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January 5, 2010

The Town Board of the Town Of Corinth held a workshop meeting on January 5, 2010 at 4:00PM at the Town Hall.

Present: Richard Lucia, Supervisor
Charles Brown, Councilman
John Major, Councilman
Edward Byrnes, Councilman
Mitchell Saunders, Councilman
Fred Mann, Code Enforcement Officer
Shawn Eggleston, Highway Superintendent-Excused
Rose E. Farr, Town Clerk
Robert Hafner, Town Attorney
Michael Bianchino, Town Engineer
Stephanie Bitter, Attorney for Guido Passerelli
Garry Robinson, Engineer for Guido Passerelli

The meeting opened with Garry Robinson stating that he had contacted DEC and was referred to the internet to a couple locations regarding beaver problems. Mr. Robinson said that the bypass DEC discussed is a little different. He said he met with a contractor and what they thought would be a good solution has changed a little. He said it was essentially heavy duty fencing and a by pass pipe. Mr. Robinson said that there is always maintenance with this by pass. Supervisor Lucia asked if this would just change them to another are. Mr. Robinson said he didn't see another location where the problem is now.

Attorney Hafner said the Town Board needed to consider whether or not they wanted to take on the burden of maintain the bypass. Attorney said that this was not the Town Board's responsibility. Supervisor Lucia asked if there wasn't an issue about going on another person's property. Attorney Hafner said that if the Town Board wanted to consider it then the Town Board would need a former easement. Attorney Hafner said that this could be a Special District. Attorney Hafner said the Town would have to have an engineer to come up with the effected properties and the cost would be charged to those property owners.

Councilman Saunders asked if there had come to a determination on the cause of the problem. Michael Bianchino said that Bob Lockwood from their office met with Garry Robinson and they came to the conclusion that the problem was the beaver dam caused the elevation of the pond to go up. Councilman Saunders said he remembers that when they went out there it used to have trees, etc. and now it has been clear cut. Highway Superintendent Eggleston said that he did not believe that the clear cutting had anything to do with raise the pond. Highway Superintendent Eggleston said he believes the level of the pond was raise by the beaver dam not be the clear cutting. Highway Superintendent Eggleston said that there is no way that you can say the drainage of the development cannot affect this. He said that when you clear cut a property and divert all the runoff from the road and everything else to these dry wells it is going to increase the water in this area. He said instead of it running off slow through the trees it's going to run

DRAFT

off faster when you have wide open field and go to these other properties. Highway Superintendent Eggleston told the group that he was told by DEC he had no right on the property. He said that if anyone goes in by the beaver dam they are going to have to make some kind of road to get an excavator in there to install the device. He said the Town would have to have an easement to go in there. Attorney Hafner said the threshold is still if the Town wants to take on responsibility to maintain this by pass after it is installed. Attorney Hafner said the Town Board may not even want to do it. Attorney Hafner said that is was not caused by the Town and is not a Town issue unless it wants to take the responsibility. Councilman Saunders said maybe we should set up a public hearing for the property owners involved to come in and discuss this matter. Attorney Hafner said that a Special District is one way the Town can handle this but it does not have to set up a Special District. Attorney Hafner said that if the Town did a District it would have to include all the owners of property affected by this matter.

Councilman Byrnes said he wanted to know what Mr. Passerelli felt about this issue. Attorney Hafner said that he understood that at the last meeting Mr. Robinson was to contact Mr. Passerelli and see if he would install the by pass. Mr. Robinson said he thought Mr. Passerelli might do this if the moratorium were lifted. Councilman Saunders asked if the Town attorney has been involved where the beaver dam has caused a problem and the Town has to get involved. Attorney Hafner said that his partner Mark Schachner has been involved in this type of matter several times but it has always been when the Highway Superintendent has said that the road maintenance is an issue but you still have to get permits, etc. .

