

June 21. 2007

The Town Board of Corinth held a workshop meeting on June 21, 2007 at 4:00PM at the Town Hall.

Present: Richard Lucia, Town Supervisor  
Charles Brown, Councilman  
John Major, Councilman  
Edward Byrnes, Councilman  
Mitchell Saunders, Councilman  
Rose E. Farr, Town Clerk  
Michael Hill, Town Attorney  
Fred Mann Jr., Code Enforcement Officer

Public: Sigrid Koch, Joyce Day, Barbara and Charles Weatherwax, Diana and Ted Jordan, Ray Bush, Louise Kirkpatrick, John D'Alessandro

After Roll Call by the Town Clerk the following business was transacted:

Supervisor Lucia said that the Town Board needed to close the Public Hearing on the Local Law #2 of 2007 and schedule a new public hearing on the revised Local Law #2 of 2007 Amending the Corinth Town Code Relating to Waste disposal.

**RESOLUTION #179**  
**RESOLUTION CLOSING PUBLIC HEARING ON PREVIOUSLY PROPOSED**  
**LOCAL LAW EXTENDING MORATORIUM ON WASTE DISPOSAL**  
**FACILITIES AND TO TAKE NO ACTION ON THE DRAFT LAW THAT WAS**  
**CONSIDERED AT THAT PUBLIC HEARING**

A motion was made by Councilman Major, and seconded by Councilman Brown, the following resolution

ADOPTED Ayes 5 Lucia, Brown, Major, Byrnes and Saunders  
Nays 0

RESOLVED that the public hearing on Local Law #2 of 2007 Amending the Town Code Relating to Waste Disposal be closed.

Supervisor Lucia introduced Attorney Michael Hill who said that he hoped that everyone had an opportunity to review the revised draft of the local law relating to the disposal of waste. Attorney Hill asked the Town Board if the current changes reflect the direction that the Town Board wanted to go with this Law revision. Councilman Saunders asked if the only permitted composting facility in Town was Ralph Petruzzo's in Industrial Zoning. Councilman Saunders asked if what Mr. Petruzzo has been doing on his property since 2004 is going to be grandfathered. Supervisor Lucia said that was the intent of the board. There was some discussion on permits and Attorney Hill said that the only permits that are relevant to the Town as far as being grandfathered are Town issued

permits. Attorney Hill said the way that grandfathering works is that if Mr. Petruzzo has all necessary Town permits and approvals for what he is doing currently then he is grandfathered for what he is doing now. Councilman Byrnes said that there are piles of concrete out there and said that the concrete had been out there from at least 2004. Supervisor Lucia said that he believed that concrete is considered C&D. Attorney Hill said that the Town needs to investigate what the concrete is there for and what Mr. Petruzzo's intentions for the concrete are. Councilman Byrnes said that he just wanted to make sure that Mr. Petruzzo is not grandfathered for something that he is not suppose to be doing on his property. Councilman Saunders said that he wanted to make sure that what the Town Board is doing with this law is not putting Mr. Petruzzo out of business. Attorney Hill said the concept of grandfathering is anything that Mr. Petruzzo is currently doing out there now with all the proper required permits he will be allowed to continue doing after this law goes into effect. Attorney Hill said when the Town Board was doing earlier drafts of this law there were explicit discussions regarding provisions such as the sunset provision; where as a Town Board they have the authority to say to the property owner that the town is going to make a change in zoning and that what the property owner is currently doing will be allowed for a period of time and at the end of the time the property owner will no longer be allowed to do what he has been doing. Attorney Hill said that at the end of those discussions the Town Board had agreed that they did not want the Sunset Provision in this law because the Board did not want to outlaw Mr. Petruzzo's present composting activities. Councilman Byrnes asked Code Enforcement Officer Mann if he had copies of the permits and said that he would like to review those permits. Attorney Hill said that this draft law on waste disposal is not going to be the Town Board last word on waste disposal, it states in the very last provision that this Board is contemplating a law regarding composting in the future.

