

April 3, 2008

The Town Board of the Town of Corinth held a workshop with a Public Hearing scheduled for 7:00pm on April 3, 2008 at the Town Hall.

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

Public: Jim Murray, Sr., Sigrid Koch, Herbert Syrop, Ruth Syrop, Rena Bernstein, Linda Byrnes, Cindy Baker, Louise Kirkpatrick, Josh Emery, Len Anderson, Ron Rigg, Mike Graska, Darci Cox, Jim Hamm, Linda Adams, Roger Sitts.

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

PUBLIC HEARING

Public Hearing on proposed Local Law #1 of 2008 was opened at 7:00 PM with Town Clerk Rose Farr reading the Notice of Public Hearing on the proposed Local Law Amending the Corinth Town Code relating to Composting Facilities and Non-Conforming Structures and Uses published March 15, 2008.

Town Attorney Mike Hill:

Attorney Hill said prior to opening the Public Hearing the Town Board should address the suggestions that the Town Planning Board had after their review of the Town Planning Board. Attorney Hill said the first item the Planning Board suggested was the deletion of a provision that was included in the Draft Law relating to the non-conforming uses and structures in draft paragraph 89-16 E3III, that paragraph was inadvertently retained in the draft after the revisions had been made regarding the two paragraphs preceding it. Therefore Paragraph III did not pertain any longer. Attorney Hill also said the Planning Board suggested including definitions of various terms, and he feels that this is concerning residents that have

large farm animals. Attorney Hill said that the owners of large farm animals would not fall under composting facilities; whatever composting they might do would be exempt from this Law. Attorney Hill said that they also did not see a need to address the definitions requested regarding this. Attorney Hill said that item number three in the letter from the Town Planning Board was somewhat related to item number two in that the planning Board concern was that homeowners with large animals would not run into any concerns regarding complications in getting rid of manure, in considering that the composting law would not prevent any existing residential facility to not be able to process horse manure anymore. Those property owners would not be affected by this proposed Law. The way that this Law is written those property owners are exempt from this Law.

Attorney Hill said he would now like to address the second memorandum they have to provide minor additional clarification; the first is in regards to section B9-31d2 and it is a definition of composting facility. Attorney Hill said that has been rewritten slightly to “ a property or facility at which composting would occur or be conducted”.

He said that at #2 it would be a new sentence added as #2 immediately after the definition of composting that would say. “ No anaerobic composting shall be allowed.” Attorney Hill said that this is already said in the existing law as a portion of another definition and it seemed to his firm that would be better if it was set forth on its own so that it would be more prominent.

Attorney Hill said that item #3 deals with Section 89-31(D)(30) and would modify that section slightly to clarify that it is non human animal waste that is being talked about when talking about farm and waste on a farm, He said it also includes a if the Town is inclined to provide a more explicit exemption for the residential property where large farm animals are kept. He said it states that “on residential properties where large farm animals are lawfully kept shall be exempt from the provisions of this Paragraph D provided that the non-farm residential properties such wastes are generated on-site. The following shall be exempt when conducted on a farm located within an Agricultural District adopted by the County and certified by the State pursuant to Agricultural and Markets Law Article 25-AA.

Attorney Hill said that #4 was inadvertently included and therefore Section 89-16(E)(3) be deleted in its entirety.

He said #5 refers to a section of the draft law that was inadvertently carried over from a prior draft and it is not applicable and therefore should be deleted.

Attorney Hill said that #6 is a restatement of the definition of “Compostables” as follows: COMPOSTABLES – are the solid organic constituents of leaves, grass clippings, evergreen needles, plants, branches, brush, vegetative prunings and garden and yard waste. For the purpose of this Local Law, all other materials are non-compostables. Non-compostables include but are not limited to the following: inorganic material, paper sludge, sewage sludge, sludge, septage, biosolids, food, animal products and carcasses, human waste, medical wastes, animal wastes, construction and demolition debris and any other wastes not listed in the first sentence of this definition. Non-compostables are not permitted in a composting facility.

Attorney Hill told the board that these are the minor clarifying revisions that his firm would recommend.

