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July 26, 2007

The Town Board of the Town of Corinth held a regular meeting on July 26, 2007 at 7:00 PM at the Town Hall.

Present: Charles Brown, Councilman
John Major, Councilman
Edward Byrnes, Councilman
Mitchell Saunders, Councilman
Marc Rich, Highway Foreman
Fred Mann, Code Enforcement Officer
Rose E. Farr, Town Clerk
Michael Hill, Town Attorney

Excused: Richard Lucia, Supervisor

Public Present: Diana and Ted Jordan, Ann Marie French, Carroll and Ginny Ogden, Leif Sandwick, Mary Baugh, Sigrid Koch, Robert Forte, Barbara and Charlie Weatherwax, Herbert and Ruth Syrop, Matt Fuller, Esq., Stan Goldberg, Bryan Harrison, John D'Alessandro, John McManus, Esq., Bruce Baker, and Sarah Alford.

After Roll Call and Pledge of Allegiance the following business was conducted.

RESOLUTION #194

MOTION TO PAY BILLS AS AUDITED WITH NO EXCEPTION

On a motion of Councilman Byrnes and seconded by Councilman Major, the following resolution was

ADOPTED Ayes 4 Brown, Major, Byrnes and Saunders
Nays 0

RESOLVED that the board pays bills as audited with any exceptions as follows:

Vouchers Paid 7-26-2007

A Fund	20070990, 0991, 0994, 0997-1003, 1014, 1020, 1023, 1043-1052, 1072, 1076, 1087-1089, 1091-1105, 1117	\$99,372.23
B Fund	20070995, 1004-1008, 1015, 1042, 1054-1062, 1070, 1071, 1077, 1107-1111, 113, 114, 116, 1119-1121	\$13,233.16
DA Fund	20071068	\$604.04
DB Fund	20070996, 1009, 1010, 1028-1030, 1032-1040, 1078, 1081-1086, 1112, 1115, 1118	\$ 55,502.82
H1 Fund	1011, 1012, 1024, 1025, 1065, 1206	\$4,998.64
T & A Fund	992, 993, 1013, 1019, 1021, 1022, 1066, 1067, 1079, 1080	\$19,818.79

TOWN BOARD

Councilman Saunders asked about papers served on Town Clerk Farr in the matter of Curtis Palmer Hydroelectric Company, LP. Town Clerk Farr told him that Carol Holley from Saratoga County said that she thought this was already taken care of with the agreement that was made. Mrs. Holley said she would look into it and get back to us.

Councilman Major said he spoke with David Riihinaki regarding the LDC. Councilman Major said he understands that the LDC should be moving along and Mr. Riihinaki said he would give the LDC any help he could.

Councilman Byrnes told the board and the public that as a member of the Corinth Merchants Association he has been very active in establishing the Neighborhood Watch. Councilman Byrnes said August 7th is National Night Out and he would hope everyone would show their support having their outside lights on that night and getting out to visit with their neighbors.

Councilman Brown asked Councilman Byrnes when the Merchants Association meetings were so he could attend on behalf of the Emergency Management Committee.

Councilman Brown told the board that the Emergency Management Association will be having a new office in the former Village Police Station.

RESOLUTION #195

MOTION TO SPEND MONEY FOR NEW EMERGENCY MANAGEMENT OFFICE

On a motion of Councilman Saunders and seconded by Councilman Major, the following resolution was

ADOPTED Ayes 4 Brown, Major, Byrnes and Saunders
 Nays 0

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RESOLVED that the Town of Corinth pay no more than Five Hundred Dollars (\$500.00) for the items needed for the new Emergency Management Office with the Village of Corinth paying an equal amount.

TOWN BOARD Continued

Councilman Brown told the public that there was going to be a table top drill for the Emergency Management Committee in the near future with the Regional Director of Emergency Management scheduling and running same.

HIGHWAY

Marc Rich told the board that the Highway Department was working on Miner Road and next week would be blacktopping same.

PUBLIC

Diana Jordan spoke about what she was hearing Corinth was like many years ago. She said that Corinth could not be that way again if pollution and trash were allowed to be brought into Corinth.

