

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Blodgett Mills Independent Baptist Church, in Blodgett Mills, 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; Ray Parker; Dave Alexander; Karen Howe; Barb Leach; Tyrone L. Heppard; Joseph Steinhoff; News Reporter: Sharon Stevans from Channel 2 Access TV

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Leach, to approve the Draft Town Board Minutes of May 15, 2013 as submitted. All voting aye, the motion was carried.

RESOLUTION #114

AUTHORIZE SUPERVISOR TO SIGN
PURCHASE ORDER #1190

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

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #1190 submitted by Highway Sup’t. Bush to be paid to Crossroads Highway Supply for the purchase of eight (8) 30 ft. lengths of 6x6 galvanized guard rail for the total cost of \$3,600.00.

RESOLUTION #115

AUTHORIZE PAYMENT OF VOUCHERS – JUNE

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

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

Funds A, B, DA, DB	Voucher #477-545	
	General Fund A	\$106,169.09
	General Fund B	\$ 34,291.20
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 31,499.40
Funds CD1, CD3, CD4	Voucher #23-26	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 28,839.05
	Business Devl CD4	\$ 1,752.49
Fund HC, SS, SW	Voucher #169-192	
	NYS Rt 13 Sewer Rehab HC	\$ 0.00
	Sewer SS	\$ 1,021.41
	Water SW	\$ 20,971.75
Funds SF, TA, TE	Voucher #13-15	
	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 those in attendance. No requests were made.

Councilman Proud commented on the payment of the bills, and in particular the bill for the purchase of a correlator for the Water & Sewer Department. He acknowledged that the Town of Cortlandville was purchasing the equipment but that the Town of Homer would be billed for half of the cost and would be a co-owner.

Councilman Rocco stated that one of the problems with sharing is that nobody knows when you can use the equipment. He mentioned that the Town shared a “shredder” with the Homer, however nobody knows when the Town and its residents can use it. He suggested that records be kept by the Town with regard to sharing the equipment to avoid future confusion.

Supervisor Tupper was not aware that the Town shared shredding equipment with the Village of Homer, and mentioned that the Town and its residents can take brush to the City of Cortland DPW on Franklin Street. The Town shares the tub-grinder with the City and other municipalities, and has a contract for its use and also pays maintenance fees. Attorney Folmer was going to look into Councilman Rocco’s concern with regard to the shared shredder in Homer.

RESOLUTION #116 ACCEPT ANNUAL REPORT OF TOWN RMO AND
SCHEDULE OF DISPOSED RECORDS IN 2012 IN
ACCORDANCE WITH THE RETENTION AND DISPOSITION
SCHEDULE

Motion by Councilman Proud

Seconded by Councilman Testa

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby accept the Annual Report of the Records Management Officer of the Town, including a list of the disposed records in 2012, in accordance with the Records Retention Disposition Schedule, MU-1.

The monthly reports of the Code Enforcement Officer, Fire & Safety Inspection Report, Town Clerk, Tax Collector, Supervisor, and the Water & Sewer Department for the month of May 2013 were on the table for review and are filed in the Town Clerk’s office.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated May 30, 2013, regarding programming changes. All voting aye, the motion was carried.

Under new business, Town Clerk Snyder apprised the Board she provided them with information from the New York State Town Clerks Association regarding a change in procedure with notices of claims which gives an applicant another avenue to file their notice of claim with the New York State Department of State instead of with the municipality. However, if they file the notice with the Department of State they have to pay a fee. Based on a Town Board Resolution, the municipality is entitled to a portion of the fee. Town Clerk Snyder asked the Board to read the information so the Board could take action. Attorney Folmer stated that he would explain the change in procedure later in the meeting.

RESOLUTION #117 ACKNOWLEDGE RECEIVING NOTICE OF CLAIM FROM
CORTLAND MHP ASSOCIATES, INC. AGAINST THE TOWN
OF CORTLANDVILLE

Motion by Councilman Proud

Seconded by Councilman Leach

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing, the Notice of Claim from Cortland MHP Associates, Inc. against the Town of Cortlandville and Town of Cortlandville Water & Sewer Department, for breach of contract related to the sale of water.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from Lee Miller, received May 31, 2013, regarding the Town of Cortlandville's proposed Local Law for Wind Energy Facilities. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file correspondence from Stephen B. Flatt, dated June 4, 2013, regarding the Town of Cortlandville's proposed Local Law for Wind Energy Facilities. All voting aye, the motion was carried.

