortland County Jr. Fair at the J.M. McDonald Center.

Councilman Leach mentioned that he recently adopted a dog from the Cortland County SPCA. He stated he was very impressed with the facility and those who work there and volunteer their time.

No further comments or discussion were heard.

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

The meeting was adjourned at 5:45 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 2, 2013.
The draft version of this meeting was approved as written at the Town Board meeting of _____.