Herbert Syrop spoke about the agreement with Philmet. He asked if the Board could tell him where in that agreement he could find Philmet's commitment or requirement not to apply to the Surface Transportation Board for Railroad status. Attorney Hill arrived and said that as far as he knows neither the Site Plan Development Agreement nor Declaration of Covenants contain any such requirement or commitment.

PUBLIC HEARING

A LOCAL LAW AMENDING THE CORINTH TOWN CODE RELATING TO DISPOSAL OF WASTE

Attorney Hill apologized for being late to the meeting due to a traffic accident. Councilman Brown read the rules for the public hearing.

The Public Hearing was opened at 4:20 PM with the Town Clerk reading the Legal Ad that was published in the Post Star on July 14, 2007.

LEIF SANDWICK

Leif Sandwick asked why the public meeting was being held at 4:10 PM and not at 7:00 PM so more people could attend. Councilman Brown said that this was the Town's regular meeting. Mr. Sandwick said he did not feel it was fair to the people that could not attend. Councilman Brown said the Public Hearing will be left open.

MARY BAUGH

Mrs. Baugh said she objected to the word variance being changed to waiver in Section 71-5. She said she objects to the Town Board being lead agency where the decisions will be political rather than going to the Zoning Board which has to follow rules to the letter.

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ROBERT FORTE

Mr. Forte said that in Section 71-5 it talks about all the rules and regulations about what is allowed and not allowed but then there is a catch all. He said it says a person may apply to the Town Board for a waiver from the provisions of the Chapter. He said it seems that what the Town Board wants is the power to decide. He said that in his opinion that is Spot Zoning. He then read the definition of Spot Zoning. He said that Spot Zoning is permitted but is not what the State wants to be done. He read from a document entitled, "Zoning by New York State Department of State, Division of Local Government" in which the Town was overruled in a case. He said he felt the Town was leaving themselves open for a lawsuit regarding Spot Zoning.

BARBARA WEATHERWAX

Mrs. Weatherwax asked the Town Board to please remove paper sludge from Section 71-4 exceptions and just leave ashes from untreated wood. She said she was asking this because the cost to build a burner specifically for paper sludge and other industrial waste is millions of dollars. She said the process to burn clean wood is a different burner. She said she thinks Philmet will install an industrial waste burner from the start.

Mrs. Weatherwax said Section 71-5 should be variance and not waiver. She said the variance should go to the Zoning Board not the Town Board. She said the Zoning Board has very strict rules set up for this specific purpose. She said she does not understand why the Town Board is re-writing this. She said the Town Board would make political decisions that would not necessarily protect the people. She said the Town Board has decided to make their own policy to handle variances when the Zoning Board has rules and overseers to see that policy is followed to the letter.

Mrs. Weatherwax spoke about Chapter 89 Land Use (H). She asked that the Town Board remove the work "high" from the word fire as even a low fire, smoldering fire over hours, days and weeks is hazardous to the health and environment. She said that type of fire smoldering is what the Town will get from an incinerator and burner that burns with no oxygen in it. She said that low fires are really hazardous because they cannot be put out.

BRYAN HARRISON

Mr. Harrison said he worked for Bedminster and has been working in the Town since the early 1990s. He said he objects to the provision of law that bans composting. He said that in essence puts Petruzzo out of business and they have been told over and over that there is no focus on them or what they do. Mr. Harrison said that the Town's consultants said it would be virtually impossible to tell if you were increasing or decreasing this operation. He said if someone or some company increases or is suspected of increasing your use you are starting a non-conforming use that is illegal. Mr. Harrison said that just to continue operation they would have to come before the Zoning Board and deal with the zoning issue and then come before the Town Board for a waiver. He said they could be tied up for year. Mr. Harrison said he did not think that was the way to treat a business that has been around for years. He said that the plant in Nantucket, that is almost identical to what they are talking about putting here, has a 80% recycle rate. He said that prevents them from having to ship material off the island. He said they are mining the dumps or taking the material out of dumps and putting it through the system thus giving people an extra layer of protection of ground water. Mr. Harrison said that he has

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offered to contact experts to come talk to the Town Board and to date the Town Board has not obtained experts.