Town Clerk Snyder mentioned that she received correspondence from TCI Renewables to Richard Osborne, dated May 30, 2013 which included correspondence from Mr. Osborne to TCI Renewables. The correspondence was regarding the removal of Mr. Osborne's property located in the Town of Homer from the site maps for the Crown City Wind Energy Project. Attorney Folmer stated he would discuss the correspondence under his section of the agenda.

Attorney Folmer reported:

Local Law – Wind Energy Facilities:

Attorney Folmer reported that he, Councilman Rocco, Councilman Proud, and Victor Siegle had a meeting on June 4, 2013 to review the comments made at the public hearing and the written comments submitted regarding the proposed Local Law for Wind Energy Facilities. The group would meet again on Tuesday June 11, 2013 to continue the review. Attorney Folmer stated that at the end of the review they would have a spread sheet indicating each and every individual's comment and the Town's response to each comment.

Environmental Easement with the NYS DEC for the South Hill Dump:

Attorney Folmer apprised the Board that the NYS Department of Environmental Conservation asked the Town to enter into an environmental easement with regard to the South Hill Dump. The purpose of the easement is to be sure that there are certain covenants contained in any deeds of conveyance that limit the use of the property which was the former dump site. It also requires that annually there be a certification that the conditions that are set forth in the easement are being met. Attorney Folmer attempted to contact a representative from the DEC to discuss the situation. While the DEC indicated that they will pay the costs of the preparation, recording and abstracting of the title for the easement, there was no mention made of the cost of the overall cleanup which was significant. In an earlier conversation between Attorney Folmer and the DEC representative, the representative thought there should have been a contract entered into between the DEC, the superfund, and the Town. Attorney Folmer was not aware of such contract and indicated such to her. The representative was going to look into the matter and get back to him. Attorney Folmer explained that the easement itself was not a burden on the Town, but before any action was taken on the matter he wanted to have some information about what obligation, if any, the Town has on the superfund for the overall control.

Notice of Claim – Cortland MHP Associates, Inc.:

Attorney Folmer apprised the Board the Notice of Claim from Cortland MHP Associates Inc. was filed by the attorneys for Cortland MHP in connection with pending litigation. He recalled that they argued motions to dismiss the proceeding before Judge Rumsey and were awaiting a decision. Attorney Folmer contacted Attorney Guy Krough who handled the matter on behalf of the Town; neither of them could understand why the Notice of Petition was filed. If Judge Rumsey dismisses the claim the Notice of Petition would not amount to anything. The attorneys for Cortland MHP understood the same.

Public Comment from Richard Osborne – Crown City Wind Energy Project:

Attorney Folmer commented on the correspondence from TCI Renewables to Mr. Osborne regarding the Crown City Wind Energy Project. The letter to Mr. Osborne acknowledged that advised them that he no longer wanted to have his land used for the transmission lines and that TCI would have to redraw the maps. According to the letter, the change would require TCI to "plan and survey a different cable route, get consent from landowners to use their land and also change the content of the DEIS/FEIS, meaning the maps cannot be re-issued immediately." Attorney Folmer expected the change would create a delay with regard to the processing of the DEIS by the county.

Cortland County Legislature – Resolution Regarding Relevies:

Attorney Folmer apprised the Board the Cortland County Legislature adopted a Resolution which indicated that while they would continue to relevy town taxes they would not continue to relevy costs such as demolition costs with regard to the Town's recent demolition of property located on Route 13 (former Golden Skillet).

Attorney Folmer also mentioned that according to the Cortland Country Attorney, Ed Purser the statute requires that town taxes be relevied and collected by the County. The rule is a little different for villages; a village is required to adopt a resolution asking the County to do this and the County has to adopt a corresponding resolution in order to do so.

Correspondence from Cortland County Attorney - Tax Sale Parcels on Route 281:

Attorney Folmer apprised the Board he received correspondence from the Cortland County Attorney, Ed Purser inquiring if the Town would be willing to pay the taxes accrued against the parcels along Route 281 that the Town was interested in from the tax sale. Attorney Folmer responded to Attorney Purser and pointed out there is a section in the General Municipal Law that permits the County to convey to a municipality without compensation. Attorney Purser was going to take the matter up with the Chairman of the Legislature.

Road Preservation Law:

Attorney Folmer recalled that the County adopted a local law requiring a road preservation permit. The County provided the local law to each of the towns suggesting that the Town adopt the same because it deals with the preservation of town roads. Attorney Folmer stated that Board should consider doing so and asked for authorization to put this in the form of a local law for the Board's review. Councilman Rocco mentioned that every county in the State has been asked to do this because the State wants this done.