Supervisor Lucia asked what recourse the people on Eggleston Street have against the Town because they didn't want that there to begin with. Councilman Byrnes said when the citizens were in here complaining about water in their basement they said they never had the problem until the subdivision went in. Councilman Byrnes asked if the pipe from the dry wells wasn't under water when this subdivision was started. Mr. Robinson said it was. Councilman Byrnes said he would hate to see the taxpayers take on the expense of maintaining the by pass when he thinks it was a design flaw and the water level of the beaver pond was never taken into consideration. Mr. Robinson said that they met with DEC on the site and talked about this... Attorney Hafner said he didn't think that was the case. He felt it was a gray area. He also suggested that the resolution make it clear that we are limiting only for that maintenance. Mike Bianchino asked that if the structure was installed and it lowered the pond and still the people had water in their basements is the Town now liable. Mr. Bianchino said that there are two questions: Is this engineering solution going to work and if so is that going to solve the water problems. He said both he and Mr. Robinson think it will. He said that any stream can have a beaver dam and they discharge storm water to stream if they can. He said now there is a beaver dam there but there is nothing wrong with the storm water drainage it is the level of the beaver dam. Councilman Byrnes said that the beaver dam was there before the development went in and Mr. Robinson agreed. Mr. Robinson said all the time they went through planning there was a beaver pond there and nothing was said. Mr. Robinson said that in the adjacent development Phases Three there is an easement that was suppose to go to the Town that goes from the stream and Barbara MacDonald Drive through to Guido Passerelli's property. Supervisor Lucia asked is Phases Three was all under water. Highway Superintendent Eggleston said that Phases Three is below the dame. Mr. Robinson said it might be underwater now but if we get rid of the beaver dam it won't be underwater. Mr. Robinson said that in Greenfield a couple years ago they had a

DRAFT

real problem with the beaver pond and the Town took care of it. Highway Superintendent Eggleston told the group that this was on the railroad right of way and it was taken care of because it was not necessary to go on private property.

Councilman Saunders asked if the owner said that he was not going to give us an easement what happens then. He asked if there was a precedent that if this beaver dam is causing damage and he has to let us go on the property to take care of the beaver dam. Attorney Hafner said that the Town could argue that he might be subject to claims. Mr. Robinson said he spoke to the owner since the start of this and he said he has been willing to do whatever is necessary.

Attorney Hafner said he had spoken to Michael Bianchino regarding how difficult it would be to compile a legal description of the easement. Mr. Bianchino said that the maps show an easement that crosses both roadways. He said to do that it would have to include the entire beaver pond area. Attorney Hafner stated that the easement has never been given to the Town.

Councilman Major asked if we know what the private land owner's responsibility is. Attorney Hafner said that if the dam breaks and property is damaged the private land owner may be held responsible. Attorney Bitner said it could be a nuisance complaint. Attorney Hafner told the Town Board that it would be up to the property owners affected to bring their own lawsuit and at their own expense. He said that that type of claim would be hard to make since the private property owner has done nothing.

Attorney Hafner said he still thinks the initial thing is does the Town want to treat this as a town problem that they are willing to take care on an ongoing basis. He said if the Town does want to take this on one way is for the Town to create a Special District.

Councilman Byrnes said that there were people here saying that in 32 years they never had any water in their basement and after the development began they have water in their basement. Mr. Robinson said that if the Planning Board Records were checked that there were people at that public hearing that said they already had water in their basement. Mr. Robinson said that somebody did maintain the beaver dam for awhile. Attorney Hafner said that this was not just in this area it was throughout the state. Councilman Saunders said that this has been going on for two year and now we need to make a decision to either get involved or not. He said that he understands that Attorney Bitner is representing Mr. Passerelli who may be willing to go on the property and install the bypass and the road; that Mr., Quartz has been contact by Mr. Robinson and may be willing to give the Town an easement on the property and the town needs to decide if they are willing to taken on the expense of maintain the device.

Supervisor Lucia asked Highway Superintendent Eggleston what he thought about this matter. Highway Superintendent Eggleston told the board that if Mr. Passerelli was to install the device and make a road so that the device could be reached without going waist high in water through a swamp then the cost to maintain the device he thought would be minimal. Highway Superintendent Eggleston said he did not think that DEC would allow this to happen. Mr. Robinson said that he had discussed it with DEC and he thought he could obtain the necessary permits.

DRAFT

Councilman Byrnes said that if the device were installed a Special District should be formed to maintain the device. Attorney Hafner explained that the Special District would only be form to pay for the cost the Town would have to maintain the device if a Special District was formed.

Supervisor Lucia said he understood the main thing is obtaining the permits from DEC to install the device and road. He said after that is done Highway Superintendent Eggleston said it wouldn't cost much to maintain the device. Supervisor Lucia said therefore they may not have to set up a Special District.

Councilman Brown said he can't imagine why the Town would want to take on the responsibility.

