

Vouchers For 11/02/06

General Fund/Town Wide – A:

#20061525, 1529, 1534-1540, 1547, 1549-1552, 1555-1557, 1564, 1566

\$39,919.53

General Fund/Outside Village – B:

#20061526, 1530, 1541-1542, 1548, 1558

\$5,228.89

Highway/Town Wide – DA:

\$0

Highway/Part Town – DB:

#20061531, 1543-1546, 1553-1554, 1559, 1565

\$19,836.86

Fire Protection – SF:

\$0

Street Lighting – SL:

P#20061561-1562

\$547.23

Sewer/Water – SW:

\$0

Trust & Agency – TA:

#20061527-1528, 1532-1533, 1560

\$1,767.09

Scenic Train –

\$0

Attorney Michael Hill said that he had provided Supervisor Lucia with a revised draft of a Local Law amending the Corinth Town Code relating to Composting Facilities. Supervisor Lucia said he had placed a copy in each of the board members mailboxes so that it could be reviewed. A motion was

made by Councilman Saunders and seconded by Councilman Byrnes to distribute a copy of the draft to the parties around the table so they can review it and participate knowledgeably in our discussion and then to the public if there were any left.

After giving some time to review the proposed draft the following comments were made:

Attorney Michael Hill told the group that the following areas were changed from the last time the draft was presented:

Article 2 (a) the next to the last sentence was changed: “expressly prohibited unless granted a use variance by the Zoning Board of Appeals pursuant to Article X” is new.

Article 2(B)(D-1) and (D-2) are new.

Article 2(B)(D-3), (D-4), (D-5) and (D-6) are new.

Article 2(B) (D-7) the last line “applicable government regulatory agencies” is new.

Article 2(B) (D-14) has been revised.

Article 2(B) (D-18) has been revised.

Article 2(B) (D-29) is new.

Article 2(B) (D-31) in the last paragraph “and the cost of expert consultants shall be paid by the composting facility operator if the facility is found to be in violation” has been added.

Article 2(B)(D-32) is new.

Article 2 (D) Appendix A – Definitions – Compostables the following are added “paper sludge, sewage sludge, sludge, bio-solids, and medical wastes”.

Composting Facility – the following is added “including but not limited to storage building(s), processing area(s)/building(s) and non-composting related building(s). No anaerobic composting is allowed.”

There were no comments from the Town Board or LA Group at this time.

Attorney Michael J. O’Connor

Attorney O’Connor said that this draft prohibits Bedminster of Saratoga LLC. He said that his main objective as he mentioned before was that he felt the Town Board was listening to a very limited audience in putting this draft together. He said he felt the Town Board did not have all the information they should have before them as to whether or not a modern day enclosed controlled composting facility would be a benefit to the Town or would not be a benefit to the town. Attorney O’Connor said the draft referred to an outside composting facility not an enclosed composting facility. He said he thought it would be beneficial to the Town to have a third party, not somebody promoting a particular project or somebody trying to defeat or prohibit a particular project, to give the Town Board information about what the impacts of the particular project are. He suggested a meeting with DEC. Attorney O’Connor mentioned the possible host benefits to the Town by a project such as Bedminster Saratoga LLC. As discussed in the following letter that was distributed:

Petruzzo Products, Inc.

603 Main Street, Corinth, NY 12822
(518) 654-9300, FAX (518) 654-9301

November 1, 2006

Richard Lucia, Supervisor and
Members of the Town Board
Town of Corinth, Town Hall
600 Palmer Ave.
Corinth, NY 12822

RE: Financial Benefits of Bedminster Saratoga Co-compost Project to the
Town of Corinth.

Dear Mr. Lucia:

This letter updates my letter dated May 17, 2006, wherein I cited estimated the numerous benefits to the Town of Corinth from the proposed Bedminster Saratoga LLC co-compost project (the "Project"). With the addition of host fees to the Town and recent increases in the cost of construction materials, the benefits to the Town have increased. This letter summarizes them for your review. **Remember, NYS-DEC has determined that there are no negative environmental impacts from our project.** The primary benefits to the Town from our Project will be the following:

1. Tax revenues without additional demand for services.
2. Host Fees (Royalties) to Town for waste from outside sources.
3. Savings in the cost to transfer and dispose of waste.
4. Up to 20 new jobs at rates that support families.
5. Over 60% of the Town's waste will be recycled.

Tax Benefits – We do not know how the Town will assess the project. However, based on the 2005 tax rates of \$8.50 per \$1,000, we assumed that the assessment for the Bedminster project would increase from \$4,000,000 to \$5,000,000 do to increases in building material and construction costs. Keep in mind that our project will not send one additional child to school, build any new Town roads, or increase the workload of the Sheriff or Fire Departments. Taxes go straight to the bottom line.

Town taxes paid annually = \$8.50 x \$5,000 = \$42,500.

Net Annual Savings to the Corinth Taxpayer

\$ 367,510.

Host Fees to Town – As per our prior conversations in 2004 and 2005, we are offering numerous benefits to the Town including host fees. Pursuant to a long term contract with the Town, the Bedminster Project will pay the Town a royalty of up to \$1.00 per ton of waste processed from outside sources. The plant will process 200 tons per day, including the anticipated 15 tons per day of MSW to the facility from the Town. Therefore the royalty would be based on 185 tons per day of waste from outside sources. Note that, as per our January letter to the Town, within 3 years, no waste will be accepted from the New York metropolitan area, guaranteed.

Annual Host Fees to Town = 185 tons x 360 days x \$1.00/ton = \$66,600.

Waste Disposal Savings –The Project will accept the Town’s waste for a guaranteed 20% reduction from the tip fees of any other feasible alternative available to the Town. Tip Fees at the closest available transfer stations are \$70 per ton of MSW. A 20% tip fee reduction at the Project would yield a \$14 per ton savings for the Town’s 15 tons MSW per day for a six-day week (assume 312 days).

Disposal Savings to Town = \$14/ton x 15 TPD x 312 days = \$65,520.

Waste Transfer Savings – In early 2005 at another meeting where we discussed our proposed project, you showed me the Town’s budgeted numbers for transfer and disposal which in 2005 were \$99 per ton. With a \$70 disposal fee (see Waste Disposal Savings above), the cost for transfer (dumpsters and pick-up service) in 2006 is assumed to be \$29 per ton. Bedminster Saratoga will provide the Town with dumpsters and the pick-up service for \$6.00 per ton. Therefore the net savings for the waste transfer service is estimated at \$23.00 per ton.

Waste Transfer Savings to Town = \$23/ton x 15 TPD x 312 days = \$107,640.

In addition, the **net tax benefit to the Corinth Central Schools** (assume \$17.03 per \$1,000 for school taxes and a \$5,000,000 assessment, would be **\$85,150 per year**. Keep in mind that the project will not generate the need for any additional school services, such as new teachers or classrooms. This is true net benefit to the school.

Summary of Benefits to Town of Corinth:

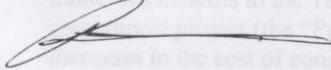
Tax Benefits to the Town of Corinth	\$ 42,500.
Host Fees, royalties to the Town at \$1/ton	66,600.
Waste Disposal Savings to the Town	65,620.
Waste Transfer Savings to the Town	<u>107,640.</u>
Total Direct Financial Benefit to Town of Corinth	\$ 282,360.
<u>Net Tax Revenues to Corinth Central Schools</u>	<u>85,150.</u>
Net Annual Savings to the Corinth Taxpayer	\$ 367,510.

In addition, the project will create **Jobs That Support Families**. The project will generate 20 jobs with an average pay scale of \$17.50 per hour. **Wages are estimated at \$728,000 per year**, creating disposable income that supports families, mortgages and buys local goods and services.

The Town will receive \$280,000 in tax revenues and budgetary savings. No new roads to maintain. No demand for more law enforcement or fire services. The Corinth Central Schools will receive over \$85,000 from an industrial project that will obviously provide no demands for more facilities or teachers. All this for a project that creates 20 new jobs and recycles over 60% of the waste stream. Our Project will only require 6-10 trucks per day, less than one every 2-4 hours. There will be no noise or odors to bother the neighbors. Other than the employee bathroom which connects to a septic system, like most houses in the Town, there is no effluent discharged. Indeed, the NYS Dept of Environmental Conservation determined that there were no negative environmental impacts from the project. And we produce valuable products.

