

JUNE 13, 2013

The Town Board of the Town of Corinth held a regular meeting on June 13, 2013 at 7:00 PM at the Town Hall.

Present: Richard Lucia, Supervisor
Charles Brown, Councilman
Edward Byrnes, Councilman
Marc Rich, Deputy Highway Superintendent
Rose E. Farr, Town Clerk
Robert Hafner, Town Attorney
Leon Hickok, Code Enforcement Officer

Excused: Jeffrey Collura, Councilman

Public: None

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

RESOLUTION #181
APPROVAL OF MINUTES

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

ADOPTED Ayes 3 Lucia, Brown, and Byrnes
Nays 0
Absent 2 Collura and Halliday

RESOLVED that the minutes for June 6, 2013 be approved

RESOLUTION #182
BUDGET ADJUSTMENT

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

ADOPTED Ayes 3 Lucia, Brown, and Byrnes
Nays 0
Absent 2 Collura and Halliday

RESOLVED as follows: Increase Appropriations A4989.1 Paramedic-PS and General Fund A Budget Line with Second and Third Quarter payment from the Town of Day Contract for Ambulance service 2013 in the amount of \$21,500.00.

Councilman Halliday arrived.

Attorney Hafner explained to the Town Board that a change in the General Municipal Law regarding the filing of Notice of Claims against the Town.

RESOLUTION #183
NOTICE OF CLAIM

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

ADOPTED Ayes 4 Lucia, Brown, Byrnes and Halliday
 Nays 0
 Absent 1 Collura

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; **Now therefore Be It**

RESOLVED, that the Town Board of the Town of Corinth, County of Saratoga designates Rose E. Farr, in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State by mail at 600 Palmer Avenue, Corinth, New York, 12822 and email at rfarr@townofcorinthny.com.

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

(Please note that applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the

appointment of a representative of the decedent's estate General Municipal Law, §50-e(1)(a))

General Municipal Law, §53

Alternative service of notice of claim upon the secretary of state

1. In lieu of serving a notice of claim upon a public corporation as provided for in section fifty-e of this article, a notice of claim setting forth the same information as required by such section may be served upon the secretary of state in the same manner as if served with the public corporation. All the requirements relating to the form, content, time limitations, exceptions, extensions and any other procedural requirements imposed in such section with respect to a notice of claim served upon a public corporation shall correspondingly apply to a notice of claim served upon the secretary of state as permitted by this section. For purposes of this article, the secretary of state shall be deemed to be the agent for all public corporations upon whom a notice of claim may be served prior to commencement of any action or proceeding subject to the requirements of this article.

2. All public corporations entitled to have served upon them a notice of claim as a condition precedent to commencement of an action or proceeding shall, no later than thirty days after the date upon which this section shall take effect, file a certificate with the secretary of state designating the secretary as the agent for service of a notice of claim and shall in such statement provide the secretary with the name, post office address and electronic mail address, if available, of an officer, person, or designee, nominee or other agent-in-fact for the transmittal of notices of claim served upon the secretary as the public corporation's agent. Any designated post office address or electronic mail address to which the secretary of state shall mail transmit a copy of the notice of claim served upon him or her as agent shall continue to be the address to which such notices shall be transmitted until the public corporation sends a notice to the secretary informing him or her of a new post office address or electronic mail address to which such notices shall be transmitted. The initial filing with the secretary of state shall also contain the applicable time limit for filing a notice of claim upon that public corporation, or if later changed by statute, a new filing shall be made detailing the new

time limit. Any public corporation that does not have a current and timely statutory designation filed with the secretary of state shall not be entitled to the portion of the fee to which it would otherwise be entitled pursuant to subdivision four of this section. Failure of the public corporation to so file with the secretary of state will not invalidate any service of a notice of claim upon the public corporation which has been received by the secretary of state.

3. The secretary of state is hereby empowered to accept properly transmitted notices of claims on behalf of a public corporation, with the same effect as if served directly upon a public corporation. The secretary of state shall accept such service upon the following terms and conditions:

(a) the secretary of state shall set and notify the public, on his or her website of times, places and manner of service upon him or her of notices of claims necessary to comply with the provisions of this section;

(b) upon receipt of a notice of claim, the secretary of state shall issue a receipt or other document acknowledging his or her receipt of such notice, and such receipt shall contain the date and time of receipt of the notice, an identifying number or name particular to the notice received, and the logo or seal of the department of state embossed upon it. Such receipt shall be prima facie evidence of service upon the secretary of state for all purposes;

(c) nothing in this section shall be deemed to alter, waive or otherwise abrogate any defense available to a public corporation as to the nature, sufficiency, or appropriateness of the notice of claim itself, or to any challenges to the timeliness of the service of a notice of claim. Timely service upon the secretary of state shall be deemed timely service upon the public corporation for purposes of instituting an action or proceeding or other requirement imposed by law.

