

July 13, 2017

The Town Board of the Town of Corinth held a meeting on July 13, 2017 at 7:00PM at the Town Hall.

Present: Richard B. Lucia-Supervisor
Charles Brown-Councilman
Edward Byrnes-Councilman
Jeffrey Collura, Councilman
Joshua Halliday-Councilman
Shawn Eggleston-Highway Superintendent
Albert Brooks, Code Enforcement
Jacquelyn White, Town Counsel
Rose E. Farr, Town Clerk

Public Franklin Benneck, Tim Halliday, Matt Fogarty and C. Eric Butler.

After roll call, the pledge of allegiance, and prayer, the following business was conducted:

Councilman Byrnes said that he needed to discuss changes in the minutes of June 22nd and July 6th with the Town Clerk.

RESOLUTION #201

TABLE APPROVAL OF MEETING MINUTES FOR JUNE 22nd AND JULY 6th 2017

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

ADOPTED 5 AYES Lucia, Brown, Byrnes, Collura and Halliday
0 NAYS

RESOLVED that the approval of the meeting minutes for June 22nd and July 6th, 2017 be tabled until July 20, 2017.

Confidential Letter from Attorney

The following Memorandum was received response to Councilman Collura letter to the board at the June 8th meeting regarding Weapon Restrictions.

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Michael J. Hill, Of Counsel

MEMORANDUM

TO: Corinth Town Board **VIA E-MAIL**

FROM: Miller, Mannix, Schachner & Hafner, Town Counsel

DATE: July 12, 2017

RE: Constitutionality of Weapon Restrictions

You have again asked us to look into the constitutionality of the Town's Workplace Violence Policy, which prohibits the possession of weapons, including licensed handguns, on Town property and in the Town workplace. We enclose the April 12, 2012 Memorandum we provided on this issue. With the recent inquiry facilitated by Councilman Collura's June 2017 correspondence on the issue, we have revisited our research and find that the legal opinions expressed in our previous Memorandum remain unchanged. The Town's prohibition against weapons on Town property and in the workplace does not violate the Second Amendment of the United States Constitution. Municipalities may lawfully regulate the possession of firearms on municipal lands and the possession of firearms by their employees.

Councilman Collura's recent correspondence raised a concern regarding the Town and elected official's potential liability related to this policy in the event that there is a violent attack on Town property. We do not see any likelihood of success on the hypothetical claims discussed in the letter because the Town's policy does not appear to violate the Constitution, which is in underlying premise in the potential liabilities discussed.

We also note that laws and policies similar to the Town's policy are common throughout the Nation at the Local, State and Federal levels. For instance, the carrying of firearms is generally prohibited in Federal and New York State facilities pursuant to Federal and State Regulations. We are not aware of any successful legal challenges against similar laws and policies.

Corinth Town Board
Re: Constitutionality of Weapon Restrictions
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However, as we have advised in the past, this is obviously a policy decision for the Town Board to make. If the Town Board would like to remove the prohibition against weapons on Town property and in the workplace, please let us know and we can assist in drafting the necessary documents to do so.

Encl.

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MEMORANDUM

TO: Jeffrey Collura, Town Councilman

FROM: Miller, Mannix, Schachner & Hafner, LLC, Town Counsel

DATE: April 12, 2012

RE: Constitutionality of Weapon Restrictions

You recently inquired about the constitutionality of the Town's Workplace Violence Policy which prohibits the possession of weapons, including licensed handguns, on Town property.