As we have stated before, Petruzzo Products, Inc., Bedminster Saratoga, LLC and I are responsible corporate citizens with the best interests of the Town of Corinth incorporated into our state-of-the-art project. We urge you to take the benefits to the Town cited in this letter into your considerations concerning the fate of our project and my livelihood.

Sincerely,



Ralph Petruzzo
President

cc: Town Planning Board
Corinth Central School Board
NYS-DEC

Attorney O'Connor said that he has submitted a letter to the Supervisor stipulating that after three (3) years he would not bring any waste or solid waste from New York City. He said the sections that he was concerned about in the prior draft are still in the revised draft. He said he was concerned about no compostables being stored within 500 feet of any boundary. He said that this is not taking into consideration that the compostables are stored entirely in a building. He said the draft talks about not being stored at a height of more than five feet. He said he doesn't know where that came from or what scientific means were used to calculate that. He said the drafts talk about a vegetated buffer of not less than 100 feet be

established with a chain link fence inside the buffer. He asked why if the project is totally confined within the facility does a person need to install a chain link fence. He said the sound position in the new draft concerns him. He said it usually is from the boundary line not in the building.

Ralph Petruzzo

Spoke about the letter of November 1st to Supervisor Lucia. He said he thought he would rather go through the permitting process and then come in with the host package so that there is no question about the project. He went on to discuss some of the host benefits. He told the board that he only need the waste from New York City to get the project started. He said he would be recycling 70% of the waste of this community. He said he just filed a report entitled. Bio-solids Management in New York State dated February 2006 with the Town Clerk. He said that there are 584 POTWs in the State of New York and 147 are currently involved in beneficial use. He filed a list of Part 360 Permitted Composting Facilities in New York State with contact telephone numbers, a pamphlet entitled, "The Basics of Bio-solids" and another pamphlet entitled, "Bio-solids Recycling Methods". He said that the draft slaps his project in the face. He said he already addressed any allegations in a filed document pertaining to storm-water management, water contamination of wells and streams, filling in wetlands DEC, Federal and Army Corp. He also said there needs to be recycling recovery and in the draft there is none. He said the draft attacks the business he is presently doing forget about the new project.

Attorney Michael O'Connor

Attorney O'Connor and Ralph Petruzzo again went over some of the host benefits. Ralph Petruzzo said that Councilman Saunders had at a previous meeting asked about host benefits and that is why they are bringing them up. Attorney O'Connor said that typically host benefits are worked out with the Planning Board and the Town Board has the final approval for host community benefits. Attorney O'Connor said that this is just to give the Town Board an idea that there is more than a single issue on the table in regards to the draft that is before them.

Attorney Matthew Fuller

Attorney Matthew Fuller said that if there are going to be future revisions, if it could be set up so that they could receive them in advance, that they would receive his comments within a day or two of getting the revised drafts. Attorney Fuller said that he has been brought on to get the information to the

Town Board about what this facility really is. Attorney Fuller said that other than letters written in opposition there really is not much in the Towns file they are looking to get information in there so that the Town Board has a more complete picture. Attorney Fuller said that DEC has already issued a negative declaration. Attorney Fuller said that this is not a facility that is outdoors, it is a negative pressure facility, which means it sucks air into the facility and it processes up to 55 tons a day, it is a completely contained system. There is a bio-filter that has a 36-inch layer of woodchips and other like material that the air has to filter through before ever hitting the outside air. Attorney Fuller said that what the new Law that has been drafted is doing is aimed at stopping a facility that is very environmentally friendly and it would not have got past DEC if it were. Attorney Fuller said that the letter he had submitted is a lengthy letter and the comments were more directed toward the last revision. Attorney Fuller said that the Town Board has to identify what exactly is the evil that they are trying to protect against, if it is to prohibit a facility like the one proposed then that is the road that the Town Board is on. But the Town Board really needs to ask themselves what they don't want to be impacted. Attorney Fuller said that he has issues with the definitions in this proposed law and that there are definitions that have been generated by experts, which this board has completely set aside. Attorney Fuller said that the law the Town Board is proposing now is going to completely take away the opportunity of the Planning Board, it does not allow your planning Board to go through special-use review. Attorney Fuller said that he hopes that the Town Boards intention is not to do that but to protect the public through good land use regulations. Attorney Fuller said in the proposed law before the Town Board there is decibel levels for machinery that require 500 ft setbacks and said that he does not know of any operations anywhere that those types of setbacks. Attorney Fuller talked to the town Board about the Nantucket facility, which is the same technology. He said that the goal should be to protect people and that can be done. Attorney Fuller said that it is a facility that runs 24 hrs a day but that does not mean that there will be trucks in and out all night. Attorney Fuller said that by the law that the Town Board is drafting they are not giving the Planning Board an opportunity to review items such as this. Councilman Brown asked if the drum that they were talking about was inside also. Mr. Petruzzo said that it was called a vessel and it is not inside it is covered. Councilman Brown asked if there would be noise from that. Mr. Petruzzo said no that it turns at 1 rpm.

Attorney Michael O'Connor

Attorney O'Connor said that that was a legitimate question. Typically how it is answered is when the planning board asks about the impact of sound; the applicant would go out and do a sound study. Attorney O'Connor said that anytime a planning board asks a question like that it is up to the applicant to satisfy the board with enough information so that they can make a decision. Attorney O'Connor said that the way that this proposed law is written right now this process would never happen.

Attorney Matthew Fuller

Attorney Fuller said they understand that this is highly emotional. However, they feel that if this board has all the information, and they really digest all the information that is given to them, that they can come up with regulations that this facility would be able to meet and the Town would still have done their job and be protecting the neighborhood. He delivered the attached letter to the Town Board:

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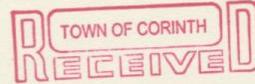
November 2, 2006

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Hon. Richard Lucia, Supervisor, and
Members of Town Board
Town of Corinth
Town Hall
600 Palmer Avenue
Corinth, NY 12822



NOV 2 2006

Re: Bedminster Saratoga Compost Project
Proposed New Local Law Regulating Compost Facilities

Dear Supervisor Lucia and Members of the Town Board:

Our firm has been retained to act as co-counsel with Michael J. O'Connor, Esq., of Little & O'Connor, and our firms will be representing Bedminster Saratoga, LLC and the Petruzzo family of companies with regard to the proposed Bedminster Saratoga Compost Project, a manufacturing facility utilizing state of the art technology (the "Bedminster Facility"). We thank you for the opportunity to provide these comments on this matter.

We have not been involved in this matter since its commencement. However, we have amassed a great deal of information on the project, the Town's actions, and the comments and actions of project opponents. In addition, Town Clerk Rose Farr provided us with copies of various documents yesterday, and we thank her for providing these in such a timely and friendly manner.

We write this day to express concerns with the handling of this matter, and to bring about a better discussion of the proposed Local Law that the Town is reviewing, and the impacts that its actions will have on the rights of Mr. Petruzzo, his family and businesses, and also the Town of Corinth. Much misinformation and outright lies have been cast at Mr. Petruzzo, some of which we will address legally in the coming months. If the Town is poised to take action, we believe it should have sufficient information upon which to act, which to date has apparently not been provided.

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The Compost Manufacturing Facility Proposal

Bedminster Saratoga, LLC, a company owned by Mr. Petruzzo, is proposing a facility that will benefit the people of the Town of Corinth. As stated in its letter to the Town, the Bedminster Facility will provide more than \$365,000 dollars in direct benefits to the Town of Corinth, and the Corinth School District. These figures do not include employee payroll and benefits, or charitable activities.

There is no question that the Town of Corinth has suffered through the loss of industry. This has directly caused a loss in tax dollars. In addition, in the coming years, access to alternatives for trash disposal will continue to be an impediment to development in our communities. Alternative recycling and reuse as embraced by the Bedminster Facility provide relief from these issues. Simply put, it is becoming difficult, if not all together impossible to create new landfills. Furthermore, regulations that continue to require recycling and reuse are adding pressure to traditional trash disposal options. Smart, environmentally friendly industry such as the Bedminster Facility is exactly what the Town of Corinth needs and should be pursuing. The Bedminster Facility has been designed utilizing the best available technology, such that it will no adverse impacts on the Town of Corinth or the environment.

