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September 17, 2009

The Town Board of the Town of Corinth held a regular meeting on September 17, 2009 at 7:00PM at the Town Hall.

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

Public: Ray Bush, Jim Murray, Sr., Linda Byrnes, Bruce Baker, Renee Baker, Sigrid Koch and Sam Paquin.

After Roll Call, Pledge of Allegiance and Prayer the following business was conducted:

**RESOLUTION #211**

**APPROVAL OF MINUTES**

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

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

Resolved that the minutes for July 23, 30 August 6, 13, 27, 2009 be approved.

**RESOLUTION #212**

**APPROVAL OF ABSTRACTS**

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

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

Resolved that the abstracts of August 6th and August 27<sup>th</sup> 2009 be approved as follows:

<u>August 6, 2009</u>		<u>August 27, 2009</u>	
A	- \$12,419.38	A	- \$76,178.17
B	- \$ 2,209.85	B	- \$ 3,572.64
DB	- \$ 9,653.97	DB	- \$14,753.04

# DRAFT

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SL -	\$ 372.61	T&A -	\$68,183.92
T&A-	\$66,486.04		

**NEW BUSINESS:** Supervisor Lucia spoke about the following:

- American Recovery Act Letter – Denying grant for Town Hall Expansion
- Cancer Services Program
- CCSD Calendar
- CCSD Newsletter
- Cemetery Meeting – Supervisor Lucia told the Town Board that the Cemetery Association met with people from the State regarding the Town taking over the cemetery. Nothing was decided and another meeting will be scheduled after the Cemetery Association meets again.
- Honor Deceased Veterans – Paul Voehringer, WWII, Town of Ballston Spa, NY

## **RESOLUTION #213**

### **SETTING PUBLIC HEARING ON SECTION 8**

### **HOUSING CHOICE VOUCHER PROGRAM**

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

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

RESOLVED that a Public Hearing be scheduled for Thursday, November 5, 2009 at 4:05 PM at the Town Hall for the purpose of receiving comments from the public on the proposed PHA Plan for 2009 for Section 8 Housing Choice Voucher Program.

## **NEW BUSINESS (continued)**

- NYSDEC Notice transferring the Ellis Mine Permit to Gene Ellis, Jr.
- Sales Tax – 08/09 \$56,666.00
- Saratoga County IDA Meeting Attended
- Saratoga County Planning Letter
- Senior Sentinel
- Thank You Card – Anderson Family
- Time Warner News
- Upper Hudson Railroad Report
- US Army Field Band Concert – 9/25/09 at SCPA Tickets can be picked up at Town Clerk's Office , Supervisor's office and any Stewarts
- Saratoga County Planning Board minutes

# DRAFT

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- New Saratoga County Historian – Laura Roberts(daughter of Tom Doherty, Granddaughter of Jim Doherty) – historian for Town of Day
- Supervisor Lucia told the Town Board that he needed to have a couple of Budget Workshop meetings. He suggested the dates of September 22<sup>nd</sup>, 28<sup>th</sup>, 29<sup>th</sup>, October 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup>, 2009. The Town Board members are to get back to Supervisor Lucia with the dates they can make the workshops.

## **RESOLUTION #214**

### **APPOINT MEMBERS OF LAND USE UPDATE COMMITTEE**

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

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

RESOLVED that the following people will be appointed to the Land Use Update Committee: Shelli Everts, Cheri Sullivan, Dan Willis, Corey Patterson, William Clarke, Christopher Rudolph and Glen Tearnio.

Supervisor Lucia told the Town Board that he had received a telephone call just before the meeting from Village Trustee Melanie Denno informing him that the first meeting of the committee to look into the feasibility of consolidating the village and Town had been scheduled for September 30<sup>th</sup> at the Fire House at 6:00 PM.

## **ATTORNEY**

Attorney Hafner told the Town Board that the \$1,000,000.00 grant for the railroad one that you have to spend the money and then get reimbursed as the Town complies with the terms of the grant. The amount of \$300,000.00 will be borrowed from the Saratoga County Industrial Development Agency to be used until the grant money is available. The interest rate will be 1% per year. Whenever a Town borrows money it requires they must abide by the Local Finance Law and the New York State Constitution. Attorney Hafner stated that requires a Bond Resolution. Attorney Hafner discussed with the Town Board a resolution that was needed. Attorney Hafner stated that after the Board passed the resolution his office would prepare an Estoppels Certificate that is a notice to be published in the newspaper. Attorney Hafner said that 20 days after this has been published in the paper the Town may issue a BAN and borrow the money from Saratoga County Industrial Development Agency.