There were further discussions about possible permits that Mr. Petruzzo has through DEC that allow him to import paper sludge for disposal. Attorney Hill said that question is whether or not it is current. There are further issues regarding how the paper sludge was being used because the property is not considered a landfill. Attorney Hill said that part of the litigation process will be to provide evidence of the valid permits that Mr. Petruzzo may or may not have. Councilman Major requested that by the next meeting the Town Board members could have copies of the permits that Mr. Petruzzo has and verification of validity of these permits. He asked if the Town Code Enforcement Office could verify the status of Petruzzo's permit by that time.

Councilman Byrnes asked if the lawyers had reviewed the letter received from Robert Forte. Attorney Hill said that they had, and the important distinction to make here is, that the section of law under which the Town Board would be exercising authority with respect to dumps and dumping and with regard to any waiver that might be applied for any type of waste that someone might want to dispose of is not within the zoning codes. The Town Board has authority in regards to waivers under that law because it resides outside of the zoning law. Attorney Hill said that the way that this provision is proposed the Town Board is amending a law that is outside of the zoning code therefore, the Town Board can retain the authority to grant the waivers.

Attorney Hill said that since this is a revised draft that it should be forwarded to the Planning Board so that they can review the changes that were made to the Law. Attorney Hill said that once the Town Board receives a response from the Planning Board that they can forward the revised Law to the Saratoga County Planning Board for their review. He said the law will come back to the Town Board and at that point the Town Board can open the law up for anew Public Hearing. Councilman Major wanted to know if the Town Board could get this revised copy to the Planning Board tonight to review.

**RESOLUTION #180**

**RESOLUTION THAT THE TOWN BOARD HAS REVIEWED THE REVISED DRAFT OF THE LOCAL LAW AMENDING THE TOWN CODE RELATING TO THE DISPOSAL OF WASTE WITH NO OTHER CHANGES AT THIS POINT AND ARE FORWARDING THIS LOCAL LAW TO THE TOWN OF CORINTH PLANING BOARD FOR THEIR REVIEW AND RECOMMENDATION**

A motion was made by Councilman Major, and seconded by Councilman Saunders, the following resolution

ADOPTED     Ayes 5 Lucia, Brown, Major, Byrnes and Saunders  
                 Nays 0

RESOLVED that the Town Board forward a copy of the Revised Local Law Amending the Town Code Relating to Disposal of Waste to the Town of Corinth Planning Board for their review and recommendations.

**SCOTT EAGLE LITIGATION**

Attorney Hill said that the Town had engaged in litigation with Mr. Eagle regarding mobile homes on his property. Attorney Hill said that there was a decision that was issued by the Saratoga County Supreme Court judge Nolan and the removal of the mobile homes was ordered. He said that Mr. Eagle was provided a 120 Days in which to remove them. He said as he understood it the mobile homes have not been removed and the 120 days have expired. A letter was sent o Mr. Eagle 30 days prior to the 120 days expiring and still apparently no action was taken to remove the mobile homes. Code Enforcement Officer Mann said that he is not allowed on the property but the mobiles near the road have not been moved. Attorney Hill read the following part of the court order is now applicable: “ In the event that the defendant (Mr. Eagle) fails to cause the removal of all such mobile homes within the time frame set in this order, the plaintiff (Town of Corinth) may do so at the direct cause of the defendant (Mr. Eagle) or as a levy against his real property without further order of the court.” Attorney Hill said that the order gives the Town authority to remove the mobiles from Mr. Eagle’s property at Mr. Eagle’s expense and in the event that payment is not forth coming to reimburse the Town for cost incurred, then the Town can levy the charges against his property as additional levy or tax against the property. Attorney Hill said this is an option that the Town has at this point.

Supervisor Lucia told the board that Mr. Eagle was present and wished to speak. Attorney Hill said it was up to the board since this was only a workshop and no one in

the audience was allowed to speak. The board members agreed to allow Mr. Eagle to speak.