4. The secretary of state may impose a fee upon any person who serves a notice of claim with the department. Such fee shall not exceed two hundred fifty dollars for each such notice filed. One-half of the fee imposed shall be retained by the secretary of state as payment for its services provided in accordance with this section. The remaining

one-half of such fee shall be forwarded to the public corporation named in the notice of claim provided, however, if more than one such public corporation is named, each named public corporation shall be entitled to an equal percentage of the one-half amount.

5. The secretary of state shall within sixty days after the effective date of this section post on the departmental website a list of any public corporation, including any public authority, public benefit corporation or any other entity entitled to receive a notice of claim as a condition precedent to commencement of an action or proceeding, and that has filed, pursuant to this section, a certificate with the secretary of state designating the secretary as the agent for service of a notice of claim. The list should identify the entity, the post office address and electronic mail address, if available, of the public corporation to which the notice of claim shall be forwarded by the secretary of state, and any statutory provisions uniquely pertaining to such public corporation and the commencement of an action or proceeding against it.

6. The secretary of state is authorized to promulgate any rules or regulations necessary to implement the provisions of this section.

Attorney Hafner talked to the board about the financing of the purchasing of the excavator.

TOWN OF CORINTH
LINK-BELT 75 SPIN ACE EXCAVATOR
EVALUATION OF FINANCING ALTERNATIVES

WHEREAS, the Town Board determined that a need exists for acquisition of a new excavator which was anticipated to cost more than \$20,000; and

WHEREAS, the Town Board authorized the purchase of a 2013 Link-Belt 75 Spin Ace Excavator (the "Equipment") for the amount of \$87,570 including a 5 year/5,000 hour Full Machine Warranty; and

WHEREAS, First Niagara Leasing, Inc. ("First Niagara") has offered to provide financing for the Equipment pursuant to a Lease Purchase Agreement;

NOW, THEREFORE,

Pursuant to the requirements of 6 NYCRR Part 39, the Town Board has prepared the following evaluation of financing of the Equipment:

(a) The estimated cost of the Equipment to be financed, exclusive of the cost of financing, is \$87,570.

(b) The Equipment may be financed with indebtedness issued under the Local Finance Law.

(c) The estimated total cost of the Equipment, inclusive of the cost of financing, if financed pursuant to the Local Finance Law would be \$96,290.05 based on a probable interest rate of 3.25% for a five year statutory installment bond, not including additional costs related to the financing including bond counsel fees and publication.

(d) The estimated total cost of the Equipment, inclusive of the cost of financing, if financed pursuant to the Lease Purchase Agreement as proposed by First Niagara would be \$92,286.60 based on a fixed interest rate of 2.694% and an effective contract term of five years.

(e) The estimated total costs described in subdivision (d) would be \$4,003.45 less than those described in subdivision (c) above, not taking into account bond counsel, publication and other costs related to the financing.

(f) It is in the best interests of the Town to finance the Equipment pursuant to the Lease Purchase Agreement as proposed by First Niagara. If bond counsel fees and other costs related to issuance of the Town's bonds or bond anticipation notes are taken into consideration, the total costs described in (d) above would be significantly less than those described in paragraph (c). In addition, under the Lease Purchase Agreement the Town is not required to pledge its faith and credit and the Agreement terminates if the Town cannot appropriate funds to pay the amounts due thereunder. The Agreement specifically provides that it is not a general obligation of the Town, neither the full faith and credit nor the taxing power of the Town are pledged and the Agreement terminates in the event of non-appropriation of funds. In light of the uncertainty of appropriations for

various Town purposes, this flexibility could be significant at some time over the next 5 years.

RESOLUTION #184
RESOLUTION AUTHORIZING LEASE PURCHASE AGREEMENT
WITH FIRST NIAGARA LEASING, INC. FOR NEW EXCAVATOR

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

ADOPTED Ayes 4 Lucia, Brown, Byrnes and Halliday
 Nays 0
 Absent 1 Collura

WHEREAS, the Town Board determined that a need exists for acquisition of a new excavator which was anticipated to cost more than \$20,000; and

WHEREAS, the Town Board authorized the purchase of a 2013 Link-Belt 75 Spin Ace Excavator (the "Equipment") for the amount of \$87,570 including a 5 year/5,000 hour Full Machine Warranty; and

WHEREAS, the Town Board sought bids for financing the cost of the Equipment; and

WHEREAS, bids were received from First Niagara Leasing, Inc. ("First Niagara"), KS State Bank/Baystone Government Finance and De Lage Landen Finance; and

WHEREAS, on May 9, 2013 the bids received were publicly opened and read aloud; and

WHEREAS, First Niagara submitted the bid with the lowest interest rate which included the extended Warranty; and