Councilman Major asked what assurance we have if this device is installed that it is going to solve the problem and if it doesn't solve the problem the Town has become liable. Attorney Hafner said that the Town could structure their resolution to state as they wanted.

Councilman Saunders said he didn't think that anything could be guaranteed but if the Town Board is showing due diligence to attempt to resolve the problem. He said we could make it clear to the property owner understand that we are attempting to resolve the problem but we cannot guarantee anything.

Highway Superintendent Eggleston said that there is a woman across from the school entrance that has so much water that it lies on top of the ground. He said he crew goes down with sump pumps every year to try to help her out. He said before the subdivision she never had a bit of water in her basement.

Code Enforcement Officer said he looked at dry wells on 3-13-09 and there were three of them with water in them and when he put the mosquito dunks in them there were eight of them that had water in them but it was low. He said he agreed with the Town Highway Superintendent that one time he went down there the water was really running. He said that time the pipe was covered with water. Highway Superintendent told Mr. Robinson that the water was going into two dry wells but not going into the pond. He said that the water does not go straight down only until it hits hard band and then it will spread.

Councilman Saunders said that he is willing to go ahead after all has heard enough over the two year period that if there is a third party that is willing to pay to construct and install the by pass and whoever puts it in gets an easement so that the Highway Superintendent can get his men out there to maintain this by pass with an addendum that all we are trying to do is lower the pond below this drain pipe level. Attorney Hafner said he understood that the Town was to obtain the easement from Mr. Quartz and Mr. Bianchino was to come up with a description of the easement. Councilman Saunders asked who would explain what is happening to Mr. Quartz. Attorney Hafner said that it would be his job. Attorney Bitner said that Mr. Robinson had already discussed the matter with Mr. Quartz.

Councilman Byrnes said that what he is hearing that Highway Superintendent Eggleston is saying that after the property was clear cut there was a problem with flooding on Eggleston

DRAFT

Street. Councilman Byrnes said that if that is so then with this by pass installed it won't make a difference. Highway Superintendent Eggleston said that they have been saying that they say the beaver pond is an outlet but he cannot tell whether the water is going out of the pipe or back in the pipe because the pipe is underwater. Highway Superintendent Eggleston said that if the level of the pond is maintained below the level of the pipe and if that is maintained lower than the pipe so it cannot be said that the water is going back up the pipe. Highway Superintendent Eggleston said that this design probably works great in some areas but he did not think that they took into consideration the impact on the people around the development. Garry Robinson said they did and he had several discussions about this with the Town engineer and the original design was changed.

Supervisor Lucia said he could remember those meetings and Norm LeClerc was one of the people against the development who has since passed away. Supervisor Lucia said that Mr. LeClerc's widow is one of the people who never had water in her finished basement was really flooded.

Councilman Saunders said that he felt it was now the time for someone to install this device and maintain the device. Councilman Byrnes said what about the citizens on Eggleston Street that were flooded. Councilman Saunders said what if we put this device in and if it keeps it down below the pipe for a year or two. Councilman Byrnes said he felt that the Town owed it to the People on Eggleston Street and Dorset Drive that we are going to keep them in the picture. He said we cannot lose sight of this issue. Garry Robinson said that there were people who came to the Public Hearings on the subdivision from Eggleston Street that said they had water in their basements already and wanted to make sure that they did get any more water in their basements.

Councilman Byrnes said that is going on what the Town's Highway Superintendent with 22 years experience says. He said that he is the one that has been going down there helping people out since the subdivision first was started. Councilman Byrnes wants to make sure that if we still have an issue after this device is installed that Mr. Passerelli is still willing to work with the Town for a solution to the water problem. Attorney Bitner said that is why they are still discussing it two years later. She said that the engineers from both parties agree that the beaver pond is a contributing factor.

Councilman Saunders said that the board is making the first attempt to lower the level of the beaver pond. Councilman Major asked is perking the dry wells rather than draining them off making a big difference in the situation. He asked if the perking is adding to the situation.

Garry Robinson said that literature from Cornell says that clear cutting does not make a difference. He also said they are not making any more water. He said when rain comes down it is still making the same amount of water the only thing is that they are taking it off the roads and bringing it to the dry wells. Three he said they always want to get the water back into the ground. Mr. Robinson said when they were going through planning there were people from Eggleston Street and Dorset Drive that came in and said they already had water in their basements and they did not want any more. He said he worked with Clough Harbor and redesigned his system. Mr. Robinson said that two years ago the water table throughout the area

DRAFT

was extremely high but it has gone down. He said it is still high but not as much as two years ago.