The Bedminster process takes recycling to a higher level, utilizing waste as the feedstock in a manufacturing process that yields valuable products. The Bedminster Facility is not an outdoor composting facility. The composting of which opponents are complaining will all be conducted in regulated and confined structures. The allegations to the contrary are simply false, and not based on anything but highly emotional speculation and conjecture.

The baseless negatives are far outweighed by the benefits of the Bedminster Facility. We have reviewed the countless mass-produced and often multiple signed statements against Mr. Petruzzo and the Bedminster Facility. However, at every turn, Mr. Petruzzo, in the spirit of complete information, has proved these baseless allegations to be without merit. Let's review some of the most egregious allegations:

- A. Allegation: Mr. Petruzzo and/or his companies were presently or had polluted groundwater. Specific allegations and written comments stated that Mr. Petruzzo and/or his companies were polluting the groundwater, thereby contaminating wells.

Fact: Upon hearing of this allegation, Mr. Petruzzo invited inspectors to test any wells, and urged the inspection of any wells on neighboring or

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down-gradient parcels. As per the letter of March 8, 2006 from town engineers CHA, all of these tests were returned showing no contamination and meeting drinking water standards. Further, the activities of the Bedminster Facility are totally enclosed, and occur within a building on a concrete floor where moisture is collected from the floor. The Bedminster Facility does not propose outside composting.

- B. Allegation: Mr. Petruzzo and/or his companies were presently or had polluted surface water or wetlands. Specific allegations and written comments stated that Mr. Petruzzo and/or his companies were polluting wetlands on and off-site, and surface water such as ponds or streams. Indeed, one party actually submitted photos of a partially frozen pond, which was alleged to contain oil contamination.

Fact: Again, Mr. Petruzzo invited the testing of water by the town engineers CHA, on his property and upstream and down stream, all of which were returned negative for contamination. As reported in the letter dated March 8, 2006 to Fred Mann of the Town's building department, there does not appear to be any impacts to Heath Brook. No parameters were detected above NYSDEC water quality standards. Overall, the down gradient surface water sample results are comparable with up gradient results, and that is the best outcome a facility operating outside can ask for. Furthermore, the photo turned out to be of partially frozen surface water. In addition, a plot plan approved by the State of New York shows the Bedminster Facility does not encroach upon any state or federal wetland.

- C. Allegation: Mr. Petruzzo and/or his companies were presently or had been operating an illegal mine in violation of the Mined Reclamation Laws. Specific allegations and written comments stated that Mr. Petruzzo and/or his companies were operating an illegal mine.

Fact: Mr. Petruzzo invited an investigation of his property, which once again proved that these allegations were false. The property was inspected on February 9, 2006 by Stanley Konig, NYS DEC Mined Land Reclamation Specialist and no violations were found. The small area that was historically mined on the property was used for sand during the winter months on the balance of the property. Further, the proposed activities of Bedminster Saratoga, LLC do not involve do not involve the mixture of soil additives to material that is being composted.

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- D. Allegation: Mr. Petruzzo and/or his companies were presently or had been illegally dumping construction and/or demolition waste.

Fact: The portion of the Petruzzo property complained was actually where Mr. Petruzzo had permitted a contractor to the Town to deposit clean fill from a road construction project. This is far cry from all of the allegations lodged at him.

- E. Allegation: Mr. Petruzzo and/or his companies were presently or had been illegally operating in and around NYSDEC regulated wetlands.

Fact: On January 26, 2006, DEC biologist Robin Holevinski inspected the entire property with Mr. Petruzzo and found no regulated activity in any protected stream or DEC regulated wetlands, including the required 100 foot buffer to any such wetlands. This is documented in the letter from her dated February 16, 2006.

- F. Allegation: Mr. Petruzzo and/or his companies were presently or had been illegally operating in and around Army Corps regulated wetlands.

Fact: Mr. Petruzzo hired North Country Ecological Services to flag any wetlands and validated the fact that Mr. Petruzzo is not operating in violation of any federal wetlands regulations, and this has been documented on Mr. Petruzzo's Storm Water Pollution Prevention Plan (SWPPP) developed by Mr. Petruzzo's engineers, Clark Paterson.

The fact of the matter is, Mr. Petruzzo has been a long time business person in the Corinth community, and despite the repeated and blatant defamatory, slanderous and libelous comments that have been lodged at him, has remained committed to this project and to the Town. Furthermore, the complaints that have been lodged are completely irrelevant to the proposed Bedminster Facility.

The Town Board does not have enough information on Composting to adopt the proposed Local Law

There is an appearance towards a rush to adopt the proposed Local Law concerning composting facilities. Indeed, some Town Board members have been surprised to see some of these draft local laws. In our opinion, the Town Board does not have enough information to adopt the proposed Local Law. The opponents of the Bedminster Facility would ask the Town Board to quickly adopt a law that essentially

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prohibits a facility such as the proposed Bedminster Facility. However, before doing so, shouldn't the Town Board know of the actual impacts of these facilities? What inherent dangers have been identified which would warrant prohibiting these facilities all together? Has any economic impact analysis been performed or provided to the Town to consider as part of its consideration of this proposed Local Law? Has any comprehensive planning taken place which would suggest that facilities such as the proposed Bedminster Facility are a threat to the Town of Corinth or its inhabitants warranting a prohibition of same? None of these questions have been answered, and to date, the proponents of this proposed Local Law have not provided the Town Board with any information that would cause such a rush to condemn the Bedminster Facility.

Zoning changes such as the change being proposed at this time concerning composting facilities must be considered after careful study of the evils to be prevented by such regulations. Hopefully the Town Board is being advised that any zoning changes like the changes being proposed at this time must be in accordance with a comprehensive plan. These changes are not to be haphazard, knee jerk reactions to the complaints of a few, and the expense of many, and we are advised that the Town does not have, or cannot supply a copy of, a comprehensive plan to which it can refer. Thus, the rush to adopt this proposed Local Law is akin to spot zoning which is prohibited under New York law.

Furthermore, the Town Board has not even identified the evils that it seeks to prohibit. To the contrary, a law has simply been drafted that through crafty manipulation of definitions, prohibits an entire industry. The fact of the matter is, if designed properly, facilities such as the Bedminster Facility can and do benefit the public, and the environment. Indeed there are 12 Co-composting manufacturing facilities world-wide utilizing the Bedminster technology. We encourage the Town Board to fully understand and educate themselves on composting facilities as proposed by Bedminster Saratoga, LLC. Facilities that utilize the best current technology, are highly productive, and environmentally sound.

Mr. Petruzzo has repeatedly offered the Town Board the opportunity to educate itself on these facilities. There is currently in existence a facility on Nantucket island in Massachusetts that has a proven track record of sustainable environmental practices. The Bedminster project on Nantucket has sufficient capacity to process all of the waste during the high tourist season. During the off-season, there is available capacity to take waste from the adjoining old dump and process it into compost. In the future, this will result in the reclamation of the dump, which can be returned to beneficial use.

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Has the Town Board been advised of the benefits of compost material (i.e., the end product of composting)? The proposed manufacturing facility utilizing the Bedminster digester in a totally controlled and enclosed environment, will produce a Class A compost appropriate for flower gardens, road-side landscaping and the numerous dairy farms in upstate New York.

We would ask the Town Board to truly ask itself if it has been presented with any evidence, supportable by any testimony, which would lead the Town Board to conclude that the Town's only option is to completely prohibit these facilities? We think the Town Board will conclude that it has not been provided any such evidence, and that prohibiting these facilities is not the only option. Indeed, the Town Board, in adopting the current Zoning law in 2004, found that composting facilities were permitted in the zone where the Bedminster Facility is to be located. Nothing has changed in 2 years to warrant reversing this previous decision.

In short, the Town Board is charged with the responsibility of overseeing the public health, safety and welfare. This does not mean that loud voices should outweigh the public good, as to do otherwise simply supports generalized community opposition, which is the zoning and planning realm has been repeatedly struck down. It is unfortunate that an otherwise beneficial project such as the proposed Bedminster Facility has gotten caught up in the furor over the proposed use of the former IP mill, which is predominately located in the Village, not the Town. The Town Board is charged with the unenviable task of looking through emotional and highly charged arguments, and finding out for itself exactly what is and what is not fact. This is not a duty to be taken lightly. The constitutional rights of all the parties in this matter are at stake, and the Town Board should not charge ahead with a potentially ill advised plan that would satiate the concerns of a few, at the expense of the entire Town.