WHEREAS, the Town is authorized to enter into lease purchase agreements for financing equipment, machinery or apparatus under General Municipal Law §109-b; and

WHEREAS, the Town Board prepared an evaluation of financing alternatives as required by 2 NYCRR Part 39;

NOW, THEREFORE, BE IT RESOLVED BY THE CORINTH TOWN BOARD AS FOLLOWS:

Section 1: After taking into account the evaluation of financing alternatives, the Town Board hereby determines that it is in the best interests of the Town to finance the Equipment pursuant to a Lease Purchase Agreement with First Niagara for the following specific reasons: In light of the uncertainty of appropriations for various Town purposes, the flexibility afforded by termination of the Lease Purchase Agreement if the Town cannot appropriate funds to pay the amounts due thereunder could be significant at some time over the next 5 years.

Section 2: The acquisition of the Equipment under the terms and conditions provided for in the Lease Purchase Agreement is necessary, convenient, in furtherance of, and the Equipment will at all times be used in connection with, the Town's governmental and proprietary purposes and functions and is in the best interests of the Town, and no portion of the Equipment will be used, directly or indirectly, in any trade or business carried on by any person other than a governmental unit of the State on a basis different from the general public.

Section 3: The Town Board hereby authorizes financing the purchase of the Equipment pursuant to the provisions of the Lease Purchase Agreement proposed by First Niagara.

Section 4: The Town Supervisor is hereby authorized and directed to execute and deliver the Lease Purchase Agreement with First Niagara and to execute and deliver such other agreements, instruments and other writings, and to take such further actions as he, in his sole discretion, deems necessary or desirable to carry out the intent of this Resolution and the Lease Purchase Agreement.

Section 5: The Town Board hereby certifies that the Town has not issued or effected the issuance of, and reasonably anticipates that it will not issue or effect the issuance of, more than \$10,000,000 of tax-exempt obligations during the 2003 calendar year and, to the extent that it is permitted to do so under the Internal Revenue Code of 1986, as amended (the "Code"), hereby designates the lease of the Equipment to which the Agreement pertains as a "qualified tax-exempt obligation" as defined by Section 265(b)(3) of the Code.

Section 6: The Town Board hereby covenants that it will perform all acts within its power which are or may be necessary to ensure the maintenance of the Town's legal status as being a duly organized and existing entity under the Laws of the State, which status is the basis for the interest portion of the rental payments coming due under the Agreement to at all times remain exempt from federal income taxation under the laws and regulations of the United States of America as presently enacted and construed or as hereafter amended.

Section 7: Effective Date - This Resolution shall take effect immediately.

ROLL CALL

AYES: Lucia, Brown, Byrnes and Halliday
Collura

NAYS: None ABSENT:

The Resolution was declared duly adopted by a vote of not less than two-thirds (2/3) of the full membership of the Town Board.

Supervisor

The following are on file in the Supervisor's office:

- Mortgage Tax collected by the County was in the amount of \$3,405.00.
- ADK Information
- Letter from Congressman Owens regarding looking into extending the natural gas line
- Saratoga County Fair - July 16th - July 21st
- Sundae on the Farm - June 16th
- Post 533 Letter to Corinth Emergency Services apologizing for the oversight to Emergency Services during the ceremonies of the Memorial Day Parade
- Time Warner Letter
- Letter from ORPS - Equalization Rate 100%
- EMS Training Classes - June 25th, July 9th
- Reminder of Saratoga County Emergency Service Coordinators meeting on June 25th
- Senior Sentinel
- Tomahawk News

Attorney Update

Nothing

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

- Town Clerk
- Highway
- Animal Control
- Building Department
- Justices
- Senior Center
- Supervisor's Report - May

RESOLUTION#185

APPROVAL OF SUPERVISOR'S REPORT AS PRESENTED

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

ADOPTED Ayes 4 Lucia, Brown, Byrnes and Halliday
 Nays 0
 Absent 1 Collura

Resolved that the Town of Corinth Town Board accepts as presented the Supervisor's monthly financial report for May 2013.

Town Board

Councilmen Brown and Halliday

Nothing

Councilman Byrnes

Councilman Byrnes told the board that he was excited about the progress being made with the Senior Housing. He said he wished to thank Melanie Denno and Laurie Crossman for their assistance.

Town Clerk

Nothing

Town Attorney

Nothing

Highway

Nothing

Code Enforcement

Code Enforcement Office Leon Hickok told the Town Board that he and Beverly Jacon would be going out for the next two weeks taking pictures for their offices and checking on the numbering according to 911.

RESOLUTION #186
MOTION TO ADJOURN

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

ADOPTED	Ayes	4	Lucia, Brown, Byrnes and Halliday
	Nays	0	
	Absent	1	Collura

RESOLVED that with no further business the board adjourned at 7:35PM.

Respectfully submitted,

Rose E Farr, RMC

Town Clerk