MATT FULLER

Attorney Fuller is the attorney for Petruzzo Company. He said that they first came on in November of 2007 and they had a lengthy meeting about composting. He said that the Town minutes are very clear that they were going to obtain more information on that and that they were going to provide information on composting. He said that was planning and planning must be done before the Town Board can enact zoning changes. He said that this Local Law will enact a zoning change but no planning whatsoever has preceded that change. He said the Town is removing Composting from an allowed use in a zoning district but they have not showed why it is being removed. He said that the moratorium was still going to exist on composting. Attorney Fuller asked the Town Board to ask themselves if they were going to remove composting in the industrial district what is the benefit of having a continued moratorium on composting. He said the law does not make sense. He said he would encourage the Town Board to take their time and not remove composting. He said that this is directed directly at Petruzzo because there is no other composting business in the Town.

HERBERT SYROP

Herbert Syrop said that the gentlemen that spoke for Bedminster mislead the Town Board. Mr. Syrop said from all his reading the business in Nantucket does not import sludge or garbage from the mainland. He said Petruzzo is all about importing from two million people from the borough of Queens. He said there is no comparison to Nantucket.

DIANA JORDAN

Diana Jordan said that she agrees with Barbara, Mary and Bob. She asked that the Town Board change the word waiver back to variance. She also said it needs to go to the Zoning Board that has rules to follow and not the Town Board. She also requested that paper sludge needs to be remove from the exceptions.

JOHN McMANUS

John McManus stated that he is the attorney representing Philmet. He said that Section 71-3 deals with the establishment and/or operation and/or maintenance of a dump other than by the Town and Section 71-4 provides for the exception as follows: ".....disposing of paper sludge, or ashes produced by burning untreated wood on the property upon which such paper sludge or ashes are produced, provided such paper sludge and/or ashes are deposited only in dump or landfill approved by the Department of Environmental Conservation and in accordance with a valid Department of Environmental Conservation permit". He said he thinks the Town should add some additional language to that section that the operation and maintenance of the dump is also included for that exception.

He said that Section 71-5 states that anyone that seeks a waiver "shall pay the costs of any review by an engineer or other expert retained by the Town as part of the Town's review of the application". He said he suggests the language be changed slightly to read "shall pay the costs of any technical consultants incurred by the Town as part of the Town's review of the application". He said that is just tightens up who would be eligible for reimbursement of costs. He said that the Village has enacted this language also.

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Mr. McManus said the waiver procedure set forth in Section 71-5 is drawn out. He said in the worse case an applicant could be before the board for a period of one year. He said that the procedure process does not have the SEQRA process until the Town is finished with its technical review of the application including its public hearing. He said that there would be another Public Hearing after the SEQRA review. He said he would suggest that these two processes run parallel with one another and try to cut down on the time period. He said that he feels the time periods set forth by the Town are a little long. He suggests some of the time periods be shortened.

Mr. McManus stated that in Section 89-56 the definition at (j) “the burning, gasification or other combustion or chemical conversion, by any process, of any fuel or material of any form or nature; whether solid, liquid, gaseous, or other; which would result in the generation, creation or release of heat, electricity or any other form of energy or fuel, whether directly or indirectly” they feel is a prohibition since they must have permission for future use. He said due to this prohibition being so broad if it was found down the road that there was a new form of energy, etc. that would be beneficial to the Town and its residents it could not be done. He said that therefore he felt this should be looked at regarding future uses that may come to light.