## DRAFT

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Supervisor Lucia pointed out that the \$3,000.00 interest per year is an expense of the Town and could not be charged back to the grant. Supervisor Lucia said that the \$3,000.00 would have to be figures in next year's budget.

Councilman Byrnes asked how definite the \$1,000,000.00 grant was. Supervisor Lucia stated that was approved in July. Attorney Hafner said that if the Town does not comply then they would not get the grant money. Supervisor Lucia said this grant is for the \$1,000,000.00 spent for the beaver damage. Supervisor Lucia said that the grant just needs one more signature. Attorney Hafner stated that his recollection was that before the Town started the project to have our engineer put there plans and have them reviewed by DOT. Attorney Hafner said that the Town did not want a signature on the contract until we are sure that the engineer's scope of services has been approved. Councilman Byrnes said he just wanted to make sure that the Town did not spend the \$300,000 and then the grant did not reimburse the money. He said then the Town would be left owing the \$300,000.00. Councilman Major asked if this money part of the stimulus money from the Federal government. Supervisor Lucia said it was along with twenty-two others. Councilman Saunders asked if this money completed the project or if it was just a phase of the project. Supervisor Lucia stated that this is suppose to bring the project up to a Class 2 track. Attorney Hafner said that if the bids come in more than that you reject them and don't go forward. Supervisor Lucia said that DOT was hinting that at the time this is running out there would be more rail money.

Supervisor Lucia stated that he has had a conversation with other railroad companies a long way away from here looking at the site. He said he could not divulge any more than that.

### **RESOLUTION #215**

### **RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$300,000 IN SERIAL BONDS OF THE TOWN OF CORINTH TO PAY A PORTION OF THE COST OF ACQUISITION, CONSTRUCTION, AND INSTALLATION OF RAIL FACILITIES IMPROVEMENTS; AND AUTHORIZING THE ISSUANCE OF UP TO \$300,000 IN BOND ANTICIPATION NOTES OF THE TOWN FOR THE SAME PURPOSE**

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

**WHEREAS**, the Town of Corinth (the "Town") has been awarded a grant of One Million Dollar (\$1,000,000) through the New York Department of Transportation to be used for the design, construction, reconstruction, improvement or rehabilitation of rail facilities; and

## DRAFT

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**WHEREAS**, under the terms of the Grant Agreement, the Town must initially incur the costs of the improvements which will be reimbursed by Grant funds; and

**WHEREAS**, the Saratoga County Industrial Development Agency ("SCIDA") has agreed to assist the Town in financing a portion of these initial costs;

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

**Section 1.** The specific object or purpose for which the obligations authorized by this Resolution are to be issued is the acquisition, construction, and installation of railroad track upgrades, grade crossing upgrades and bridge and culvert improvements, and further including related preliminary and incidental costs (the "Project"), and such specific object or purpose is hereby authorized at a maximum estimated cost of One Million Dollars (\$1,000,000).

**Section 2.** The plan for the financing of such maximum estimated cost is as follows:

(a) issuance of up to Three Hundred Thousand Dollars (\$300,000) in serial bonds or bond anticipation notes of the Town, hereby authorized to be issued pursuant to the Local Finance Law; and

(b) expenditure of up to Seven Hundred Thousand Dollars (\$700,000) from the Grant Funds. Ultimately, the Town expects to have the entire \$1,000,000 maximum estimated cost financed by the Grant; however, the Town needs cash to pay costs as the project proceeds and will then make applications for reimbursement from the Grant. The Town expects to need only up to \$300,000 up front to pay expenses prior to reimbursement.

The proceeds of the bonds or bond anticipation notes may be used to reimburse expenditures paid by the Town from other funds or otherwise on or after the date of adoption of this Bond Resolution. The Town has been awarded the Grant described above and, to the extent that such moneys are received, intends to apply such funds to the payment of principal and interest on the bonds or bond anticipation notes and reimbursement of project costs paid from other sources. Pursuant to Local Finance Law Section 107.00(d)(9), no down payment from current funds is required.

## DRAFT

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**Section 3.** It is hereby determined that the period of probable usefulness of the specific object or purpose is forty (40) years, pursuant to Section 11(a)(8) of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will not exceed five (5) years.

**Section 4.** The faith and credit of the Town of Corinth, Saratoga County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as they become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such years. There shall annually be levied on all the taxable real property of the Town a fee sufficient to pay the principal of and interest on such obligations as they become due and payable.