As you discussed with Supervisor Lucia and me, the Second Amendment to the United States Constitution protects the right to keep and bear arms for the purpose of self-defense. It is clear that the Fourteenth Amendment has been interpreted by the United States Supreme Court to apply the protections of the Second Amendment to State or local governments, not just to the federal government. The Second Amendment prohibits a municipality, such as the State of New York or the Town of Corinth, from banning the possession of handguns in the home. This Constitutional right has been consistently upheld. However, the right to bear arms is not an unlimited right and it is constitutional to regulate the carrying of firearms on government property. *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010); *District of Columbia v. Heller*, 554 US 570 (2008). Furthermore, it has long been accepted in New York that municipalities may prohibit their employees from carrying licensed firearms while on duty and may prohibit the possession of firearms on municipal property. See, 1999 NY Op. Atty. Gen. 1069 (1999); 1989 NY Op. Atty. Gen. 169 (1989).

The Second Amendment does not apply in the case of the Town's Workplace Violence Policy based on two relevant considerations. First, the United States Supreme Court has consistently made it clear that the Second Amendment does not cast any doubt on long-standing regulatory measures such as laws forbidding firearms in sensitive

Jeffrey Collura, Corinth Town Councilman
Re: Constitutionality of Weapons Restriction
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places such as schools and government buildings or prohibitions on the possession of firearms by felons and the mentally ill. Therefore, it is clear, based on Constitutional law, that the Town can forbid firearms in Town Hall or other Town buildings. Second, the Town, acting as an employer, has the right to establish its own policies which can prohibit Town Officers and employees from possessing firearms while working on Town property. These types of rules have been held within a government's rights and to not violate the Second Amendment. The bottom line is that it does not violate the Second Amendment of the United States Constitution for the Town to prohibit firearms on Town property or prevent employees from carrying firearms while on duty.

Whether or not the Town wishes to prohibit the carrying of firearms on Town property is a policy decision to be made by the Town Board. This policy does not interfere with the Second Amendment Constitutional protection permitting ownership of firearms by United States citizens. The Town's policy passes Constitutional muster if it (1) prohibits firearms being possessed in Town Hall (or on any other Town properties) or (2) prohibits Town Officers and employees from possessing firearms while working. It is a policy decision for the Town Board to make whether these types of regulations are to be adopted. If the Town Board wishes, it could change or abolish these regulations. If the Town Board wishes to change its policy, let us know and we will help you with the process.

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Councilman Collura then asked Attorney White various questions regarding citizens' rights under the

Constitution and Bill of Rights such as the Second Amendment Rights to bear arms, rights of counsel, etc. Attorney White told Councilman Collura that these were people constitutional rights but the Town has a right to set policy for their employees and their property Attorney White said that if the Town wished to change the policy they could also do that. Councilman Collura said he had a problem with people having certain constitutional rights and the town being allowed to infringe on some of their other constitutional rights Councilman Collura explained that there are unfavorable people in the Town Hall all the time and the employees have no way to defend themselves..

Councilman Byrnes stated why he is in favor of leaving the policy as it now reads as follows:

- There is a lot of work place violence
- He felt that he would prefer to have a co-worker that was upset with one of his co-workers be able to go home and think about it before he/she acts on it
- He said if an employee has a shotgun or gun next to his or her desk and a person it aware of that an irate person could grab that gun and cause injury or death
- He said he feels that this matter is discussed many times and it is placed in the minutes for people to read. This makes the public aware that there is no protection for the Town employees

Councilman Byrnes said he felt that since Councilman Collura voted not for the for this matter at organizational time he vote no for all the policies such as Sexual Harassment, etc. that The Town passed in their Organizational Meeting.

Councilman Collura asked Councilman Byrnes if he was comfortable with Gun Free Zones. Councilman Collura said that if he was then Gun Free Zones should have appropriate signage.

Town Clerk Farr told the board that Resolution #144 of April 13, 2017 needed to be amended so that the Town could prepay their health insurance bills.

RESOLUTION #202

TO AMEND RESOLUTION #144 OF APRIL 13, 2017 TO INCLUDED HEALTH INSURANCE PREMIUMS

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

ADOPTED 5 AYES Lucia, Brown, Byrnes, Collura and Halliday
 0 NAYS

RESOLVED that health Insurance premiums be added to the resolution as a payment in advance with said payments being presented at the next regular meeting for audit.