We appreciate the opportunity to work with the Town on regulations that, short of an outright prohibition as is currently proposed, would satisfy the concerns of the Town Board, while still permitting that which the Town Board saw fit to authorize in the current Zoning Law. As such, we offer these comments on the current proposed Local Law (version 2 as hand written on the copy supplied by the Town Clerk):

Comments on Proposed Local Law

Article 1- As drafted, the Town Board recognizes the need for and benefits of composting to reduce the reliance on landfills, and the need to balance this with the impact on the Town. However, the law then goes on to outright prohibit activities which

would compost trash. The purpose of the law together with the effect of the law are completely contrary to one another.

Article 2.

B. Section 89-31.

(D)(1) is reasonable and required regardless of this proposed Local Law.

(D)(2). What about miscellaneous rocks or stones, or the occasional piece of trash that could end up being delivered with a load of compostables? Would the Town violate a permit holder for this? A blanket statement such as this is unreasonably restrictive.

(D)(3). Does the Town Board intend to prohibit storage in its entirety within this 500 foot distance? What about a properly designed and engineered in-door storage facility? While a 500 foot setback for outdoor compostables is somewhat excessive, requiring such a distance for properly designed and engineered facilities seems extreme. As applicable to the Bedminster Facility, this facility utilizes negative pressure such that if a door is opened to the outside, the facility actually pulls in air from outside. Thus, odors or vapors are essentially pulled into the facility.

(D)(4) What does this 5 foot height requirement alleviate, visibility issues? Again, it would seem that a properly designed and engineered facility, particularly an in-door facility, could be a reasonable alternative to a height restriction.

(D)(5) This should be required of any industrial development, let alone a compost facility.

(D)(6) Again, this is reasonable.

(D)(7) This regulation appears aimed at minimizing impacts to roads, which is a laudable goal. However, if the Corinth Code for mining operations is worded this way, the Town Board should take a look at that wording. You cannot simply grant the Planning Board blanket authority to review anything it deems "worth of consideration". Perhaps information such as the current use of the road by heavy equipment, dust control measures, truck cleaning measures and similar measures would be reasonable.

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(D)(8) This regulation needs particular study by the Town Board, as this appears to be aimed directly at the proposed Bedminster Facility. No doubt wetlands, streams and ponds are to be protected. However, with this regulation, you are imposing a requirement on a composting facility that you do not impose on any other development in the Town, with no reason to do so. Is there some evidence that suggests that any composting facility, by its very operations will always negatively impact a pond, stream or wetlands? The answer of course is no, particularly if the facility is within an enclosed buildings with no liquid discharges. Indeed, there are very few operations that one can definitely say will always have an impact on ponds, streams or wetlands. The Town Board should provide for regulations which seek to balance the on-site circumstances with the protective goals of the Town.

For example, the Town Board could require plans and specifications to be designed such that no additional impacts to wetlands, ponds or streams will occur. We are quite confident that such regulations can, and have been, adopted by many municipalities.

(D)(9) Again, a question arises with the 100 foot requirement. Where did this figure arise? 100 feet is excessive and largely arbitrary. A properly designed landscaping plan can compliment a project. However, this 100 foot requirement appears to be aimed at nothing more than punishing a property owner.

(D)(10) As noted above, the Town Board cannot give the Planning Board blanket authority to regulate the hours of operation of a business. Composting is not a 9 to 5 business, as some interior components of the operation must continue at all times, particularly the air systems and composting equipment. The Town Board needs to have an understanding of how composting businesses operation before it can simply prohibit certain hours of operation.

(D)(11) Requiring this information is reasonable, however, again, the Town Board cannot simply give the Planning Board blanket authority to approve such a plan. If impacts are noted, the applicant can address them.

(D)(12) What is the hazard to be avoided with the requirement of a fence around the entire perimeter of a property? Note that in the regulations as drafted, you've required a 100 foot buffer. Is there a need to add to that a fence as proposed, when such a fence is not required for other and far more dangerous activities than composting? What is the inherent danger of an indoor compost facility? Again, we reiterate that a properly designed and engineered in-door facility can avoid these impacts.

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(D)(13) This is completely reasonable and should be required of any recycling facility. However, it should be noted that this is already required by State Law, and regulated by DEC, and also policed by local police agencies.

(D)(14) Controlling dust, where it is an apparent issue, is proper. However again, this should be limited to a circumstance where it appears that dust will be an issue. Stone lined access ways and certain paved portions of driveways can assist in cleaning truck tires in activities where dust is an issue. As designed, the Bedminster Facility would not result in any dust issues.

(D)(15), (16) and (17) are relevant, but again, all of these are already regulated by DEC, and since they are required by DEC and since you've required with DEC and EPA regulations (see (D)(1)), this is completely redundant and unnecessary.

(D)(18) Does the Town Board understand these figures? Have Town Board members been provided comparisons to show it what 80 decibels at 50 feet means? To date no such information has been provided.

(D)(19) Once provided, we will comment on these proposed levels.

(D)(20), (21) and (22) are appropriate.

(D)(23) is fine and largely tailored so as to not offend the Agriculture and Markets law, which the law as drafted would otherwise do.

(D)(24) We understand the Town's concerns with permit violations. However, what other uses in the Town are subject to these limitations? Notwithstanding the violation procedures as outlined in this law, the Town is always able to commence an action to stop activities which threaten the health, safety or welfare of the Town residents.

Definitions.. As a general comment, there are definitions for composting that have been produced by the US Composting Council, US-EPA and NYS-DEC. The definitions used by the Town ignores the professionals and creates an undisguised attempt to stop the Bedminster Saratoga project.

Aerobic and anaerobic composting: Has the Town fully explored the differences between aerobic and anaerobic composting? True, anaerobic composting, if not properly conducted and if not regulated in a controlled environment, can cause significant odors. However, a properly designed and engineered facility can have both

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aerobic and anaerobic composting, and any odors can, and should be, treated within the facility. The release of odors into the environment through composting is not a guaranteed occurrence. As proposed, the Bedminster Facility will conduct aerobic composting indoors, which permits the facility to harness and treat odors.

Compostables: Of all of the provisions of this proposed Local Law, this is the provision that is clearly aimed at defeating the proposed Bedminster Facility. Does the Town Board realize that New York regulations actually require bio-solids to be recycled? Furthermore, does the Town Board realize that the materials listed in the second sentence of this definition are not inherently dangerous. These materials can be treated and composted by utilizing the best available technology, which is what the Bedminster Facility will use. Who has advised the Town Board that these items are not compostables? It certainly is not New York state, as it is quite clear that there is pressure, both at the State level and the Federal level, for these items to be recycled. The fact is, millions of tons of these materials are recycled in the U.S. It seems premature for the Town Board to outright prohibit the composting of these items without understanding what, if any, threat these items actually pose. We are quite confident that once the Town Board takes the time to educate itself on these matters, it will see that these items, if properly tested and treated, can be composted.

Is the Town Board fully aware of what bio-solids are envisioned? Prior to being able to compost waste from a given treatment facility, DEC requires no less than 6 months of testing of the wastes from that facility, to be sure that heavy metals, etc. are treated PRIOR to the materials being admitted into a composting facility. Thus, the sewage treatment plant itself must be authorized to send material to the composting facility, before that facility can accept the materials. Furthermore, the composting facility is required to document the origin of the materials it is treating. This is a highly regulated industry, one that has responded by increasing technology to meet the requirements of regulators.

Composting Facility- As noted above, the proposed Bedminster Facility would manufacture compost materials for use by the farming industry. As drafted, this definition would not permit these fertilizers from being produced at such a facility. The Town Board should educate itself as to the end products of composting before adopting a definition which would prohibit the manufacturing of these materials in the Town of Corinth.

Furthermore, does the Town Board realize that through the drafting of these definitions, that it is regulating exactly what can go into the facility, and what the facility is permitted to produce? We suspect that the Town Board will be unable to name

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one other industry in the Town, where the Town Board tells such industry exactly what can go into its facility, and what is permitted to be manufactured from that facility. Such actions have serious constitutional limitations.