Mr. Eagle told the Town Board that the order also said that he must apply for the appropriate license necessary. He said he came to the Building Department and was told that there was no such license. He said what he does to the mobiles should fall under industrial manufacturing which he applied for and was told there was no such license. Mr. Eagle said the court order said he must apply for the necessary license and if he did not then the Town could remove the mobiles. He said he did apply for the necessary license that the Town Code Book clearly describes which he was told there was no such license. Mr. Eagle said therefore he feels he is in compliance with the court order. Mr. Eagle said that he has recently been entered in a Chapter 13 bankruptcy which he believes would stop this action. Councilman Byrnes asked that if zoning is passed and Mr. Eagle did not have the necessary license or permits at that time then he could not obtain a license or permit to operate. Mr. Eagle said that he was grandfathered in. He said the Town should have made provisions for what he was doing at the time they passed zoning. Councilman Byrnes said that he understood that when the Zoning was passed there was a thirty (30) day window in which someone could apply if they weren't covered in the zoning. Mr. Eagle said that the Town should have notified him since he is a business within the Town. Councilman Major asked Attorney Hill to read to the board again what the order stated regarding a license. Mr. Hill read the following from the Order: " Ordered, that defendant is temporarily and permanently enjoined from continued operation of a junkyard (as defined by Section 87-2 of the Corinth Town Code) on the premises known as 165 Howe Road (the Premises), and it is further

Ordered, that defendant must cease operations and cause the removal of all mobile homes currently present on the Premises in violation of Town Code Section 87-3 and Section 120-4 (B) no later than one hundred twenty (120) days after the service of a copy of this order with notice of entry, unless within thirty (30) days of such service, defendant applies to the Town for the required license and makes continuous good faith efforts to secure such a license and in such event, the aforementioned running of the one hundred twenty (120) day period shall be tolled while the application is under consideration by the Town; and it is further

Ordered, that in the event the defendant fails to cause the removal of all such mobile homes within the time frame set in this order, plaintiff may do so as the direct cost of defendant or as levy against his real property without further order of the court."

Councilman Major asked if Mr. Eagle had a copy of this order. Attorney Hill said that the order was entered and it is his understanding that it was served so Mr. Eagle or his attorney would have a copy of the order. Councilman Major asked the Code Enforcement Officer about Mr. Eagle's coming in and asking for an application. Code Enforcement Officer Mann told the board that Mr. Eagle came in and wanted an application and they tried to give him a junkyard license application which is not what Mr. Eagle wanted. Code Enforcement Officer Mann said that Mr. Eagle wanted a manufacturer's license which the Town does not have and Mr. Eagle was sent a letter

advising him of this. Councilman Major asked what type of license the court order said Mr. Eagle had to apply for. Attorney Hill said the court order just said, “ unless within thirty (30) days of such service, the defendant applies to the Town for the required license and makes continuous good faith efforts to secure such a license and in such event, the aforementioned running of the one hundred twenty (120) day period shall be tolled while the application is under consideration by the Town.....”

Councilman Brown said that if no application is available then that means the business is not allowed in the Town. Attorney Hill said the Town has certain uses that are allowed under the Code. Attorney Hill said this order and the litigation seems to deal with junkyards and junkyard licenses. Attorney Hill said the Code Enforcement Officer had indicated that Mr. Eagle did not apply for a junkyard license. Mr. Eagle said that a junkyard is not what he does there. Councilman Byrnes said he thought the Court order quoted a specific section of the law. Mr. Eagle said he had nothing on his property that qualifies him for a junkyard. Mr. Eagle said that there is currently a motion in Appellate Court regarding this matter and the court order said he must apply for a license within thirty (30) days and if he did not apply for a license within the thirty (30) days he must removed the mobiles within one hundred twenty (120) days. He said he has applied for what he thinks is the appropriate license. He said that due to the Chapter 13 bankruptcy and the appeal this matter should be stayed. He said that he has tried to work with the Town in compliance with what they want but he is not going to looking to be put out of business either. He said that he wants to turn these mobile homes into shed and if the board reads the definition under industrial manufacturing it says that if you take an object and add to it with the intent for resale is what that falls under. He said he tried to obtain a license for that. He said it is in the Town law stating that the Town has such a thing in their town it would seem that he could apply. Mr. Eagle said the order said that he must not be unreasonably be denied and nobody has come forth with an application for what he does even though it is in the law book. He said that it would seem to him that he has applied and the Town has not supplied to him an application and since the court order said that the Town must not unreasonably deny Mr. Eagle a license then it would be the Town that is not in compliance with the order. Mr. Eagle then left.