Supervisor Lucia gave each board member a copy of the Assessment Decision in the recent Assessment Litigation matters.

EMS

Matthew Fogarty gave the EMS report for June.

Councilman Collura asked Mr. Fogarty about changing the rule for not working in 6 months. Matt Fogarty explained that this is in the Employees' Handbook and Attorney Peterson is working with him to change certain things when the time is right.

Councilman Collura also asked about the second ambulance being equipped with the power stretcher as was discussed over a year ago. Town Clerk Farr told him that the Stryker stretcher was not on state contract and the former director was supposed to get three quotes. She said that the new ambulance ended up costing more than we had thought so there is not enough money in the budget at this time. Matt Fogarty told the board that the stretcher system would not fit in the smaller ambulance and it would fit in the older ambulance but he would not suggest installing it in that ambulance.

Bookkeeper

Kate Halliday gave the board the Financial Report, ACA Report, and Overtime Report.

Supervisor Lucia told the board that the following are on file in his office:

- Senior Sentinel
- Mortgage Tax Report - \$13,014.33

County Highway

Supervisor Lucia told the board that he had spoken to Keith Manz of Saratoga County Highway about various matters:

- Plowing of roads – Mr. Manz said that the contract would need to be revised to state in case of notification of an emergency;
- Bins at Landfill – Mr. Manz told Supervisor Lucia that the bins were supposed to be empty to start Saturday out. He said that if they are not the County should be notified;

Supervisor Lucia stated that the County is checking into share service with the various Towns. He said that regarding the Medicare Health Insurance (Retirees) the Town is paying \$313.00 a month and the County is paying \$280.00 which would save the Town approximately \$5500.00 per year.

Supervisor Lucia spoke about the Playground Director. He told the board that he had received several inquiries about the job. He also told the board that he met with Wes Carr from the

county and the money is there. He said if within the next week or two a Director and assistant are appointed we could have a playground for six weeks. Supervisor Lucia told the board that he had been contacted by a woman from EOC and she is willing to help in any way she can. Also he was contacted by a member of Captain and was told that they would help.

RESOLUTION #203

MOTION TO ACCEPT SUPERVISOR REPORT AS PRESENTED.

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

ADOPTED 5 AYES Lucia, Brown, Byrnes, Halliday and Collura
 0 NAYS

RESOLVED that the Supervisor's Report for June 2017 be accepted.

Public

Franklin Benneck

Franklin Benneck appeared on behalf of the Hunt Lake Homeowners Association. He requested the following:

- He said the resident at Hunt Lake asked that the highway not be any wider than it is now
- He said the residents are interested in having trees removed from the public spot at Hunt Lake. Highway Superintendent Eggleston said that he would if they were sure that they wanted them removed. Councilman Collura suggested that Mr. Benneck mark the trees that were to be removed with his initials or name.
- Mr. Benneck told the board that the Association asked that the speed limit be reduced from the 30MPH that it is now. The board told him what had to be done to change it.
- Mr. Benneck asked if the Town could install speed bumps. Highway Superintendent Eggleston told Mr. Benneck that he could not do that.
- Mr. Benneck spoke of a culvert near Mrs. Forbes property that she was afraid the postmaster could go in it. He asked that the highway department look at this culvert.
- Mr. Benneck said that the residents would like the highway department not to take any material off the wall of dirt in the district. Highway Superintendent Eggleston told Mr. Benneck that in order to clean out the culverts he had to use an excavator so he could not guarantee that he would not disturb the wall.
- Mr. Benneck told the board that the resident still wanted to look into Invasive Species. Supervisor Lucia told him that the Town's Attorney had told them that a district must be formed and all expenses of the district would have to be paid by the residents of that district.

Supervisor Lucia told Mr. Benneck that he wished to thank the Association for their donations to the EMS.