Attorney Hill asked if the board is agreeable with including the revisions and minor clarifications. Councilman Major said he thought that he agrees with what the attorney recommends. Attorney Hill said that he had discussed this proposed Local Law with the Planning Board Attorney, Martin Pozefsky, at length. Attorney Hill said he knew the Planning Board spent considerable time reviewing the draft law and Attorney Hill said he thought it was important for the Town Board to address the comments made by the Planning Board. He said that he felt it was important to address their concerns and what the law said with regard to those concerns. He said it was also important to make sure that the Planning Board would understand that the Town Board heard their concerns with respect to those residential property owners and they were taken into account. Attorney Hill said that the draft law is not going to have an adverse effect on those residential property owners. Councilman Major also thanked Attorney Hill for all the work he had put into this local law. Councilman Byrnes said he thanked the attorneys for their assistance and the work they have done regarding the Planning Board’s concerns. Councilman Saunders asked whether the 03-06-08 was the last draft that was marked up. Attorney Hill told him the last draft was dated 03-13-08. Councilman Saunders asked how the definition of compostables in the 03-06-08 draft and the present draft differ. Attorney Hill said that the draft dated 03-06-08 and the draft dated 03-13-08 draft are the same. He said the change outlined in the memo would pertain in the same way to the version of 03-06-08. Councilman Saunders asked if the Planning Board Attorney agreed with this. Attorney Hill said that they we really focused on the commercial (the large scale). He said that was the real focus of the composting law and he said the earlier drafts intended to exempt the residential property owners and the farm uses. He said that a concern that we had the agricultural exemption and in the same way because a residential

property owner would not be in a commercial operation and it would not fall within the definition of composting facility and thus would not fall under the provisions and restrictions of the composting law. He said that they would be exempt but that minor clarifying change that was suggested in item #3 of the second memo. He said it would just make that explicit. Attorney Hill said that this makes it doubly clear that they would be exempt. Supervisor Lucia said he thought those were the board's concerns originally to make sure that residential farm properties were exempt. Attorney Hill said he understood the Town Board wanted to make them exempt so that anybody could have those composting pile for their leaves and grass clippings, etc. and they are not effect at all by this law, they are exempt. He said it is the same way the Planning Board has its concern about the residential properties that might have one or two large farm animals. Councilman Saunders asked how the acreage is controlled relative to the number of animals on a certain number of acres. Attorney Hill said that this is controlled under the Land Use Code. He said Section 89-42 covers the large farm animals in now farm uses like residential.

Councilman Brown said that he is agreeable with the changes as the attorney has stated.

Councilman Byrnes asked if the Town had received any recommendations from the Saratoga County Planning Board. Attorney Hill read the following reply into the record.



SARATOGA COUNTY PLANNING BOARD

TOM L. LEWIS
CHAIRMAN

JASON KEMPER
DIRECTOR

March 25, 2008

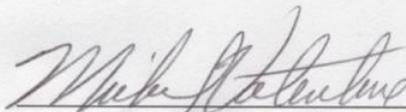
Rose E. Farr, Town Clerk
Town of Corinth Town Hall
600 Palmer Avenue
Corinth, NY 12822

RE: SCPB Referral Review #08-41 – Legislative Action
Local Law – Regulation of Commercial composting facilities

Received from the town of Corinth Town Board on March 18, 2008.

Reviewed by the Saratoga County Planning Board on March 20, 2008.

Decision: Approve


Michael Valentine, Sr. Planner
Authorized Agent for Saratoga County

Supervisor Lucia thanked the attorneys for all the hard work and time they put into drafting this proposed local law.

Supervisor Lucia opened the public hearing up to public comment. The following citizens responded:

Herbert Syrop

Herbert Syrop told the Town Board that after hearing Mr. Hill speak he feels that this proposed local law is a remarkable piece of work. He said he also thinks that on page 14 the last item that Mr. Hill was speaking about for the purposes of this local law in his opinion is the “jewel in the crown” that this law represents. He asked what about the future and non-conforming uses. He said such as a future process that might come up and would want to use say human waste. He said the language of the compostable definition is beautiful and he would like to ask the attorneys if a paragraph couldn't be added that would forbid any kind of a processing of these items. He said he would hope that the attorneys would address this tonight. He said one thing that he does find disturbing about the idea of a 25 foot high pile of composting. He said he thought that a person who is currently in the process of composting is exempt from this law. Mr. Syrop said that 25 feet is more than three times the height of the fence that surrounds the property. He said 25 feet is only one dimension what about the length and width, how much compost is to be allowed? He asked if this is an inside or outside operation? Mr. Syrop pointed out that the industrial area as shown on the US Geodetic Survey Map entitled Corinth, New York it shows you that the natural drainage is into Heath Creek that follows into the Hudson River. He said the Hudson River is a protected waterway. He said he thought that the pile should not be allowed to be that high. Mr. Syrop went on to commend the Town Board and attorneys for a job well done. Mr. Syrop gave a copy of a letter outlining his comments to the Town Clerk to be distributed to the Town Board members.