Councilman Major asked Code Enforcement Officer Mann what section of the law mobile homes are under. Code Enforcement Officer Mann told Councilman Major that mobile homes are under motor vehicles, Section 120-2 and whatever way he looks at it it is a junkyard. Code Enforcement Officer Mann said that the property is in R2 and there is nothing in R2 that covers any of that stuff. Attorney Hill asked if R2 covered any type of industrial uses or manufacturing uses that are allowed in R2. Code Enforcement Officer Mann said R2 allows Agribusiness, Antique Shop, Office Building, Park, Medical Building, Train Station or Home Occupation-Class II.

Attorney Hill said that he thought Mr. Eagle had misinterpreted the court’s decision and if the board wishes the whole order could be read into the minutes so the public know exactly where the Town stands but this does not have to be done. He said the order authorizes the Town to remove the mobile homes from the property. Attorney Hill said that he thought he heard Mr. Eagle make reference to an appeal that is being filed in the Appellate court and he said his office has not been made aware of that as of yet. Attorney Hill said that under the circumstances before the board made any decision to

order the removal of the mobile homes he would suggest that the Town have Attorney Hill's office inquire of Mr. Eagle's attorney whether such an appeal has been filed and whether the Town is about to be served papers regarding such an appeal. Councilman Saunders asked what difference it would make if an appeal is going to be filed. Attorney Hill said that if the appeal also sought an injunction, from the Appellate Division, to prevent the removal of the mobile homes and if the service of that appeal and injunction is eminent then the Town would want to be aware of that before they authorized a contractor to pull the mobile homes off the property. Councilman Saunders said that it sounds like the appeal and the bankruptcy are ways that he is finding around it. Councilman Byrnes asked what effect Chapter 13 Bankruptcy could have on this matter. Attorney Hill said he didn't know but his office could look into the matter and see if there is any protection. Councilman Major said he thought the board should move forward but he understood what was being said about the appeal. He asked Attorney Hill if his office could have an answer for the Town Board by next week. Attorney Hill said that his office could look into it and see about the appeal and what effect if any the bankruptcy would have on the order. Councilman Byrnes said that as of this date Mr. Eagle has not filed an appeal. He said that Mr. Eagle could still do that even after the Town hired a salvage company. Attorney Hill said that Mr. Eagle had a certain length of time to file his appeal and that window of time may already be closed. Attorney Hill said he thought it would be wise for his office to look into whether there is any appeal or injunction coming down from the Appellate Division or whether that is imminent. Also he said his office should check to see if there is any protection under Bankruptcy Code before the Town authorize the removal of the mobile homes.

A motion was made by Councilman Major and seconded by Councilman Byrnes to table this matter until next week to give the attorneys time to check regarding the appeal and what protections Bankruptcy Court would have.

#### **COUNTY ROUTE 24**

Supervisor Lucia asked Attorney Hill if he had had time to go over the material he faxed to him regarding a request for a change of zoning at the former Trim Line property located on County Route 24. Attorney Hill said he didn't have a chance to go over it but he thinks it is only a request for a change of zoning. Councilman Byrnes asked what other industries are around the property. Supervisor Lucia said only ARC. Supervisor Lucia told the attorney that the property has had industry on it for years but not the same industry. Supervisor Lucia said basically the property has always been an industry. He said he spoke to Jim Martin of LA Group and he said that perhaps the line just got drawn in the wrong spot and nobody caught it. Supervisor Lucia said that the negotiated price between the seller and buyer there is a problem that the bank won't lend the buyer the money if the property isn't zoned for industry. Attorney Hill asked what the intended purpose for the property. Supervisor Lucia told him it was to build, install and sell handicapped bus ramps. Attorney Hill asked Code Enforcement Officer Mann if the intended use fit under the current zoning in that area. Code Enforcement Officer Mann said that it did not but if it was industrial it would go under Site Plan Review – Automobile Dealer. Attorney Hill said that as he understood it the property is not zoned Industrial right now. Code Enforcement Officer Mann said that it was currently zoned R1.