**Section 5.** For the purpose of paying a portion of the cost of the Project, including related preliminary and incidental costs, there are hereby authorized to be issued serial bonds of the Town up to a maximum amount of \$300,000, the maximum maturity of which shall not exceed the forty (40) year period of probable usefulness set forth above, and which shall mature on or before the date of the expiration of the period of probable usefulness as measured from the date of the bonds or from the date of the first bond anticipation note issued in anticipation of the sale of such bonds, whichever date is earlier. However, the maximum maturity of the serial bonds herein authorized will not exceed five (5) years. The bonds may be issued in the form of a statutory installment bond.

**Section 6.** There are hereby authorized to be issued bond anticipation notes for the specific object or purpose in an amount up to but not exceeding the \$300,000 maximum amount of serial bonds authorized to be issued, in anticipation of the issuance and sale of the serial bonds authorized, including renewals of such bond anticipation notes.

**Section 7.** Any bond anticipation notes shall be payable from the proceeds derived from the sale of the bonds or otherwise redeemed in the manner provided by Section 23.00 of the Local Finance Law. The faith and credit of the Town are hereby irrevocably pledged for the payment of the bond anticipation notes and the interest on them.

## DRAFT

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**Section 8.** There are no bond anticipation notes outstanding which have been previously issued in anticipation of the sale of these bonds. Neither are the bond anticipation notes hereby authorized renewal notes. These bond anticipation notes will not be issued in anticipation of bonds for an assessable improvement. These notes shall mature at such time as the Town may determine and may be renewed from time to time, provided that in no event shall such notes or renewals extend more than one (1) year beyond the original date of issue except as permitted in the Local Finance Law.

**Section 9.** Subject to the terms and conditions of this Resolution and of the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this Resolution and the renewal of these notes, and the power to prescribe the terms, form and contents of the serial bonds and bond anticipation notes and the power to sell and deliver the serial bonds and bond anticipation notes issued in anticipation of the issuance of the bonds is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town. The Town Supervisor is hereby authorized to sign any serial bonds and bond anticipation notes issued in anticipation of the issuance of the serial bonds and bond anticipation notes issued pursuant to this Resolution by manual signature, and the Town Clerk is hereby authorized to affix or impress or imprint a facsimile of the seal of the Town to any of the serial bonds or bond anticipation notes and to attest such seal by manual signature. The Town Supervisor, as Chief Fiscal Officer of the Town, is authorized to execute and deliver any documents and to take such other action as may be necessary and proper to carry out the intent of the provisions of this Resolution.

**Section 10.** The exact date of issuance of the bonds and/or notes and the exact date upon which they shall become due and payable shall be fixed and determined by the Chief Fiscal Officer, provided, however, that the maturity of the notes or renewals shall not exceed one (1) year from the date of issue except as permitted by the Local Finance Law.

**Section 11.** The Chief Fiscal Officer shall prepare the bonds and/or notes and sell them in accordance with the provisions of the Local Finance Law including, but not limited to, the provisions of Section 169.00, if applicable, and at such sale shall determine the interest rate to be borne by such bonds and/or notes. The Town Board authorizes the Chief Fiscal Officer to

## DRAFT

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establish substantially level annual debt service for the repayment of such Bonds if he believes it is in the best interests of the Town. The SCIDA has indicated that it intends to purchase the bonds and/or bond anticipation notes and charge no interest or a low interest rate. There may be a fee charged by the SCIDA for the loan; if so, the Town Supervisor is directed to pay it.

**Section 12.** If issued, the notes shall be in registered form, and shall bear interest at the determined rate.

**Section 13.** The Chief Fiscal Officer shall deliver the bonds and/or notes to the purchaser only against a certified check or other immediately available funds. The proceeds of the sale of the bonds and/or notes shall be deposited and/or invested as required by Section 165.00 of the Local Finance Law, and the power to invest the proceeds of sale is hereby delegated to the Chief Fiscal Officer and the power to invest in any instruments described in Section 165.00 is expressly granted.

**Section 14.** To the extent that it is permitted to do so under the Internal Revenue Code of 1986, as amended (the "Code"), the Town hereby designates the bonds and/or notes as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code. The Town hereby covenants that it will (i) take all actions on its part necessary to cause interest on the bonds and/or notes to be excluded from gross income for purposes of Federal income taxes and (ii) refrain from taking any action which would cause interest on the bonds and/or notes to be included in gross income for purposes of Federal income taxes.