Councilman Byrnes questioned moving the volume of water and how fast. Mr. Robinson said that the water was moving faster. Councilman Byrnes said that he agreed with Highway Superintendent Eggleston regarding the rate being faster to the dry wells. Mr. Robinson said they were trying to move the water across the drywells to get it into the ground. He said they are attempting to help things.

Michael Bianchino said that if we have separation between ground water or hard band it is always better to get it below frost line and get in into the ground. HE said the area where the wet lands is fairly flat and he doesn't think the water is going end up spreading out somewhere. He said he thinks that if we can get the level of the pond down and we can see what that does to the ground level. Councilman Byrnes asked if DEC could limit us to how far we can bring the water level down. The said that they did not think they would limit it. Garry Robinson said that the level has come up but they do not know how far it has come up. He said it has changed since the dry well system was designed. He said that he had someone monitoring this area all during the planning phase. Mr. Robinson said the dam was down closer to the culvert.

Councilman Saunders said the question is are we going to get involved. He said that we all have concerns. Councilman Saunders said that if the question is that we have a third party install the device and obtain the easement and the Town Highway would maintain the device he was ready to go ahead and agree to that.

Attorney Hafner said that he still needs the Town's engineer to give him a description and a map of the easement to contact Mr. Quartz about.

Supervisor Lucia said he needed to poll the board to see how all the members felt regarding this. He said that Attorney Hafner needs the Town Board's instructions to proceed. Supervisor Lucia asked if DEC could stop them if they wanted to. Attorney Hafner said they would have to obtain a DEC permit before they could proceed.

Councilman Major asked that if the board went ahead with this and agreed to do the maintenance would that automatically lift the moratorium on building permits for the subdivision or do we have a test time to see if this solution works. Supervisor Lucia said that he thought we need to see if this is going to be a solution. Councilman Saunders said that the moratorium cannot be on forever. Attorney Hafner said that he understood that Mr. Passerelli was to install the device and now the road is part of this.

Supervisor Lucia asked the Town Board if they were saying yes or no to the device>

Councilman Major	-	yes to the device
Councilman Brown	-	yes to the device
Supervisor Lucia	-	yes to the device
Councilman Saunders	-	yes to the device
Councilman Byrnes	-	no – everyone knows his concerns

DRAFT

Attorney Hafner said that he now needs Town Engineer Bianchino to provide him with a legal description of the easement so that he may contact Mr. Quartz accordingly so that the Town can get to and maintain the device. Attorney Hafner said that he will be drafting a letter to Mr. Quartz. Attorney Hafner said that Attorney Bitner and Mr. Robinson should contact Mr. Passerelli and see if he is going to be willing to install the device and put in the road. Attorney Hafner asked that he be notified as soon as possible if Mr. Passerelli was not willing to do this. Mr. Bianchino asked that something get in front of DEC so that they can come back with a positive or negative reaction. Mr. Robinson said that the man he was speaking to at DEC seemed to say that if he were at his office with a permit application and he could contact Mr. Quartz then that would be sufficient.

The time frame was asked about. Mr. Robinson said that the time he was working with DEC on Mr. Petruzzo's property he obtained a permit within four days. Highway Superintendent Eggleston said that he didn't think a permit would be issued that fast for the roadway and installing the device. Mr. Robinson said that DEC assured him that they would issue the permit if he had all in order. He said he did not talk to DEC about a road because the contractor was saying that he did not need one. Supervisor Lucia said that Town Highway Superintendent would not send his men in waist high water. He said he needed a road of some kind he wasn't going to drive an excavator just through the woods.

Next Meeting scheduled for February 2, 2010 at 4:30PM.

Councilman Saunders asked if the committee members on the new Zoning Revision Committee were allowed to go to the Saratoga Planning schooling in January, 2010. It was the consensus of the Town Board that the committee members be allowed to attend the schooling.