Attorney Hill said that meant that it was next to or close to a residential zone. Supervisor Lucia said that one side has residential, two sides have industry and across the road is residential. Attorney Hill asked if the Planning Board has considered this question or proposed change at all. Supervisor Lucia said that the request for zoning change is suppose to come to the Town Board so the Planning Board has not seen this yet. Attorney Hill said that the Town Board is the appropriate board that has the authority to change the zoning law. Attorney Hill told the board that many times when something like this comes before them they would refer the matter to the Planning Board to see what they think about this proposed change in the zoning. He said that is what the board might want to consider doing. Supervisor Lucia said that he had had a couple conversations with the Chairman of the Planning Board and she is in favor of this. Supervisor Lucia said he thought all the board could do is see what people think about this at a public hearing. He said he spoke to Jim Martin of LA Group and he said go ahead because the shortest time can be sixty (60) days before the change can be made. Supervisor Lucia told the board what is being asked is if the board wants to let them go ahead with the application change. Attorney Hill told the board that he thought they should decide if the board has sufficient amount of information to base their decision on. He said the request is for a zoning change. Supervisor Lucia said that they have done all the necessary things.

Attorney Hill said the board needs to look at what was submit and determine if it constitutes a complete application, then decide whether the board wants to make a formal refer to your Planning Board and get something back from them in a formal nature. He said that if the Town Board wants to make a change then that would need to be referred to Saratoga County Planning Board and the board also needs to put any municipalities within 500 feet on notice. He said that would mean the Village needs to be notified. Supervisor Lucia said that he didn't believe any other municipality would be within 500 feet of the subject property. Attorney Hill said the Town Board will need to hold a public hearing on this matter. He said that this has the stature of a Local Law and the Town Board would essentially be adopting a law because they would be amending the zoning law and that required something on the status of a law. He said the board could not sit around and decide they wanted a change and just make the change. Supervisor Lucia said that was not what the motion was it was to go ahead and follow through with the procedure. Attorney Hill said that the board needed to hold a public hearing and then at the end of the public hearing and then adopt a local law. Councilman Byrnes made a recommendation that the Town Board obtain the whole Planning Board's recommendation not just the Chairperson. Supervisor Lucia said that what the Chairperson was saying is that the people went to her and she knew it wasn't suppose to go to her and she knew it had to come to the Town Board. Councilman Byrnes said that he felt rather than have one person on the board make the recommendation he would prefer to have the entire Planning Board make that recommendation. Supervisor Lucia stated that the Planning Board doesn't even have to be involved. Attorney Hill said that what Councilman Byrnes is referring to is the suggestion Attorney Hill made that the Town Board is in a position today to determine if there is enough information and the application is complete and another consideration the Board may want to make is whether to formally refer the application to your Planning

Board for some kind of a formal recommendation back from them, the whole board not just the Chairman. Attorney Hill said it would also need to go to the County Planning Board. Also he said the Village needs to be put on notice of the proposed change as well.

A discussion was had whether this was the correct zoning that was required for this business. Supervisor Lucia told the board that since the property adjacent to the subject property is zoned industrial and not commercial the Town could not be accused of spot zoning since the adjacent property is already zoned industrial. Attorney Hill said that because the adjacent property is zoned industrial and because the proposed use would fall in either industrial or commercial the extension of the industrial zone would seem appropriate.

**RESOLUTION #181**  
**RESOLUTION TO PROCEED WITH APPLICATION**  
**FOR CHANGE OF ZONING ON COUNTY ROUTE #24**

A motion was made by Councilman Byrnes, and seconded by Councilman Saunders, the following resolution

ADOPTED     Ayes 5 Lucia, Brown, Major, Byrnes and Saunders  
                  Nays 0

RESOLVED that application of Vimah Properties for a request of change of zone be deemed to be complete and the Town Board directs that the following process as described in the Land Use Ordinance for an Application for a Change of Zoning be followed:

1. Said application be referred to the Corinth Planning Board for their review and recommendations.
2. Said application also be referred to the Saratoga County Planning Board for their review and recommendations.
3. The Village of Corinth be placed on notice of said application for a zoning change.
4. Upon receipt of the recommendations from the Town of Corinth Planning Board and the Saratoga County Planning Board the Town
5. Board shall schedule a public hearing on said application for zoning change.