Notices of Claims Served Upon the Secretary of State:

As Town Clerk Snyder mentioned earlier in the meeting, there was a change regarding the service of a notice of claim which must be served upon the Town Clerk. The Statute has been amended to provide that a claimant can serve the Secretary of State if they want to sue a municipality. The Secretary of State is required to send the documents to the town to complete the service. The Secretary of State would charge a fee of \$250.00 to accept the service of the notice of claim. As long as the Town adopted an appropriate resolution, the Secretary of State would share the cost of the service with the Town. Attorney Folmer stated that while he did not think this would happen very often, he suggested the Board adopt a resolution designating the Town Clerk as the person to whom the Secretary of State should mail any service that is made in their office.

Supervisor Tupper questioned why someone would want to pay a fee for service to the Secretary of State when he could serve the notice of claim to the Town Clerk for free. Town Clerk Snyder suggested that in some of the smaller towns a claimant may not be able to reach a town clerk within a specific period of time. In that case it may be cost effective for the claimant to pay the \$250.00 fee to ensure that the claim is filed. Attorney Folmer agreed.

RESOLUTION #118	DESIGNATE THE TOWN CLERK AS THE TOWN OFFICER FOR THE PURPOSES OF RECEIVING NOTICES OF CLAIM SERVED UPON THE SECRETARY OF STATE
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Motion by Councilman Proud

Seconded by Councilman Leach

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

ADOPTED

WHEREAS, General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate, now therefore

BE IT RESOLVED, that the Town Board of the Town of Cortlandville, County of Cortland designates the Town Clerk to receive notices of claims served upon the Secretary of State by mail at 3577 Terrace Road, Cortland, New York 13045 and email at townclerk@cortlandville.org, and be it further

RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

Byrne Dairy Facility:

Attorney Folmer apprised the Board he was contacted by a consultant for Byrne Dairy wanting to know his opinion of inserting a restricted covenant in any deeds they get creating a 500 foot barrier from the Chicago Bog. Attorney Folmer looked at the Cortland County IDA Minutes, which indicated that the IDA would do that by "a different vehicle". Attorney Folmer advised the consultant for Byrne Dairy on the phone that he did not believe it was the authority or the business of the Town Attorney to be involved in the negotiation of the transaction between the IDA and Byrne Dairy.

Contract between the Town and Village of Homer for the Correlator Equipment:

Attorney Folmer referred to earlier discussion regarding the leak correlator purchased by the Town. Councilman Proud and Water & Sewer Sup't. Alteri drafted a simple letter agreement that indicates that the Town is purchasing the correlator equipment with the Village of Homer. The cost of the equipment is \$9,950.00; each party paying \$4,975.00. Use and maintenance is to be shared equally between departments based upon need and mutual agreement between the two department heads. Attorney Folmer reviewed the letter agreement and stated it was satisfactory for what they want to accomplish. He asked the Board adopt a resolution authorizing Supervisor Tupper to sign the agreement.

Supervisor Tupper mentioned that the letter agreement did not mention where the equipment would be stored. Attorney Folmer stated he would add language indicating that the correlator would be stored with Water & Sewer Sup't. Alteri at the Town of Cortlandville.

RESOLUTION #119 AUTHORIZE SUPERVISOR TO SIGN LETTER AGREEMENT
BETWEEN THE TOWN OF CORTLANDVILLE AND THE
VILLAGE OF HOMER WITH REGARD TO THE
CORRELATOR EQUIPMENT

Motion by Councilman Proud

Seconded by Councilman Leach

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign the letter agreement between the Town of Cortlandville and the Village of Homer regarding the purchase, use, and maintenance of the SoundSens "i" 2 Pod Correlator Logger, used to pinpoint leaks in the water distribution system.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file correspondence from the New York State Environmental Facilities Corporation (NYS EFC), dated April 29, 2013, regarding the Town's Preliminary Engineering Report and eligibility for Clear Water State Revolving Fund (CWSRF) financing for the NYS Route 13 Sewer Rehabilitation Project. All voting aye, the motion was carried.

Attorney Folmer apprised the Board he spoke with Attorney Patrick Perfetti who represents the Village of Homer concerning the annexation of properties from the Village to the Town of Cortlandville. Attorney Perfetti and the Mayor of the Village had few questions which Attorney Folmer hoped to resolve next week. Attorney Folmer discussed the process for the annexation, which would include a joint meeting with the Village Board to make some determinations, and an election would have to be held. The people entitled to vote in the election are the people who inhabit the parcels, which there are none.