RESOLUTION # 272

TRANSFERS

Motion was made by Councilman Brown and seconded by Councilman Saunders and the following resolution was

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

Resolved that the board make the following transfers:

Transfer \$29.50 from 13304.01 (Tax Collector Contractual) to 14102.01 (Town Clerk Equipment) for Saratoga County Data Processing Invoice;

Transfer \$1,072.00 from 12201.01 (Supervisor Personal Services) to 10101.01 (Town Board Personal Services) to cover Deputy Supervisor Payroll;

Transfer \$136.08 from 51421.04 (Snow Removal Personal Services) to 51101.04 (General Repairs Personal Services) for M. Eggleston payroll;

DRAFT

Transfer \$54.50 from 51304.04 (Machinery Contractual) to 51404.04 (Misc. Brush & Weeds Contractual) for Wilton Saw Shop Invoice;

Transfer \$6.50 from 73102.02 (Youth Equipment) to 73104.02 (Youth Contractual) for year end shortage.

Increase 11104.01 (Justice Contractual) and 2770.01 (Unclassified Revenues) in the amount of \$112.00 for SMA Convention Reimbursement;

Increase 19101.01 (Unallocated Insurance) and 2770.01 (Unclassified Revenues) in the amount of \$489.28 for Insurance Premium Credit Refund.

RIVER'S EDGE

Supervisor Lucia told the Town Board that he was contacted by Town Engineer Michael Bianchino regarding this matter and would ask that Mr. Bianchino tell the Town Board what has been happening. Mr. Bianchino told the Town Board that the site is right behind the school and is a large wooded area. He said they were proposing a large "P". He said it is 24 or 27 lots. Supervisor Lucia said he thought that the number of lots was suppose to be around 18 or 19 lots. Mr. Bianchino said that in light of everything that has been going on in the area he has a problem with the plan and has responded accordingly. He said that the response was that everything had been done according to our rules. Attorney Hafner said he remembered the lots being in the teens not 24 or 27 lots. Supervisor Lucia asked Code Enforcement Officer Mann what his recollection was. Code Enforcement Officer Mann said he thought it was less but the plans submitted are for twenty four lots. Mr. Bianchino said he thought that the Town Board assumed that they would only be able to get 18 or 19 lots but when they laid it out according to the Zoning they used every inch of the property and came up with 24 lots. Mr. Bianchino said he thinks that 24 lots is too many for the parcel in light of all the problems that have been happening in the area. Code Enforcement Officer Mann said that this property could have the same problems if we don't watch out. Councilman Major asked if the plan that was now submitted came under our subdivision rules and regulations. Mr. Bianchino said that he believes that the minimum lots size are 2000 square fee. He said the only thing is the developer says that the corners are T intersections and Mr. Bianchino believes that they are rounded. He said he could argue that the subdivision regulations require a 200 foot radius for the center line of those curves. Supervisor Lucia said that there is no tree line between the development and Eggleston Street. Mr. Bianchino said that in their letter they said there is going to be a buffer. Councilman Major said that the only thing we could use to keep this from ending up in the same situation as we are now looking at is by using good engineering tactics. Mr. Bianchino said zoning says what the maximum allowed on a piece of property by zoning. Then you have to make sure it is going to fit and cane be engineered, can be built and can work in good engineering practices. Mr. Bianchino Said he made him comments on the subdivision and has received comments back. Mr. Bianchino said his question is in light of other issues that are going on in this specific area he is of the opinion that he will meet with them and discuss it further. He just wanted to know what the Town Board directives were.

DRAFT

Councilman Saunders said that this information is information that should be passed on to the new Zoning Revision Committee. Councilman Byrnes said that any new subdivision should be looked at to see if it was going to create problems and be a burden to the taxpayers. Councilman Byrnes said part of the new subdivision should include low income housing and senior housing. Councilman Major asked Mr. Bianchino if he brought the drainage issues in the area were brought up to the developer. Attorney Hafner said that Highway Superintendent Eggleston would have input regarding the road in the development and what he wants to see. Attorney Hafner said that Highway Superintendent Eggleston does not have to accept any road he does not want to. Highway Superintendent Eggleston said he was invited to the Planning Board to discuss this subdivision and then the Planning Board meeting was called off. He said he has a problem with how sharp these corners are. Supervisor Lucia said that this is bad. He said that the Highway now has a problem with plowing the subdivisions in South Corinth because of the circles, etc. Councilman Saunders said this is another area that should be reviewed by the new committee

MOTION TO ADJOURN

On a motion by Councilman Brown and seconded by Councilman Saunders the meeting was adjourned.

Respectfully Submitted,

Rose E. Farr, RMC
Town Clerk