**HOLLISTER ROAD PROPERTY**

Supervisor Lucia asked Attorney Hill if he had time to discuss the Hollister Road situation with Attorney Cathi Radner. Attorney Hill asked if this was the property that had a state automotive repair license and it expired but he has since gone a new one. Code Enforcement Officer Mann said the license ran out in December 2003 and after he contacted Department of Motor Vehicles he was fined for operating a business without a license they have given him a new license. Code Enforcement Officer Mann said that he has also applied for a scrap metal license that has not been issued. He said that the license ran out prior to zoning and he has not been operating legally since 2003. He

said that according to the Town's Zoning Law a non-conforming business had two year window. Code Enforcement Officer Mann said he just needs the Town Board's direction on what way they want him to go. Attorney Hill said that he had discussed this matter with Attorney Cathi Radner and that there are several routes that can be taken. He said the Town can seek voluntary compliance from the owner of the property. He said that if that fails the Town can have the Code Enforcement Officer issue an Appearance Ticket and Information bringing the man into Town Court and try to get compliance that way. Attorney Hill said the final alternative is to pursue an action in Supreme Court which would require a resolution by the board to pursue an action in Supreme Court if that is how the board wishes to proceed. Attorney Hill asked Code Enforcement Officer Mann if he has had discussions with the property owner. Code Enforcement Officer said that the property owner is not the operator of the business. He said the operator of the business is Larry Ramsey, the boyfriend of the owner. He told Attorney Hill that he is sure that the matter will have to go to court since the man will not cooperate. Supervisor Lucia asked Code Enforcement Officer Mann if he had a discussion with the Department of Motor Vehicles regarding the Town's zoning. Code Enforcement Officer Mann said that he explained that but they said they had already issued the repair shop. He said they changed the name since the Department of Motor Vehicles said he could not renew the license he had to start from scratch. Supervisor Lucia said he wondered if there was any way that the Town could go back on the state and get them to reverse the license. Attorney Hill said the state's license is really irrelevant in regards to the Town's jurisdiction under its own code. He said the applicant has to comply with the Town Code and if the applicant has been out of compliance that affords the Town the right to pursue enforcement under Town Code even if he is holding a state license. Councilman Major said to enforce the code. Councilman Saunders asked why the man did not want to comply with the code. Attorney Hill asked if the property was in the middle of an RR zone or was he right next to a zone that if there was an application for zoning change it would be allowed. Code Enforcement Officer Mann told the attorney that it is all RR where this property is located. Councilman Saunders said there are options that this man has. After a discussion it was determined that the property is not adjacent to a commercial zone or industrial zone. Councilman Brown said that he thought an Appearance Ticket should be issued and then if necessary go the Supreme Court route.

**RESOLUTION #182**

**RESOLUTION TO INSTRUCT THE CODE ENFORCMENT OFFICER TO ISSUE AN APPEARANCE TICKET AND INFORMATION IN THE RAMSEY/OVITT MATTER**

A motion was made by Councilman Brown, and seconded by Councilman Major, the following resolution

ADOPTED      Ayes 5 Lucia, Brown, Major, Byrnes and Saunders  
                     Nays 0

RESOLVED that the Code Enforcement Officer is instructed to issued an Appearance Ticket and Information in the matter of Cheryl Ovitt/Larry Ramsey to bring the matter to court.

**SUPERVISOR**

Supervisor Lucia reminded the Town Board members that there will be a meeting with the Village, Town , LDC and attorneys Monday night at the Town Hall.

**RESOLUTION #182**

**TRANSFER**

Supervisor Lucia told the Board that it was necessary to transfer some money to cover highway lease payments. On motion of Councilman Brown and seconded by Councilman Saunders the following resolution was

ADOPTED      Ayes 5                  Lucia, Brown, Major, Byrnes, and Saunders  
                     Nays 0

RESOLVED that Thirty-Eight Thousand Five Hundred Dollars (\$38,500.00) be transferred from DB5110.4 (General Repairs Contractual) to DB5130.2 (Machinery Equipment) to cover highway lease payments.

With no further business, on a motion of Councilman Brown, seconded by Councilman Major, the meeting was adjourned at 5:30 PM. Carried unanimously.

Respectfully submitted,

Rose E. Farr, RMC  
Town Clerk