GINNY OGDEN

Ginny Ogden said she thinks that Corinth is trapped in a nightmare that seems to go on forever. She spoke about Philmet and the plastics factory. She said that she thinks Philmet will do just like the International Paper Company in Alabama did. She said that that IP spent \$9,000,000.00 rebuilding their boilers to exclusively burn paper sludge. She said nothing has been open and above board about the plastic factory. Mrs. Ogden spoke about the votes of the Town Board that has left the amendments as they stand now. She said the Zoning Board of Appeals is governed by rules and regulations and this is where the variances should go. Mrs. Ogden said the Town Board should be working to protect our people not the big industries. She said Philmet and Petruzzo are willing to take risks with the citizens of Corinth health, safety and welfare. Mrs. Ogden said that Philmet needs to think carefully about promises because Governor Spitzer is going after corporation in the Empire Zones who don't leave up to their promises. She told the board that Ralph Petruzzo is no longer with Bedminster as President of Organic Recycling. She said he resigned in April of 2006. Mrs. Ogden asked why the Town Board would want to take lead agency over the Zoning Board. Councilman Brown said the board was not answering any questions. Councilman Saunders said he thought perhaps the Town Attorney could explain that.

Attorney Hill told Mrs. Ogden the section of the Town Code that deals with Dumps and Dumping is not within the section of the Town Code on Zoning. He said provisions under the Zoning Code are properly within the jurisdiction of the Zoning Board of Appeals. He said provisions that are outside the zoning, the way the Dumps and Dumping provisions are, are within the purview of the Town Board. Attorney Hill said that is why the Town Board is the appropriate entity to consider a waiver from the provision of the Dumps and Dumping part of the Town Code not the Zoning Board of Appeals. He said that the Zoning Board has the jurisdiction for provisions of the Code falling under the Land Use Law. Attorney Hill said the section on Dumps and Dumping does not reside under the Zoning Law it is a separate section of the code. He said that is why the jurisdiction with the Town Board is proper in this case.

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Mrs. Ogden asked if there were any laws in place that could stop the burning of sewage sludge or paper sludge and if there was anything there to protect the citizens of Corinth. Attorney Hill said he thought if a person goes to Section 89 Land Use the definition of Industry, Manufacturing that the Town Board is considering at the moment has the effect of prohibiting “the burning, gasification or other combustion or chemical conversion, by any process, of any fuel or material of any form or nature; whether solid, liquid, gaseous or other; which would result in the generation, creation or release of heat, electricity or any other form of energy or fuel, whether directly or indirectly”. He said he thinks that language is pretty comprehensive in protecting the Town from someone who wants to establish an industry within the Town limits. He said that the Village is a separate situation.

Mrs. Ogden asked if sewage sludge is composting. Councilman Saunders told Mrs. Ogden that they were not here to talk about Petruzzo this is a Public Hearing for comments on the proposed amendments.

Councilman Saunders asked if he could have the Town attorney explain the different between Variance and Waiver.

Diana Jordan asked since the attorney said that the Dumps and Dumping is not under the Zoning Law is there a way to put it under the Zoning Law.

Councilman Saunders asked if the Attorney could explain why the Town Board changed the word Variance to Waiver. Attorney Hill said he thought it relates back to what was previously discussed with regard to the Dumps and Dumping Law residing out of the Zoning Law. Attorney Hill said under the Zoning Code it is appropriate to talk about variances because that is the legal term for what the Zoning Board of Appeals does when it grants relief from the Town Zoning Board. He said since the Dumps and Dumping Law exists outside the Zoning Law the use of the term “variance” is potentially confusing. He said it suggests that the Zoning Board of Appeals would have some involvement but for the reasons that were just discussed this not the case. Attorney Hill said it was his understanding that when Saratoga County Planning Board reviewed the proposed law they suggested that the word variance be changed to a word such as waiver. He said there was a discussion on using the word waiver but Town Counsel said they felt the word “Waiver” would be more appropriate.

Councilman Brown asked Attorney Hill if he asked that the Public Hearing be left open. Attorney Hill said that Councilman Brown made a reference earlier to leaving the public hearing open since there might be other members of the public that want to comment.

RESOLUTION #196

RESOLUTION TO LEAVE PUBLIC HEARING OPEN

On a motion of Councilman Byrnes and seconded by Councilman Saunders, the following resolution was

ADOPTED Ayes 4 Brown, Major, Byrnes and Saunders
 Nays 0

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RESOLVED that the Public Hearing on a Local Law Amending the Corinth Town Code Relating to Disposal of Waste remain open until Thursday, August 9, 2007, for public comments, and be it further

RESOLVED that said comments to be made in writing and sent to the Town Clerk to be distributed internally to the Town Board members.