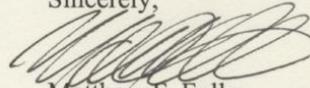
Conclusion

There is a great deal of information circulating on the proposed Bedminster Facility, much of it false and spread by those with agendas that we cannot comprehend. The fact is, the proposed Bedminster Facility would generate significant economic benefits for the Town. It will generate jobs, and will provide an avenue for waste disposal that is likely the future of waste disposal. Furthermore, it will take waste that is difficult to dispose of, and generate usable compost material.

Is this an industry that needs to be prohibited by the Town of Corinth? We don't think it is, and we further believe that the evidence and engineering submitted by Bedminster Saratoga, LLC supports reasonable regulations that would permit this facility, while protecting the Town of Corinth. An outright prohibition is a knee-jerk reaction to unsupportable, yet loud, complaints.

The Town is essentially being asked to do the right thing for the Town of Corinth, and that includes viable, sustainable, and environmentally friendly industry, which is exactly what the Bedminster Saratoga, LLC project embraces. Thank you.

Sincerely,



Matthew F. Fuller

cc: Bedminster Saratoga, LLC
c/o Ralph Petruzzo
Bryan Harrison
Michael J. O'Connor, Esq.
New York State Department of Environmental Conservation
Michael J. Hill, Esq.
Town of Corinth Planning Board
Corinth Central School District
Saratoga County Chamber of Commerce
Saratoga County Economic Development Corporation
Corinth Merchants Association

He said this facility does not need to be prohibited, they exist and they exist without problems. There are facilities out there that have problems, but that is what the Planning Boards job is. The Planning Board through a special use permit can identify that stuff. The criteria that this Town Board is proposing in this law are hurdles for an applicant to move on an application like this, and he feels that the Town Board should give the Planning Board that opportunity. That type of planning is comprehensive planning, that is what you are doing. in essence you are being asked to force through a law that repeals and seriously changes the clarification of your zoning ordinances. This is a zoning change; the Town Board will be changing the zoning on this facility right now and the property. Attorney Fuller said that before the Town Board does this he would like them to think long and hard about the long-term implications of doing that. Attorney Fuller said they have been through DEC and they feel good about this project. This does not even say anything about what the Planning Boards review would be on this property. He is asking the Town Board to draft a reasonable law that they could apply.

Attorney Michael O'Connor

Attorney O'Connor said that he feels that he basic questioned is the definition of composting and asks the Town Board if that is their definition or a definition that has been suggested to them. Is there a scientific reason that the Town Board says that they will allow composting of grass and not bio-solids? Attorney O'Connor asks if there is a scientific reason beyond emotional fears, and said that maybe this is where the Town Board would be better off to get some other third party information scientific guidance from the materials that they are trying to prohibit. Supervisor Lucia said that he feels that some of the food waste terms that are in this proposed law came from the experience that the Town has had with the restaurant food business that was there at one time. Attorney O'Connor said that the last time that they were before the Town Board he had given them information on DEC'S current regulations on composting. If the Town Board looked at those regulations DEC does not distinguish the input, except as to how the input was handled. Attorney O'Connor said that if the Town Board is going to allow composting, then allow composting.

Ralph Petruzzo asked the Town Board if this is the actual law or if there is another one. Mr. Petruzzo said that last time they were going back and forth, there were two and now there is one. Councilman Saunders said that there were two and now they are down to one.

Attorney Hill

Attorney Hill said that the question that is based, that Councilman Saunders is eluding to is that originally they started out talking about a law that was broader in nature, regarding waste disposal facilities and the intent of subsequent draft, which was the version discussed at the last meeting was to essentially pull the first version off the table and have this be the focus. This version is what the Town Board is considering and it is to his understanding that the first version is off the table.

Ralph Petruzzo said that is the procedure with the moratorium, but it was emotional. There was another entity with a potential for income from a burn plant, gasification plant ...etc. Mr. Petruzzo said that he understands that he is a product of his environment, but when the moratorium came out the decisions that were made on how on to handle themselves as a business in this community, and this has been a horrible experience for him as a taxpayer and a member of this community for years. Having said this they are now down to a local law, which is an amendment to the Town Code relating to compost facilities. Mr. Petruzzo said that there was a lot more to the moratorium draft that was read at the public hearing. Councilman Saunders said that he is confused to. When he read the other draft, they were talking about incineration, garbage burning and all that and now it has come down to this.

Attorney Hill said he would try to clarify the issue that initially it seemed to be the board's consideration was of waste disposal facilities in general. As he understands that the draft version of the Town board was that they basically are not moving in the direction to have waste disposal facilities within the Town. Composting facilities, we might want to have under certain regulation, but waste disposal facilities we do not want. The Towns regulations in the way that the Code is currently written, basically does not allow waste disposal facilities and this draft is one of the initial provisions of the most recent draft there is a note under article 2a section 89-10H, the amendment there is intended to reinforce that waste disposal facilities in general are not being allowed here. With that being said composting facilities with certain caveats would be allowed per this draft. So what has originally started out being very broad has, and may have allowed others types of waste disposal facilities with special use permits. Attorney Hill said that it was his understanding that the Town did not want to go in that direction, so that has been taken off the table consistent with our existing

regulations there would not be other types of waste disposal facilities and to the extent that the Town wants to allow composting facilities that is the extent to where we are right now. This is where we are right now trying to figure out what types of composting facilities to allow.

Councilman Saunders said that Attorney Hill was absolutely correct. Councilman Saunders said that he remembers when Meredith and Jim were herein the beginning and they said that we did not want to go down the avenue of saying that we cannot have a specific industry in this community. Councilman Saunders said that the example that was used was the Adult industry and that's why it was decided to put it up on Spruce Mountain. Attorney Hill said that the Adult industry is entirely complex. Councilman Saunders said that he was just using it as an analogy. Councilman Saunders said that it was his understanding that you want to regulate everything, whatever industry it is, you want to regulate it, and you don't want to ban it. Attorney Hill said that Adult uses couldn't be prohibited or eliminated because there are constitutional issues there. There are no similar constitutional requirements in regard to waste facilities. Councilman Saunders said that what the Board had been told in the beginning was that they did not want to ban any industry but that they should regulate them. Councilman Saunders said that starting right from Article 2 Section A, where they go with the Use variance, that he does not know where this is coming from. He said that at the last meeting with Meredith that he remembers that they don't like the Use variance, they like the special use permit and he is not sure where they are going with this. Meredith said that the use variance is very hard to obtain. Attorney Hill said that the reason that this is in here is because as drafters, their understanding is that this board wants to move in the direction where waste disposal facilities, in general, will not be allowed in the Town. If someone comes in assuming that a law similar to this is adopted, and says that this Town is the best place in the world to have a construction and demolition landfill, and they come before the Town Board, this law enables in Zoning Regulations to say that it is not allowed under our Zoning. The alternative is that that person can apply for a use variance. Then they would be able to make their case before the Zoning Board and in making their case they would have to demonstrate that whatever land they are proposing to put it on. Councilman Saunders said that he agrees 100% but in the document that the Town Board (Town code) that they agreed on May 15th 2004 that it was acceptable and under permitted use composting is there under special permit uses. So why are we now moving it to zoning. Attorney Hill said that this section does not prohibit composting.

Composting would still be allowed with a special permit use consistent with the provision that you pointed to just now. Other types of waste disposal facilities would not be allowed but composting would be allowed as a special permit use.

Jim Martin said that what is being done for the first time is the board is defining what a composting facility is and defining what the input to that composting facility is. Attorney O'Connor said that they are limiting it, not defining it. Jim Martin said that virtue of defining it you are limiting it. Attorney O'Connor said that the definition of composting as set forth in this proposed law will be allowed if it falls within the two definitions that are on page 10. Attorney O'Connor said that he has problems with the two definitions because the first definition talks about a mixture of compostables at an outdoor, open air facility for the purpose of producing material for fertilization and conditioning of soil, it does not say anything at all about internal controlled facilities like what we had been talking about. What you are saying with this law is that we would have to get a use variance in order to do the internal, closed type composting facility, because this right here only allows an outdoor open-air facility.