**Section 15.** The Town of Corinth is a town partially within the Adirondack Park. However, State lands subject to taxation within the Town's boundaries are assessed at less than thirty percent (30%) of the total taxable assessed valuation of the Town, so permission of the State Comptroller to issue the bonds and/or notes is not required under Local Finance Law Section 104.10(3).

**Section 16.** Miller, Mannix, Schachner & Hafner, LLC, Glens Falls, New York, is hereby designated bond counsel.

**Section 17.** The validity of these serial bonds and bond anticipation notes may be contested only if:

# DRAFT

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- (1) These obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or
- (2) The provisions of law which should be complied with at the date of publication of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or
- (3) Such obligations are authorized in violation of the provisions of the State Constitution.

**Section 18.** The full text of this Resolution or a summary thereof shall be published in the *Glens Falls Post Star*, which has been designated as the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

**Section 19.** The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

AYES: 5

NAYS: 0

ABSENT: 0

**ROLL CALL** AYES: Lucia, Brown, Major, Byrnes and Saunders

NAYS: None

ABSENT: None

## **ATTORNEY'S UPDATE**

Attorney Hafner gave the following update:

- Petruzzo – No more developments – discoveries being done at present time
- EOC – No updates on this

# DRAFT

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- Brignola – proceeding, Judge indicating that he is going to look at it – it might possibly in the near future have a hearing
- Schuh – no updates

## **PUBLIC SPEAKING**

### **Sam Paquin**

Mr. Paquin appeared before the Board stating that he asked the Code Enforcement Officer for a building permit and was told that he did not think he could issue any permits on the Paquin property but he would ask the Board. Mr. Paquin said he was thereafter advised that the Town Board said that according to the laws of the Town of Corinth all violations on the property must be corrected before a permit may be issued. Mr. Paquin explained that he wanted to have his property subdivided and remove the home that Eagle had and construct a new one; he also wanted to place a single wide mobile home on the parcel where Mr. Eagle had gotten the variance to place a mobile for his relative and then work on cleaning up the rest of the property. Supervisor Lucia asked Code Enforcement Officer Mann what Mr. Paquin had to do. Code Enforcement Officer Mann read the Local Law of the Town of Corinth “No site plan or special use permit shall be approved, no building permit or Certificate of Occupancy issued or variance granted under this Local Law for premises upon which there is an existing violation of this Local Law or any related town regulation governing with building construction or the use of the land and structures within the Town of Corinth.....” Code Enforcement Mann told Mr. Paquin that the way the Eagle variance reads that if Mr. Eagle’s mother or whoever moves or dies then the mobile must be taken off the property. Councilman Saunders asked how much work had been done on this property. Mr. Paquin said that he has moved a few trailers. Mr. Paquin said that there were 163 with 13 trailers just in the front. Mr. Paquin told the board that all but two of the trailers that were out front are gone. Councilman Byrnes asked if the trailers were removed or just relocated. Mr. Paquin said he admitted that some have been relocated on the property. Supervisor Lucia asked the Code Enforcement Officer if there was anything that could be done. Code Enforcement Officer Mann told the board that Mr. Eagle had a home in there if the board told him that he could issue a building permit Mr. Paquin could probably put a house in that place or somewhere else on the property. Code Enforcement Officer Mann said that the present home is unlivable. Attorney Hafner said that according to the law that was read the Code Enforcement Officer cannot issue a building permit and the board cannot change that unless they change the law. Councilman Byrnes asked if that also included repairing the house that is presently there. Councilman Major stated that there is a history on this property. Attorney Hafner said he was aware of that. Councilman Major said that he understood that it was not in that the board did not want to do this but it is not legal. Attorney Hafner stated that it is not a board decision. He said it was the Code Enforcement Officer’s decision and he had to comply with the laws as they stand on the books. Attorney Hafner said that Mr. Paquin bought a property that was not in compliance and the Code Enforcement Officer has not got a lot of leeway when it comes to issuing a building permit. Mr. Paquin asked if he did a subdivision on the parcel up front and that was brought up to code could he obtain permits or if the violations went with all the property. Supervisor Lucia asked if there was anyway he could do a subdivision while were in litigation. Attorney Hafner said that he didn’t think the Town was in litigation with him. He said the litigation was against a person who owned a piece of property and that person no longer owns that piece of property. Attorney Hafner said that suit is not there now. He said it would be easy to bring a similar suit against Mr. Paquin but the Town Board has heard Mr. Paquin

