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June 18, 2009

The Town Board of the Town Of Corinth held a regular meeting on June 18, 2009 at 4:00PM at the Town Hall.

Present: Richard Lucia, Supervisor
Charles Brown, Councilman
John Major, Councilman Excused
Edward Byrnes, Councilman
Mitchell Saunders, Councilman
Fred Mann, Code Enforcement Officer
Shawn Eggleston, Highway Superintendent
Robert Hafner, Town Attorney
Rose E. Farr, Town Clerk
Cheri Sullivan, Deputy Town Clerk

Public: Jim Murray, Sigrid Koch, Arleen Springer, Shannon A. Hickman; DASNY, Joseph Durkein; DASNY, Marian Pitses; ORMDD, Attorney David Avigdor representing William Howenstein

After roll call, Pledge of Allegiance and Prayer the following business was conducted:

Mr. Durkein said this matter was brought to the States attention by Mr. Howenstein who is being represented by Attorney Avigdor today on the matter of obtaining an easement over a paper street. Mr. Durkein said that the properties in this paper street do not currently have titles to the road bed. Mr. Durkein said that State is looking to solve this problem by dedicating the road back to the town. Mr. Durkein said part of this paper street has been maintained by the town. Mr. Durkein said that the state does own the parcel of land at the end of this paper street. Supervisor Lucia asked if there were still plans in the works to build another home at the back of the property. Mr. Durkein said the state is not planning at this time to place another DDSO Home at the rear of this parcel. Mr. Durkein said that if they did it could be accessed from the entrance on Main Street. Mr. Durkein said that the state is not allowed to grant private right of ways. Mr. Durkein said the state is trying to avoid lawsuits with the town residents and the easiest way for them to do it is to turn the paper street back over to the town. Mr. Durkein said that Mr. Howensteins subdivision was approved by the town planning board. Mr. Durkein said that the street that is being discussed is a portion, as a paper street, of that subdivision.

Highway Superintendent Eggleston said that there is infrastructure, power and pavement on this paper street. The pavement is not to municipal highway standards. Mr. Eggleston said that the town does not go into developments and build roads to town specifications; the developers of the subdivisions are responsible for this. Highway Superintendent Eggleston said that according to McKinney's book of Highway Laws, any highway that is maintained by a municipality for a period of ten years or more, is deeded by use to the municipality. Highway Superintendent Eggleston said his concern was over the possibility of development on the rest of the paper road. Attorney Hafner said the town would not assume any rights after the pavement ends.

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Attorney Hafner wanted to know if there were any homes located after the end of the pavement. Mr. Durkein said there was not. Attorney Hafner said the state can only give land to a municipality for highway purpose and the question is if the town accepts the Road from the State for highway purpose; if it would legally bind the town to build the road. Highway Superintendent Eggleston said it would cost approximately \$91,000.00 to bring what is currently paved up to specs and to finish paving this paper street.

Attorney Avigdor said his client acquired a piece of land that (lots of a subdivision by family) and by virtue of the subdivision and the creation of paper streets that there would be access. Supervisor Lucia said that the Town has a copy of the original mylar regarding this subdivision from 1995. Supervisor Lucia said that there are notes on this mylar that state the following:

Note #4- The Street shown on this map are shown on a duly filed subdivision map that predates the appointment of the Town of Corinth Planning Board complying with the requirements of NYS Town Law 280-a. These streets are not public highways. First Street adjoining the subject property has been appropriated by the State of New York. Sycamore Street, Poplar Street and the alley between lots two and three have been acquired by quit claim deed dated September 11th, 1995.

Note #5- The Town of Corinth by approval of this sub division map in no way warrants to the grantor or the grantee or their successors, heirs and assigns that there is insurable access to lots 2 and 3.

Attorney Avigdor said he believes his client may have access, the footnote on the mylar states that the Town does to warrant access. Attorney Avigdor said he is not saying that he has rights against the town. Attorney Avigdor said that the parcels of land in question had been previously subdivided by International Paper. Attorney Avigdor said that what is before the Town Board tonight is to see if the Town would assume the road from the state and make it a public highway for the good of the public. Attorney Avigdor said his client is not asking for the town to clear the wooded area but to find a way to convey the property to Mr. Howenstein. Attorney Avigdor said his client does not plan to bring this street up to town road standards, nor does he expect the town to do so. Attorney Avigdor said what his client wants is legal access; his goal is to make these lots saleable. But, first he needs legal access. Attorney Avigdor said if the town ends up entitled, but acknowledges by virtue of an easement, by implication because this is a paper street that the owner of the house or parcel has a right to come and go. Attorney Avigdor told the town board if they were willing to discuss with his client they could discuss liability and maintenance arrangements.