Attorney Fuller said that he was not sure that that is what it says. Attorney O'Connor said that he is not sure if that was their intent but that is what it says. Attorney Fuller said that Attorney O'Connor has brought up two good Points. On a broader sense try to think of an industry in the town where you are telling the industry what it can bring into its plant to create its product and what it can produce for an end product. That is in essence, by these definitions, what you are saying to the composting industry, is that we know, our experts have told us, that someone has said to us that this is what you should allow to go into these facilities and this is what you should allow to come out of them. That is, what these definitions do, it is remarkable. The town is saying that yes they permit composting, but you don't because you are telling the facility what they can bring in and what they can bring out. On the use variance point, by law in New York, you are not supposed to get the use variance, the hurdle is actually that high? Councilman Byrnes said that there is a town Code here since 1988 that says that you cannot import waste into this community and that has been on the books. This proposed facility is to import waste and there is already a law on the books prohibiting it. Attorney Hill said that the thought they might be eluding to the provision for the IP property only. That provision is specific to that only. Supervisor Lucia said that there is a provision in there under Dumping and that it is a

couple paragraphs. Councilman Saunders said that he is just looking for clarification on why they went with the use variance when everything that he has heard prior is that they wanted to go with special permits. Now he sees use variance in this draft, it is a very hard thing to obtain; you have to prove from your definition that that property can't be used for anything else. Meredith Smith said that it also sets a procedure to make it a use variance, to have a use variance, and that the things we've covered in this document are provided for more than the special use process does. Councilman Saunders asked if they could not do that.

Jim Martin

Jim Martin said people need to remember that the Land use regulations have various approaches for allowing uses to occur. For example single family residential zones, someone comes for a single family home, it is a permitted use, certain uses by their nature are recognized as having complicated factors in terms of their potential for impacting the public that Zoning is trying to protect. In terms of art in Zoning are we are going to take those types of things and subject them to site plan review or are we going to subject them to a special permit, that as long as certain protections are built in and certain standards are met then that can occur. In other words we are not addressing the question of if it can happen but how it happens. Other uses now are considered to be vastly inappropriate, potentially harmful, are that much of a conflict with the surrounding land use and we just do not want them to be allowed. Now what is built into these statues is that you always have to have a provision for someone to be able to make their case, and that is what the use variance does. Maybe there are special extenuating circumstances that the use variance is warranted. Mr. Martin said that he has had conversation with the State Attorney Harry Willis and Attorney Willis said that in his opinion there should never be a use variance granted in the State of New York. If you were to read the tests that are built into the law that there is such a high standard, that it's very difficult and practically never able to be met. Attorney Hill that one has to prove that for every use that you allow in that district, that you can't use that property for everyone of those uses that are listed in that zone. Councilman Saunders said to Attorney Hill if he should have any concern with it as it stands right now the composting facility that is being operated, which falls under the industrial uses, of special permitted uses, and wants to know if now does the Board remove it from special uses. Jim Martin said no, what this new draft does is clarify what types of materials can be used by the composting facilities and the conditions that are placed on them for their operation. Attorney O'Connor

said is it clarification or where it changes the materials that can be used. Attorney O'Connor said that right now there is no definition of the types of materials that are compostable, is that correct? That is the point. Attorney Hill said that as far as he knows, we do not have anything that specifies.

Attorney Jeff Baker

Attorney Jeff Baker said that the rest of the lawyers present were making a compelling argument but they are not correct and it is misstating what the role of the Town Board is in establishing what their vision for the Town is, you are the elected leaders, you have been elected to make the policy decisions, elected to establish the Land use rules. This Town Board has very broad discretion to decide what is there. Attorney Baker said that he is sure that there are things that can't be regulated and prohibited, but the Town Board has virtually that ability to ban everything else, the trash industry is not a constitutionally protected use, it does not have a right to be here. Attorney Baker said that when the State Legislature adopted the solid waste statues, Article 27 of the Environmental Conservation Law made it very clear that they were setting forth certain standards and that they were empowering DEC to get through rule making and come up its standards. It does not prohibit the Town from coming up with its own standards, in deciding how it would like to regulate solid use and solid use disposal, both in terms of operations in the Town and whether it should be there in the first place. Attorney Baker said that essentially the State set the floor not the ceiling. The Town Board should be able to go higher. Attorney Baker said that last winter this Town Board was faced with this significant dilemma, Corinth was right in the bull's eye, it was in the cross hairs of becoming a regional solid waste facility, the Petruzzo Bedminster facility for composting sludge and Philmet's proposal for incinerating sludge, and the Town and Village recognized that they did not have the adequate tools on hand to deal with the situation. The Town allowed composting, but the composting was undefined and the understanding at the time was grass clippings, small scale and something that you wanted for the Town, which was appropriate. The Town is now faced with new things where you did not know that you were going to become the new source for, and regional destination for, who knows what kinds of materials. The people of the Town came to this board that they elected and made it clear that the Town needs to get their hands around it to control it. The town is looking at it and deciding what is the best way to deal with this. Attorney Baker said that, it is not a thing to say that what the Town Board is doing is the greatest thing since sliced bread and let

us prove it to the Planning Board that this is right. Attorney Baker said that that is one way to go, but the Town Board has the legal, political authority and responsibility to answer to the Town and say look this is not the kind of operation that the people of Corinth want here. Attorney Baker said that once the Board establishes this as a special use permit, it is legally presumptive to allow, you will have tied the Town's hands and made it very difficult to stop it. There is a presumption that it will be allowed. Attorney Baker does not think that the Town wants to do this, he feels that the Town is clearly on the right track. Again the Town Board has a much different legislative authority where the basis for your decision to deny it is very simple, the Town board can decide that they just don't want it here. Attorney Baker said that once these facilities come in the Town does not have the means to regulate them, the money or the staff to inspect or regulate a facility like this. The Town will be relying on DEC to do it and Attorney Baker said that frankly DEC does not do a very good job, the Town does not want to rely solely on DEC to make sure that everything is being done correctly. This is the type of industry that has detrimental impact on the rest of the Town.

Attorney Baker said that there are arguments that DEC has already approved this and there is a negative declaration. Attorney Baker said that he has argued that this is incorrect and the last he heard before the moratorium, they were going to send Mr. Petruzzo to an issues conference, and at the issue conference they were going to reopen the issue of whether the negative declaration was appropriate, and if DEC took into consideration all the relevant factors. Attorney Baker said that he would bring in to this meeting the issues of why this does not meet the standards of a part 360. Attorney Baker said that in terms of the proposal for the host community benefit package is really inappropriate to look at this time. Because again you are looking at the question of, is this the kind of use that you want in this Town. In some ways it is going to increase your tax benefits, to the extent that Mr. Petruzzo and Bedminster are offering you a share of their proceeds here, it is borderlines graft or a bribe. Attorney Fuller said that he would give Attorney Baker one chance to recant that statement. Attorney Baker said no and that Bedminster/Petruzzo are offering the Town money. Attorney Fuller requested that this be recorded in the minutes and made record. Attorney Baker said that Attorney Fullers clients are offering the Town money in exchange for a use that they don't want. That is an incentive, that is trying get one to do something that is against the interest, that is the equivalent of it is all that Attorney Baker said that he was trying to say. Attorney Baker said

that Bedminster/Petruzzo said that they are offering to take the Town of Corinth's waste at a 20% discount or something like that. Attorney Baker said that the Town couldn't agree to that, the Town needs to go through a formal bidding process. Attorney Baker said that he is not sure how they came up with the tax assessed value on this facility, but that he feels that it is a high assessment of 5 million dollars on a 6.5 million dollar investment. Attorney Baker said that Bedminster/ Petruzzo are also stating in this proposal for Host benefits that they will only take New York City waste for three years, and he would like to know what happens after three years, this Town is going to be a regional solid waste facility. Attorney Baker said that the Village of Corinth has made it very clear that they do not want the Philmet operation in the village. The village has a draft law out there that is very clear about incineration and those kinds of operations. Attorney Baker said that he feels that the Town Board should do a similar type of exercise. Councilman Saunders asked Attorney Baker if he heard him correctly, when Attorney Baker said that the village has a draft law out there banning a company. Attorney Baker said no that is not what he said, he meant to say that they are banning waste energy facilities. Attorney Baker said that he knows that Attorney Hill in review of the Town Law has taken the position, and he feels that he is correct, that the current Law as written would prohibit the same type of operation, that Philmet is proposing. Attorney Baker said that this is the Town Boards responsibility as elected leaders of this town to decide how this revision goes forward. Attorney Baker said that he feels that the Town Board has a good job for those types of operation by putting in the performance criteria and citing criteria to fill in those holes where DEC doesn't have it and essentially these types of facilities operate now in a largely unregulated manner. Attorney Baker said that what this town Board is doing is tightening up what is a significant loophole in the state law. The board is not banning composting, what you are doing is allowing composting in a very narrowly defined area with proper controls and you will not be allowing any of those other types of industries.