PUBLIC COMMENT

Diana Jordan asked Attorney Hill if it was customary for Towns and Villages to have Dumps and Dumping Laws outside of their Zoning Laws. Attorney Hill told Mrs. Jordan that he wouldn't say it was customary but certainly in many other communities there are sections of their code relating to aspects of land use and so forth that reside outside of the Zoning Code. He said not all regulations governing land use necessarily reside within the Zoning Code. Mrs. Jordan asked if Dumps and Dumping could be under Zoning Law. Attorney Hill said that could be possible. Mrs. Jordan said that she was asking the Town Board to consider changing their laws to include the Dumps and Dumping Law to be under the Zoning Law so that it would get rid of the word waiver have it go back to variance and have it go back to the Zoning Board of Appeals.

Barbara Weatherwax asked if the Dumps and Dumping Law was ever in the Zoning Laws. Attorney Hill said he was not sure. Mrs. Weatherwax asked if they were in there recently and they were taken out just because of amendments. Attorney Hill said it exists separately at the present time. Councilman Byrnes said in 1988 dealing with International Paper and sludge it was separate at that time. He said so it didn't just happen in the recent years.

Barbara Weatherwax asked if all the provisions being dealt with in this Local Law are outside of Zoning. Attorney Hill attempted to again explain that there are provisions relating to Dumps and Dumping that are outside the Zoning Law and other provisions relating to Chapter 87 that is the Junkyard and Automobile that are outside of the Zoning and revisions to Chapter 89 of the Town Code which is the Land Use Section which is the Zoning Section. Mrs. Weatherwax again asked if this was taking all these out of zoning. Attorney Hill attempted to clarify this matter. He told Mrs. Weatherwax that what was happening with this draft law was proposing a change to the definition of Industry, Manufacturing within Chapter 89 that is under the Zoning. He said there is a definition under that law now and if this local law were passed the definition would change.

Mrs. Weatherwax said the draft law said it is taking manufacturing, light industry and composting out as Special Use Permits. She asked that since this was all out of there were they going to be in another local law outside of zoning. Attorney Hill told Mrs. Weatherwax that that was not the case. He said they are being deleted as permitted uses and they are being changed to Special Permit Uses to afford additional control. Mrs. Weatherwax asked if that was by the Town Board. Attorney Hill said that this would be under the Zoning Law. Attorney Hill said that most uses are subject to Site Plan Review this would add an additional layer of review by requiring Special Use Permit Review in addition to Site Plan Review.

Mrs. Weatherwax asked if the only thing that would be coming to the Town Board were the exceptions for paper sludge and ash. Attorney Hill said the Town Board does not have any jurisdiction under Chapter 89 because the Town Board has delegated authority under Zoning to the Planning Board and the Zoning Board of Appeals. He said the Town Board has no

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involvement with anything under Chapter 89. He said they have authority only with respect to the Waiver under Dumps and Dumping because that is under Chapter 71 and that is not within the Town's Zoning Code.

Councilman Byrnes said that he has discussed this matter with other Towns and many communities don't have industry sites that have DEC approved landfills. He said all this is prior to his time. Councilman Saunders said he understood this generated from property on Route 9N where medical waste was dumped during Supervisor Mac Donald's era.

Councilman Byrnes told Mrs. Weatherwax that there was no zoning prior to 1994.

Stan Goldberg said that the Town has the real opportunity to put all this back where it belongs with the Zoning Board.

Herbert Syrop told the Board to clear this up and place all the matters in the Zoning Law and the variances to the Zoning Board of Appeals and protect the people of Corinth.

With no further business, on a motion of Councilman Saunders and seconded by Councilman Byrnes the meeting was adjourned at 5:15 PM. Carried unanimously.

Respectfully submitted,

Rose E. Farr, RMC
Town Clerk