The Town Board, Attorney Hafner and Mr. Durkein discussed different approaches to this situation. The following items of interest were discussed:

- Town property being subject to fair market value
- What is the NYS Law on landlocked parcels
- Whether to keep a portion of the road or the entire road.
- If asset was to be assumed it could not be sold for less than fair market value.

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- The processes that the state has to go through.
- If land is accepted as a Highway purchase what the ramifications of legal issues, if any, would be.
- Who would be responsible for the wooded area after the pavement ends on this paper street.
- If there were rights of way to First Street by any other home owner.
- Amount of homes that can be built on these parcels.
- Possible burden to town taxpayers.

The Town Board decided that they would move forward with the State on this issue and would like to see a contract in writing before deciding to take the title of the road from the State. Attorney Hafner said he felt the Town should take the part of the road that is paved and has been maintained by the town. Attorney Hafner asked if the state could transfer part of this road, which is paved, to the town and then transfer the remaining part of the road under the community reinvestment act. Mr. Durkein said he would like the town to take the whole road. Attorney Hafner said that essentially what would happen is that the town takes the road from the state and the Howenstein parcels are still landlocked. Then the town may be held with the responsibility of finding a solution to the situation. Supervisor Lucia said the land in question is neither a town road or town property, it is land currently owned by the state. Attorney Hafner said if the town assumes the land, the town will have to put the rest of the property up for bid. There was discussion between Attorney Hafner and Mr. Durkein as to whether the town could receive two separate deeds to this paper street, one for the highway and one for the vacant land. Mr. Durkein said yes and further explained the difference between obtaining this vacant land as highway land and through the community reinvestment act. Mr. Durkein said the community reinvestment act is a time consuming process that requires notice to the legislature amongst many other hurdles. Mr. Durkein said the public lands law would be an easier avenue to travel. Attorney Hafner said it is his recommendation that the town board assume the paved part under the public land law and the remainder of the road under the community reinvestment act to ensure that the town does not run into any legal issues with right of ways in the future. Attorney Hafner said Attorney Avigdors suggestion on having part of the paper street for sale, subject to the rights of the people who want to have access, is another option other than the bid option and the town would still be protecting the people's rights. Attorney Hafner said this would be another reason to transfer the sections of the paper street separately. Attorney Avigdor said his client is not looking for sole ownership of the property. The Town Board thanked all guest present for their time this afternoon. Attorney Hafner addressed the town board and said he believed they were in consensus and that the four town board members present felt it was a good idea to move forward.

Attorney Avigdor returned to speak to the town board because he was speaking with Mr. Durkein in the hallway and Mr. Durkein was under the impression that he was waiting for the town board to make a decision. Attorney Hafner and Supervisor Lucia said they believed the town board was clear; that they were looking for a conceptual contract with details from the state for the two separate deeds. Attorney Avigdor said that was not the impression that the state left with and wanted to know if the town board would make a motion to forward on to the state their decision. Attorney Hafner suggested to Attorney Avigdor that the town board would table this until the next when they would have all five board members present to vote on this decision. Councilman Saunders requested that this courtesy be extended on his behalf the next time he was

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not present for a vote. Attorney Hafner said, he said that because Councilman Byrnes was looking like he was not ready to vote on this tonight Councilman Byrnes said he did not want to vote on anything until he was able to see the details of what the state is going to come up with. Councilman Byrnes said that he wanted to read the state proposal because as he understands it the state wants to retain access to this paper street as well. Supervisor Lucia said the board would table this decision until the first week in July. Attorney Avigdor asked if he could be sent a copy of the minutes when they are done.

Supervisor Lucia said the following is the tentative schedule for the July meetings:

7/2/09-Bill Pay
7/9/09-
7/16/09-
7/23/09-Bill Pay, Assessor, Planning and Zoning
7/30/09- Budget review

Supervisor Lucia spoke briefly about AMD

With no further business on a motion by Councilman Byrnes and seconded by Councilman Saunders the Town Board workshop adjourned at 5:12pm.

Respectfully Submitted,

Cheri Sullivan
Deputy Town Clerk