Councilman Saunders asked Attorney Baker if he would agree that if what the Board is currently doing redefined Mr. Petruzzo's current operation. Attorney Baker said that to be quite honest he does not know what his present operation is and he does not have the information on that. Councilman Saunders said that that information is out there and available. Councilman Saunders said that he is looking at the ten permits that Mr. Petruzzo has right now, the first one of these that are permitted are to handle paper sludge, the second is to do paper sludge from the IP mill and

processing that. Councilman Saunders said that if any of these permits that he has and is permitted to do, if this goes through as is, Mr. Petruzzo would no longer be permitted to do. Councilman Saunders said that his definition of the word industry in the Town Of Corinth is; it states, it is the purpose of this land use district to accommodate new and expanding industry used in the Town Of Corinth, it is further the proposal of this land use district to promote the economic well being of the community, stimulate employment opportunities and expand the industrial tax base. Councilman Saunders said that is very generic. Attorney Baker said that it also defined more specifically the uses that are in that law already that define the types of industry that are left. Councilman Saunders said that he agrees with him that it was defined under industry # 8. Councilman Saunders said that when he looks at the permitted uses section, that composting is under there, and Mr. Petruzzo is allowed to do what he is presently doing now. Councilman Saunders said that with this new law that we are going to compose on we are going to forbid probably 80% of what Mr. Petruzzo is currently doing. Councilman Byrnes said that Mr. Petruzzo would be grand fathered in. Councilman Saunders said that as long as they all agree that they are not going to put a sunset law in this, where we say look we are going to give you ten years and then you are done, however, he agrees with Councilman Byrnes that if Mr. Petruzzo ever sells the business that that is the end of it.

Attorney O'Connor

Attorney O'Connor said that the Town Boards intent is not to effect the existing operation of the Bedminster-Saratoga application, which actually incorporates the existing types of uses or materials, because when the Town Board adopts this change, you can exempt any application pending. Attorney O'Connor said that his clients' application is pending. Attorney O'Connor said that if the Board remembers right, in the first public notice that they had on the Moratorium, that the Town Board exempted existing applications. Attorney O'Connor said that that is why they went to the public hearing and sat there and did not say anything. It was only after the public hearing that the Town Board changed the language of the moratorium law. Councilman Saunders said that he agrees to that and that he objected to that then. Attorney O'Connor said that clearly the Town Board could exempt from the new Zoning Ordinance pending applications that are filed. Attorney Baker said yes, of course the Town Board can but that would just be pointless. Attorney O'Connor said lets not get into these arguments that the Town Of Corinth would become the waste capitol of the world, the waste capitol of northern New York. The Town Board has before them one application

pending, that has 96,000 sq feet of building. Attorney Baker said that what Attorney O'Connor had just said, to exempt the Petruzzo application would defeat the whole purpose of what this board is doing. Attorney Baker said that the Town Board adopted the moratorium to tighten up the laws that heighten the composting facility, now if the Town Board adopts it as it is written now, Mr. Petruzzo would be able to continue this operation, he would not be able to expand. He would not have to stop doing it unless the Town Board put in a sunset rule, which is not necessary. Councilman Saunders said that he wants it to be perfectly clear that Mr. Petruzzo can continue to operate as it is stated right now under this new adoption, if we adopt this; because you can't bring in animal waste anymore under this new law. Councilman Saunders said that there were complaints about some 17 trucks going in and out of Mr. Petruzzos property late at night. In the month of August that is when they pull it out of the racetrack. Councilman Saunders said that if the Town Board adopts the draft that is before them presently then they are effecting his business and all that he is trying to do is make sure that there is a level playing field of what Mr. Petruzzo is doing there right now and how were going to effect it. Councilman Saunders said, his fear is that may be, because we are changing it from a special use to a permanent use, and now the Town Board is redefining the definition of composting under a use variance; and if an applicant really wants to do something now that they have to go to a Court of Law. Councilman Saunders said their needs to be a balance here, if they are not effecting his current operation and just future operations that he does not have a problem with it. Attorney Baker said that he thinks that it is very important for the Town Board to know what type of business that Mr. Petruzzo is currently doing now. Attorney Baker said that he has asked for statements and has never received any and he has also asked DEC for permits that Mr. Petruzzo has and DEC told him that Mr. Petruzzo does not have any valid permits. Attorney Baker said that the Town has a legal right to know what Mr. Petruzzo is operating right now and if the Town is comfortable with that, because if there is an element of his current operations that is not what the Town Board intended, then they do have a right to change that.

Ralph Petruzzo

Ralph Petruzzo said that this draft effectively annulets any business that he has done, it discredits anything that he has done for the last 24 years right here. Mr. Petruzzo said that he does not know of another Town that has anything like this on the books. Mr. Petruzzo said that there are 68 active composting facilities in New York State right now and the list is in there

with the contact numbers for those. Those are non-exempt because there are literally hundreds of composting facilities that are below the registration of the Part 360 through DEC. Mr. Petruzzo said that he works in other communities across the state and across the region and he knows of no other communities that do this.

Attorney O'Connor

Attorney O'Connor said he does not think that they need to get into a discussion of non-conformity, as being justification for adopting a law really has no justification. Attorney O'Connor said that there is going to be a legal battle on every issue of non-conformity; are we non-conforming or are we not. Attorney O'Connor said that he wants to avoid that by coming up with a reasonable Law to start with. Attorney O'Connor said he feels that everyone involved really needs to look at the facts, he said it does not matter if there is one lawyer or three lawyers here. Attorney O'Connor said he needed to clarify a few things: one being that DEC is not going to put this on the back burner waiting for an issues conference. That is actually incorrect and he has a letter from DEC that says that they have decided that they will hold a legislative hearing, not an issues conference. If you understand the DEC permitting process, they go through a legislative conference, it is a public hearing where everyone gets there say, then they make a determination of whether or not they will go into an Adjudicatory hearing, if they go into an Adjudicatory hearing then they will have an issues conference. At this point in the process it is long removed from the issues conference and to say that is what they are waiting for is a total mischaracterization from where we stand. Attorney O'Connor said the other comment, which he felt was sarcastic is that of "who knows what kind of materials are going in to the Facility", and Attorney O'Connor wants to know where do they think that we get the materials, especially bio-solids, which have to go through a pre-test from the facilities that they leave and the facilities that they enter. Attorney O'Connor said that he would like to address the issue of whether the Town can have a host community agreement. Attorney O'Connor said that he has done other host community agreements and has never been accused of bribing someone. Most Towns request that there is a host community agreement and it is just a tiny factor in the over all picture. Attorney O'Connor said that he feels that it needs to be on the table so that the Town Board understands all the impacts. The impacts go far beyond just the 15 people that attend town meetings; it affects the tax base and revenue stream of the town. Councilman Brown said that he does not have a desire nor does he believe that any other Town Board members have the desire to

put Ralph Petruzzo out of business, but we have something stated in this book that states “anything that isn’t listed in that industrial zone is specifically prohibited”. Councilman Brown asked Attorney O’Connor if he was asking the Town Board to vote against something that goes totally against what this board has already put into place. This does not make sense to me. Attorney O’Connor said that the Town Board was challenged whether or not you should enter into a host community agreement that gives the town a discount, through the use of our services. Attorney O’Connor said that this can be put into an agreement that is binding on my client and the Town Board still has the option of whether you will accept those benefits or not.

Councilman Byrnes said that they talking about host benefits of an industry that has been put on hold due to the moratorium, is that not a violation of the moratorium in itself? Councilman Byrnes said that right now we are talking about composting law and that Attorney O’Connor is talking about host benefits, which is to him, the same thing as part of an application stating; this is why you should accept my business. Councilman Byrnes said that if Attorney O’Connor is talking about the discount that he would give the Town Of Corinth trash and he is talking about the amount of money that this town will make off his clients business, then in his opinion Attorney O’Connor is trying to influence the vote.