RESOLUTION #120 ACKNOWLEDGE PETITION OF GARY AND CARLENE
WILCOX, AND KENNETH DEMUNN FOR THE
ANNEXATION OF PROPERTIES LOCATED ON BELL DRIVE
FROM THE VILLAGE OF HOMER TO THE TOWN OF
CORTLANDVILLE

Motion by Councilman Proud

Seconded by Councilman Leach

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

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing, the Petition of Gary and Carlene Wilcox and Kenneth DeMunn seeking annexation of property located on Bell Drive, tax map #76.15-01-04.000, #76.15-01-03.200 and #76.15-01-03.100, from the Village of Homer to the Town of Cortlandville.

There was a brief discussion regarding the final report for the NYS Route 11 Corridor Study Area. Supervisor Tupper explained that the Town met with the City of Cortland and the Village of Homer and are looking at the possibility of applying for a transportation enhancement grant. Supervisor Tupper attended a meeting regarding the grant which would he thought would be extremely competitive; 93 people were in attendance at the first meeting with only a few million dollars available in funding.

Councilman Proud made a motion, seconded by Councilman Leach, to receive and file the final report (including a CD) for the NYS Route 11 Corridor Study Area, dated June 1, 2013, from Thoma Development Consultants. All voting aye, the motion was carried.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file recommendations from the Cortland County Planning Department dated May 10, 2013, and the Cortland County Planning Board Resolution #13-15 dated May 15, 2013, regarding the Zone Change Request of James and Michael Reeners for property located north of Kinney Gulf Road, West of Commons Avenue, and east of Westmore Lane, tax map #86.09-01-07.000, #86.09-01-17.000, #86.09-01-21.000, and #86.09-01-22.000. All voting aye, the motion was carried.

Supervisor Tupper mentioned that the Cortland County Planning Board recommended some minor language changes. He was not sure if Attorney Folmer wanted to change the ordinance for such minor changes. Attorney Folmer apprised the Board that he indicated to the Planning Board that it was the Town Board's position that they would not undertake any zoning changes until the corridor study was complete. Attorney Folmer stated that he did not give much thought to the language changes because the County Planning Board also recommended the Board defer the zone change, subdivision and site plan review until after the corridor study is complete.

Councilman Rocco questioned how long the study would take. Supervisor Tupper expected the study to take two or three months, and at this point the committee already met three times. Supervisor Tupper anticipated that the study would be completed soon.

RESOLUTION #121 AUTHORIZE APPROVAL REQUEST OF CHRIS AND
WENDY WHIBLE SR. FOR THE 2011 COMMUNITY
DEVELOPMENT BLOCK GRANT HOUSING
REHABILITATION PROGRAM

Motion by Councilman Rocco

Seconded by Councilman Leach

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

ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize the approval request of Chris and Wendy Whible Sr., for property located at 5 Ok Street in the Town of Cortlandville, for a 100% deferred loan for the 2011 Community Development Block Grant Housing Rehabilitation Program, and it is further

RESOLVED, the work to be completed would include windows and doors, interior carpentry, plumbing, electric, siding, and roofing, for a total of \$27,063.00.

Supervisor Tupper questioned whether there was anything further to come before the Board.

Councilman Leach thanked Mr. Parker for allowing the Board to conduct its meeting at the Blodgett Mills Independent Baptist Church, as well as those in who attended the meeting. He also thanked the members of the Board for travelling to Blodgett Mills to conduct the meeting, showing their concern for the hamlet and the residents who live in the area.

Councilman Rocco questioned whether there were any concerns that should be addressed. He recalled that last year there was a problem with vehicles speeding through the area. Joe Steinhoff apprised the Board that the traffic on Saturdays is a continuing problem with speeding vehicles. Highway Sup't. Bush posted a 35 MPH speed limit sign on West River Road, however vehicles still travel at speeds of 50-60 MPH. Supervisor Tupper suggested the Sheriff's Department be contacted to patrol the area on a Saturday night.

Supervisor Tupper mentioned that there were three candidates for public office in attendance tonight: Karen Howe and Dave Alexander who were candidates for Cortlandville Town Justice; and Joe Steinhoff for Cortland County Legislator, District 12.

Councilman Leach thanked the Sheriff's Department for putting the speed limit radar monitor up on East River Road for a day, which he thought helped with speeding traffic.

Attorney Folmer mentioned that there is a house on Main Street in Blodgett Mills owned by Richard Parker who passed away. There have been no estate proceedings, and there is no representative who the Board could contact regarding mowing the property. The Town would continue to cut the grass as they did in 2012; the charges for doing so would eventually be relieved onto the tax bill.

No further comments or discussion were heard.

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

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Karen Q. Snyder, RMC
Town Clerk
Town of Cortlandville

*Note:

The draft version of this meeting was submitted to the Town Board for their review on June 14, 2013.

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