Supervisor Lucia thanked Mr. Syrop for his interests. Supervisor Lucia asked Attorney Hill if he wanted to comment to what Mr. Syrop said. Attorney Hill spoke about the 25 feet (proposed Section 89-31(D)(10)) and in that regard that is referring to compostables which are defined in the definition section and those compostables would be strictly plant based materials. He said it wouldn't be the actually resulting compost material nor would it manure be any other non-compostables. He said non-compostables are not permitted at a composting facility. He said any new composting facility would be able to use only compostable material as defined in the local law. He said existing operations would be controlled by the code sections that govern non-conforming uses and existing operations that process materials other than compostables and are in operation now would be grandfathered so they would continue to be allowed to operate which is what the Town Board wanted to be grandfathered but the sections on the non-conforming uses and structures would govern any existing operations that become non-conforming as a result of the law. He said that there are strict limitations that say they cannot be expanded. Attorney Hill said they are allowed

to do what they are doing now but they cannot be expanded. He said that 25 foot height requirement applies only to compostables and not to non-compostables or other types of materials.

Attorney Hill said that Mr. Syrop made a point in his comments about making it clear that non-compostables are not eligible for composting or processing and so forth. Mr. Syrop said that in the constitution it says something about if something is not prohibited it is permitted. Attorney Hill said that they tried to address that in paragraph 89-31(D)(8) which stated that nothing other than compostables as hereinafter defined may be stored, processed, composted or otherwise located at a composting facility.

Councilman Byrnes said that as far as the 25 foot height he did some research on that and he spoke to several owners and was told that it was normal for the height to be 30 feet or the size of a two story house. Councilman Byrnes said that 25 feet is less than a lot of other composting facilities. He also told Mr. Syrop that there was going to be an eight foot fence around the property with a one hundred foot buffer before the pile. He said the pile would probably be in the middle of the property.

LOUISE KIRKPATRICK

Louise Kirkpatrick told the board that she has read the proposed local law. She especially like the fact that the Town Board has addressed the permit issue if a composting facility does not have a permit for a year or two year they wouldn't be allowed to operate, they would have to go for a use permit. She said she liked that the Planning Board and Zoning Board of Appeals are being used. She agrees with attorney on the definition but not limited to for things that might come up down the line that we might not foresee at this time. She said she liked that wells and aquifers were addressed. She said she thought that the definition of material allowed must be a huge relief for citizens in that area. She said she liked that fines were put in the law for violations.

MIKE GRASKA

Mike Graska told the Town Board that he has read the whole proposed composting law and he thinks it is great. He said he is actually pleased that the Town Board has taken this much time on a concern that has been very important to Corinth for a couple years. He said he agreed with it and hoped the Town Board would pass the local law.

RENEE BAKER

Renee Baker said that after following all the discussions she totally thinks that this is a great local law. She said it has been interesting watching this proposed local law evolve. Mrs. Baker thanked the Town Board and said she hope the local law gets passed.

There being no further public comments in favor or against the proposed local law a motion was made by Councilman Major and seconded by Councilman Byrnes to close the public hearing.

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

Attorney Hill told the Town Board that they now needed to complete the SEQR review process for Part 1. The Town Board took time and went through Part 1 of the SEQR.

After going over and completing Part 1 of the SEQR Attorney Hill said he thought certain things should be clarified. Attorney Hill said that the Town Board asked his firm to work on a law that would be of general applicability with regard to composting facilities. He said he understood the Town Board was thinking about the future and what might happen in the Town and thinking in a very broad perspective of what the potential was for different kind of facilities that might come here in the future. Attorney Hill said he understood that the Town Board had concerns about potential health, safety and welfare effects on the Town from any kind of a large commercial facility. He said as a result of that the Town Board engaged the Delaware Engineering Company to study the potential effects from any type of large scale composting facilities. Attorney Hill said that the Town got back a very comprehensive report back from Delaware Engineering that dealt with that. Attorney Hill said that as a result the Town Board determined that there were potential health, safety and welfare impacts. Such as impacts from potential traffic, potential water contamination concerns, and vector concerns as were outlined in the Delaware Engineering report. Attorney Hill said that as a result of that his firm worked on the draft of the proposed local law as the Town Board directed to address large scale commercial composting operations and to exempt the residential farm type, small scale composting on site, for folks that have farm animals. Attorney Hill said that he believes that there was no attempt by the Town Board to focus on any particular applicant, or particular project or any particular potential project. He said the Town Board directed his firm to adopt a broad perspective and that is the perspective the Town Board used in looking at this.