Attorney O’Connor said that if one reads the Moratorium the Town Board is not suppose to be taking any action in regards to solid waste as defined with in the ordinance, so being here talking about the composting law, and what you are going to propose for the composting law is no different than talking about potential host community benefits, or Bedminster/Saratoga. Attorney O’Connor said that the economic impact to the citizens of the town should be one of the boards’ considerations when they are adopting laws.

Attorney Hill said that what the applicants are trying to do is to make sure that the Town Board is aware of all the factors, all the ramifications that the proposed draft Law would have, and part of that is the potential economic effect. Attorney Hill said that he does not think that it is something that is prohibited from considering if the board wants to consider it. The applicants are offering this for the boards consideration, and he does not think that the leap should be made to say that it is part of some application.

Attorney Baker said that they are talking about a percentage of the tipping fees and a reduction in the cost the Town Board is essentially promising that

if they pass it as a Special Use Permit it will allow it to go forward. He said that is contract zoning. He said that if it goes to the Planning Board as a Special Use Permit and something goes astray then the parties couldn't be held to the contract.

Attorney O'Connor said that if the Town Board adopts the law as they have in front of them they are saying that they will never have an opportunity to dispose of mixed solid waste in this community in a compost facility in the Town. He said that his point is that if the Town had that opportunity and it had some economical impact with the right technology it could be beneficial.

Councilman Major asked Attorney Hill that according to the draft the board had before them if this amendment was to go forward what specifically what would it do to Petruzzo's present business? Attorney Hill said that as the draft was written now there is no sunset provision that would require Mr. Petruzzo to discontinue his present operation so his present operation would be grandfathered.

Councilman Major went over the changes that the original document said "Granted a variance by the Zoning Board" and the new draft says, "Granted a use variance by the Zoning Board". Councilman Major said he thought that the reason for adding the word "use" was to clarify it a little better.

Councilman Major said that he remembers a comment being made to the board that one of the issues was that the law did not have it defined.

Attorney O'Connor said that the board still has not defined composting what is defined is materials that can be used for composting. Councilman Major said that in the present law there is nothing there.

Councilman Saunders said that he didn't want to put someone out of business that had been in business for a quarter of a century. He said that for the purpose of this law Compostables are defined as "solid organic constituents of leaves, grass clippings, evergreen needles, plants, branches, brush, vegetative pruning and garden and yard waste. For the purpose of this Local Law, inorganic material, paper sludge, sewage sludge, sludge, sewage, biosolids, food, animal products," Councilman Saunders said the Mr. Petruzzo has permits to do a number of those items. Attorney Hill said that the things he is doing now he would be allowed to do, as he would

be grandfathered. Councilman Saunders said he has concerns. Attorney O'Connor said that Petruzzo could not expand.

Supervisor Lucia told the Board that they were reviewing a draft and that they were not voting on the amendments at this time.

Councilman Major told the board that he thought the discussion should be on page 10 of the new drafts. Attorney Hill said he wanted to call the board's attention to the legislative purpose of the Local Law – "The purpose of this Local Law is to promote the health, safety and general welfare of the community, to promote the rural character of the Town, to provide a variety of housing opportunities and densities, and to protect the property values and aesthetics of the community." Attorney Hill said that in his opinion what it was going to come down to is are there enough health and safety factors associated with animal waste or sewage sludge being different from composting grass clipping, leaves and stuff like that. He said the board would have to decide if there was enough of a differentiation between those two input to a composting facility that one represents a public health and safety hazard that the board is going to disallow that and one does not create a public health and safety issue so that board could allow that.

Councilman Saunders said there is a thought such as that. He asked how we could have allowed something like this for 20 or 25 year and now not allow it. He said he didn't think that the Board wanted to make a law where they said this is what it is if you don't like it see you in court.

Jim Martin pointed out that typically a community adopts a zoning code has the benefit of going through a comprehensive planning process. He said there are references in the law of linking one to the other but it is not required. He said that many communities in New York State, as is in Corinth, there is no comprehensive plan or written document. He said there are many communities that don't have a written book to suggest ways to up date or adopt their zoning code. He said case law in New York State shows that the courts have up held that the community's record of decisions relating to land use can be interpreted as being the community's interpretation of their comprehensive plan.

Attorney Fuller asked if the Town had a comprehensive plan when it adopted the Land Use Law. Jim Martin told him that the Town of Corinth did not. Supervisor Lucia said we have a draft Master Plan. Jim Martin said

that things that decision made by the Planning Board and Zoning Board could be viewed as constituting the Town of Corinth plan or outlook on Land Use.

Attorney O'Connor said the Town may want to talk about regulating, as heavy as they have, open air type composting but if a person has enclosed regulated composting it has to be treated differently and it has to have different potential impacts. He suggested getting a person from DEC or a third party engineer in to talk about the impact.

Councilman Saunders told the Town Board that he did not want to effect Mr. Petruzzo's present business and if he could be assured what he is doing right now is fine in this community perhaps then a discussion could be had regarding the next step.

Attorney Hill said he understands that the board doesn't want to affect Mr. Petruzzo's present operation so the draft law does not incorporate a sunset provision, which would require him to discontinue his present operations.

Attorney O'Connor said say right now Petruzzo has a 16,000 square foot building and he wants to add a 2000 square foot addition to that to expand that permitted use in that building or they took in 35,000 tons of animal waste last year and put it on a row in the center of the property and next year they want to move that row to another are of the property. He said his interpretation of the zoning laws is that both of them would be an expansion, both of them would be expansion of non-conforming uses; both of those would require use variances. Councilman Saunders said he would disagree. Councilman Saunders said as long as the expansion was less than 25% he thought it was okay. Jim Martin that what you look at is the expansion of a non-conforming use. He said that Attorney O'Connor's expansion of a facility clearly constitutes an expansion of a non-conforming use. He said that if a restaurant is located within a zone that is zoned residential and it should not be there and if they are serving 50 chicken dinners at night and the restaurant changes hands and the new owner come in and he makes 150 chicken dinners a night. He said that does not constitute expansion of a non-conforming use.

Jim Martin said that you have to look at what your Zoning Officer can do out there to enforce a violation. He said that if he can do that increase in volume in the four walls he has then it is okay. Attorney O'Connor asked if

he could change the location on his property. Jim Martin said that then you are getting into a condition that if the pile takes up 4000 square feet and he shifts that 4000 square feet pile over to another section of the site and now that 4000 square foot site where he moved it from becomes vacant again he feels that that does not constitute a non-conforming use. He said if he moves it over to somewhere else and it becomes 5000 square feet then that constitutes expansion of a non-conforming use.

Jim Martin said this is not a perfect science.

Councilman Saunders said this has been a very informative meeting.

Attorney Hill said one of the key points of focus here is the definition section page 10 the “compos tables” and the different ion this board would be making in the types of materials that would be allowed in a composting facility. He said he thought Mr. O’Connor’s suggestion that the Town ought to engage the services of some consultations to advise the board about different types of compos tables and to address any concerns the board has about certain type of compos tables so that when the board makes a decision about what laws they want to enact and what definitions are within that law is that the board has a factual basis and factual understanding for any differentiation made between allowable compos tables and non-permissible compos tables. He suggested that that might be something the board might want to consider getting some independent expert advice with respect to the question of compos tables, such as what they are; what they represent; and what the potential problems with them might be.

Jim Martin said he told the board a month ago that is might come to this. He said a public agency is usually a good place to start. He said another resource might be a professor with background in biodegradable.

Councilman Major asked if the Board could decide tonight to agree on the definitions for Aerobic Composting and Anaerobic composting.

Councilman Saunders said he just wanted to go home and review the material he had received and the point made by everyone. Supervisor Lucia said that he agreed that the board needed a time out to review everything that was present tonight. Attorney O’Connor again suggested contacting DEC. Councilman Saunders said he would like to see someone to come in and give us their opinions without knowing anything about a specific operation.

With no further business, on a motion of Councilman Saunders, seconded by Councilman Byrnes, the meeting was adjourned at 6:30 PM. Carried unanimously

Respectfully submitted,

Rose E. Farr, RMC
Town Clerk