# DRAFT

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before and they seemed to think they could work with him to have him bring it into compliance. Attorney Hafner said that the bottom line is that the property substantially out of compliance and the Town Board feels that the property needs to be brought into compliance. He also said that the Town could not issue building permits or subdivisions without changing the code until it is brought into code. Mr. Paquin said that the Town is the one that has the legal rights in County Court then they can come out and remove the trailers. Mr. Paquin said that if the Town wanted to treat him like Eagle then he would treat them like Eagle. He said he was just trying to work with the Town, live on the property and clean it up. Councilman Byrnes said that Mr. Paquin knew what was going on when he brought the property. Mr. Paquin said he knew that the Town had the right to put it up for sale. He said his attorney told him the Town was removing the trailers and it would be done before the purchase was made. Supervisor Lucia told Mr. Paquin that his time was up.

Supervisor Lucia said the following reports are on file in his office:

Assessors  
Building  
Animal Control  
Fire Department  
Highway  
Justice Court  
Town Clerk  
Zoning  
Planning  
Senior Citizens

Supervisor Lucia said that he heard from a man at the County that the Village water rents were going up to \$500.00 this year. Town Clerk Farr asked about the three year plan to get the Town the amount they would be charged for the next three years so that it could be figured in at budget time. She said she would check into where that stands. A discussion of water districts in the Town continued.

## **RESOLUTION #216**

### **APPROVAL OF SUPERVISOR'S REPORT AS PRESENTED**

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

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

Resolved that the Town of Corinth Town Board accepts as presented the Supervisor's monthly financial report for August, 2009 as presented.

# DRAFT

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## **RESOLUTION #217**

### **TO APPROVE THE FOLLOWING TRANSFERS OF FUNDS**

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

ADOPTED      Ayes 4      Brown, Major, Byrnes, Saunders

Nays 0

BE IT RESOLVED, that the Town Board authorizes the transfer of the following funds:

Increase Appropriations Account 75504.01 (Celebrations) and Revenue Account 2770.01 (Unclassified Revenues) in the amount of \$1,827.00 for Quadricentennial Sponsorships received from TDBanknorth Insurance (\$500) and Village of Corinth (\$1327).

Transfer \$1,000.00 from 14102.01 (Town Clerk Equipment) to 14104.01 (Town Clerk Contractual) for 2009 shortage.

## **DEPARTMENT HEADS**

### **TOWN CLERK**

Town Clerk Farr told the Town Board that she will not be in her office on Monday as she will be attending a conference in West Point. She did say her office would be open.

### **HIGHWAY**

Supervisor Lucia asked Highway Superintendent Eggleston if he knew when the Youth Van was expected. Highway Superintendent Eggleston told the board that he was not given a delivery date.

Supervisor said he was stopped and a man told him that he wanted to tell Highway Superintendent Eggleston and his department that they did a great job on work done on Hollister Road

### **COD ENFORCEMENT OFFICER**

Code Enforcement Officer Mann told the board that he had been to Mr. Golden's property and the trailers has been removed; the property has been cleaned up; they have power and are very thankful for what the Town Board did. Councilman Byrnes told Code Enforcement Officer Mann that he spoke to Mr. Golden and he said he was very appreciative of everything Code Enforcement Officer Mann had done with working with them.

### **TOWN BOARD**

Councilman Saunders asked counsel about him looking at the July 23<sup>rd</sup> minutes regarding the re-appointment and appointment of members to the Planning Board and Zoning Board of Appeals. Attorney Hafner said that he would review the minutes and get back to the Town Board at their next meeting.

# DRAFT

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Councilman Saunders asked Code Enforcement Officer about the fence down on Route 9N. Code Enforcement Office said he spoke to Mr. Schaffer and told him the poles should be down in the ground. Code Enforcement Officer Mann told the Town Board that the town does not have any rules for fences and perhaps this should be looked at. Councilman Saunders said that if the fence is not structurally safe then he thinks it must come down.

Councilman Byrnes told the board that the Senior Housing Committee is meeting again next week. He also told the board that that Mr. Schupp, the Outreach C and counseling coordinator for Captain Youth has been relocated and the new coordinator is Brad Armstrong. Councilman Byrnes said that he is meeting with Mr. Armstrong to show him what is at the Town Hall to see if he can use it for his meeting place.

## **RESOLUTION #218**

### **MOTION TO ADJOURN**

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

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

                  Nays    0

RESOLVED that the board adjourns at 8:25 PM.

Respectfully submitted,

Rose E. Farr, RMC  
Town Clerk