Attorney Hill said that there was no attempt to single anybody out. Attorney Hill said that the Town Board discussed with his office whether or not they wanted a grandfather clause within the law that would have taken existing composting operations that would not be in conformity with this law and would have provided that they would have to go out of business after a period of time. Attorney Hill said that the Town Board went on the record at prior meetings and said that they did not want to incorporate a sunset provision, that the Town Board was not seeking to put any existing operations out of business and that this law is not directed at any particular business or operation, or proposal or anything, but is a law of general applicability with regard to anyone that might propose any type of a composting operation in the Town of Corinth. Attorney Hill said he thought it was important to point this out so that it is clear on the record as to the perspective and direction that the Town Board was coming from in examining this issue and asking the attorneys to work with the Town Board on this local law.

Attorney Hill went through the questions on Part of the SEQR one by one with the Town Board answering them and the Town Clerk marking the boxes accordingly.

RESOLUTION #120
ADOPTING LOCAL LAW AMENDING THE TOWN CODE
RELATING TO COMPOSTING

A motion of Councilman Major and seconded by Councilman Byrnes to pass the e following resolution:

WHEREAS, the Town recognizes the need for and benefits of composting to reduce the reliance on landfills as promoted by the United States Environmental Protection Agency (EPA) and the New York Department of Environmental Conservation (DEC); and

WHEREAS, the Town also recognizes that large-scale composting facilities may present a hazard to both the natural and man-made resources of the community and to human health and safety, and the Town accordingly seeks to regulate commercial composting facilities consistent with the development objectives of the Town to mitigate the potential detrimental impacts of such large-scale composting facilities to the maximum extent possible; and

WHEREAS, a copy of the proposed Local Law was forwarded to the Town Planning Board for its review and advisory recommendation pursuant to Section 89-60 of the Town Code; and

WHEREAS, a copy of the proposed Local Law was forwarded to the Saratoga County Planning Board for its review and advisory recommendation pursuant to General Municipal Law Section 239-m, and the Town Board has received a favorable recommendation from the County Planning Board; and

WHEREAS, a copy of the proposed Local Law was forwarded by the Town to the Clerks of all municipalities within 500' of the boundary of the Town pursuant to Section 89-61 of the Town Code; and

WHEREAS, the Town Board duly conducted a public hearing on the Local Law pursuant to Section 89-61 of the Town Code and Municipal Home Rule Law §20 on April 3, 2008, and

WHEREAS, the Town Board has prepared Part 1 of a long form Environmental Assessment Form ("EAF") relating to the proposed Local Law and completed Part 2 of the EAF pursuant to the State Environmental Quality Review Act ("SEQRA");

NOW, THEREFORE, BE IT

RESOLVED, that adoption of Local Law No. 1 of 2008 amending the Town Code with respect to composting and non-conforming structures and uses will not result in any significant adverse environmental impacts and issuance of a SEQRA Negative Declaration is authorized; and be it

FURTHER RESOLVED, that Local Law No. 1 of 2008 is hereby adopted, and the Town Clerk is authorized and directed to file Local Law No.1 of 2008 with the New York State Secretary of State in accordance with the provisions of the Municipal Home Rule Law and take any other action needed to make Local Law No. 1 of 2008 effective; and be it

FURTHER RESOLVED, that the Town Supervisor, Town Clerk and Town Counsel are authorized and directed to take any and all further actions necessary to effectuate the provisions of this Resolution; and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately.

ROLL CALL: Richard Lucia - yes
 Charles Brown - yes
 John Major - yes
 Edward Byrnes - yes
 Mitchell Saunders - yes

Carried: 5-0

ATTORNEY HAFNER

Attorney Hafner said that the Town of Corinth owns property next to the Town Hall that it has leased to Dr. Siniapkin for a long time. Attorney Hafner said that there is work that should be done to the property but since it is not really for Town purposes the Town does not want to expend its funds and the doctor would like to do the necessary work to improve the facility but he would have to own it.

Attorney Hafner said one of the concerns that the Town has on that parcel is that the Town has part of its parking on that parcel and they also have drainage along the side. Attorney Hafner said that the Town has had David Barrass Surveyor do a survey of the property for the Town and the survey shows the property is.

Attorney Hafner told the board that there are certain requirements that need to be met before the Town can sell property and they are as follows:

- Has to be surplus and not needed for a Town purpose;
- Town must get a fair market value for the property;
- Any resolution passed must be subject to Permissive Referendum.

Attorney Hafner said that the Town wanted to make sure about the easements any deed given must be subject to these easements for parking and drainage.