RESOLUTION #204

MOTION TO APPROVE BILLS AS AUDITED WITH EXCEPTIONS

On a motion by Councilman Collura and seconded by Councilman Halliday the following resolution was

ADOPTED Ayes 5 Lucia, Brown, Byrnes, Collura and Halliday
 Nays 0

RESOLVED that the bills be approved as audited with exceptions as follows:

2017 ABSTRACT

Abstracts For 07/14/2017

Voucher A - #170390- #170436; B - #172112- #172232; DB #173192-#173219 (#173210 Void):
EF #177173 - #177192: SL Eggleston #174060; SL Eastern #174042 and SL So Cor - #174012;

<u>General Fund A</u>	\$ 33,398.16
<u>General Fund/Outside Village - B</u>	\$ 4,290.63
<u>Community Development Grant - CD</u>	\$
<u>Highway/Part Town - DB</u>	\$135,040.28
<u>Medical – EF</u>	\$ 6,907.81
<u>Fire - SF</u>	\$
<u>Sewer/Water</u>	
Eastern Avenue	\$
Tranquility	\$
Passarelli	\$
Dorset	\$
<u>Lighting</u>	
Eastern Avenue	\$ 183.65
Eggleston Street	\$ 95.60
South Corinth	\$ 158.28

Town Board

Councilman Byrnes

Councilman Byrnes asked about the Deputy Dog Control Officer applications. Supervisor Lucia told him that he only had one application so far.

Councilman Byrnes told Highway Superintendent Eggleston that he and his crew did a very nice job on Wilton Mountain Road. He asked what Wilton did on their side and Highway Superintendent explained the process that was followed.

Councilman Byrnes told the board that he had a meeting with the Neighborhood Watch and two sergeants from Saratoga County Sheriff's Department came to the meeting. He also said that a President of another Neighborhood Watch was present. He said there has been quite a few changes since he last was involved with the Neighborhood Watch. Councilman Byrnes said he wanted to thank Sheriff Zurlo for allowing the men to attend this meeting.

Councilmen Halliday & Brown

Nothing

Councilman Collura

Councilman Collura told Highway Superintendent Eggleston that there was a rough patch on the road going from Hunt Lake Road to County Route 10. Highway Superintendent Eggleston said that the County is paving South Shore Road and he would think they would correct this. Highway Superintendent Eggleston said he would pass this on to the County Highway Department.

Councilman Collura asked that the board be given a draft of what the Attorney was going to discuss relating to the Water District. Supervisor Lucia said that Attorney Hafner wanted to discuss it with the board before anything was given out. Attorney White said she would speak to Attorney Hafner regarding this matter.

Town Clerk

Town Clerk Farr spoke about the Paid Family Leave that was taken out of all employees paychecks today. She presented the board with an email from Mike Lombardi of the NYS Workers' Compensation Board which stated that Workers' Compensation Law excludes public employment from the definition of covered employer, so they are not covered unless they opt in. Town Clerk Farr said she found no resolutions on record that the Town wished to opt into this. Supervisor Lucia told the board that he had not opted in to this program. Councilman Halliday said that maybe since the Town has GTM they opted into this for the Town. Supervisor Lucia said that the Town would contact GTM and ask that they refund all employees money that was taken out. He also suggested that the Town have a meeting with the employees to discuss this before any deductions were taken from their checks.

Attorney

Nothing

Highway Superintendent

Nothing

Code Enforcement

Code Enforcement Officer Brooks told the board that he was going to be going to court on a case this next week and he was meeting with people from the State tomorrow regarding the pool problem.

RESOLUTION #205

MOTION TO ADJOURN

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

ADOPTED 5 AYES Lucia, Brown, Byrnes, Halliday and Collura
 0 NAYS

RESOLVED that at 8:25PM the Town Board adjourned.

Respectfully submitted,

Rose E. Farr, RMC
Town Clerk