RESOLUTION #121

RESOLUTION AUTHORIZING SOLICITATION OF OFFERS TO PURCHASE 604 PALMER AVENUE

A motion of Councilman Saunders and seconded by Councilman Major to pass the following resolution:

WHEREAS, the 604 Palmer Avenue real property has been leased for many years and is not being used for or needed for Town purposes; and

WHEREAS, the Town Board wishes to sell the 604 Palmer Avenue real property as authorized by Town Law Section 64(2); and

WHEREAS, the Town of Corinth owns certain real property located at 604 Palmer Avenue, Corinth, adjacent to its Town Hall, which real property is surplus and not needed for any Town purpose;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF CORINTH, SARATOGA COUNTY, NEW YORK, AS FOLLOWS:

Section 1: The Town Board hereby determines that the 604 Palmer Avenue real property is surplus property and is no longer needed for Town purposes.

Section 2: The Town Supervisor is hereby authorized and directed to solicit sealed offers to purchase the 604 Palmer Avenue real property. That the Town Supervisor shall be authorized to have the Town publish an ad soliciting such bids with such reasonable, legally permissible date for opening such bids as he shall determine. The Town shall reserve the right to reject all offers to purchase the 604 Palmer Avenue real property at its sole discretion for any reason whatsoever. Furthermore, any such offer shall be contingent upon a Town Board Resolution accepting such offer, which Resolution shall be subject to permissive referendum.

Section 3: Any such sale shall be in the form of a Bargain and Sale Deed subject to all covenants, restrictions and easements of record, as well as a retained easement in favor of the Town of Corinth for parking and drainage as shown on a Map of Lands of the Town of Corinth #604 Palmer Avenue prepared by David F. Barrass, dated 10/23/07, which survey map and, easement metes and bounds description are on file with the Corinth Town Clerk.

Section 4: This Resolution shall take effect immediately.

The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

AYES:	Lucia, Brown, Major, Byrnes and Saunders
NAYS:	0
ABSENT:	0

The Resolution was declared duly adopted by the Town Board.

PROPOSED WATER DISTRICT

Attorney Hafner told the board that he has a Map, Plan and Report for what is called a Water District Extension but is in fact a Water District not an extension dealing with Rivers Edge Subdivision. Attorney Hafner said that the Town Clerk would be giving each board member a

copy of the Map, Plan and Report. Attorney Hafner said that they would have access to Dayton Drive and it is a parcel of property between the intersection of Eggleston Street Extension and Dayton Drive. Attorney Hafner said that this is something that they are going to ask the Village and they said they have the water and they are glad to do it. Attorney Hafner said it has how much it will cost people per property with no financing by the Town. Attorney Hafner said it would allow development of what he thought is thirty parcels. Attorney Hafner said that this is something that they will be looking at input from the Town Board on whether or not the Town is interested. Attorney Hafner said that he was going to be contacted by the attorney for the developer to get some input. Supervisor Lucia reminded Attorney Hafner that he had said that he would contact the Village Attorney to see if all was kosher. Attorney Hafner said that he has made it clear to the developer that the Town does not have any responsibility for the Village's lines that happen to be located in the Town between the Village's line and this property.

Supervisor

Supervisor Lucia told the Town Board that there were young men from Hadley Luzerne School Government Class with us tonight. Councilman Major asked if the young men had to write a paper on what they heard at this meeting and they responded that they would. Councilman Major said he hoped they had been taking notes. The young men were Tom Riggs, Josh Emery, and Len Anderson.

Supervisor Lucia showed the board members the new abstracts that the bookkeeper's new software now has. He said the abstracts will put all the abstracts on two pages and the Town Board will only have to sign the abstracts and not the individual vouchers. Supervisor Lucia explained to the Town Board how this was going to be handled each month.

RESOLUTION #122

ADOPT USE OF ENHANCED FUND ACCOUNTING SOFTWARE

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 effective immediately the Town of Corinth will use the bookkeeper's new accounting software entitled, "Enhanced Fund Accounting" for paying the Town bills.

Supervisor Lucia reminded the Town Board that reservations need to be made for the Corinth Firemen's Old Timers Dinner for Saturday, April 12th. He said the reservations must be made by April 5th to Chief Kelley or Charles Pasquarell.

RESOLUTION #138

MOTION TO PAY BILLS AS AUDITED WITH NO EXCEPTION

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

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

RESOLVED that the board pays bills as audited.

With no further business, on a motion of Councilman Major and seconded by Councilman Byrnes, the meeting was adjourned at 6:00 PM. Carried unanimously.

Respectfully Submitted,

Rose E. Farr, RMC
Town Clerk