

The second regular meeting of the Kingsbury Town Board was conducted on August 17, 2020 at the Kingsbury Town Hall on 6 Michigan Street.

MEMBERS PRESENT: Dana Hogan, Supervisor  
Richard Doyle, Councilman  
William Haessly, Councilman  
Jane Havens, Councilwoman  
Dan Washburn, Councilman

OTHERS PRESENT: Irene Weizenhofer, Deputy Clerk  
Todd Huminston, Enforcement Officer  
Jeffrey Meyer, Town Attorney  
Rebecca Pomainville, Comptroller  
Michael Graham, Highway Superintendent  
Dennis P. Sullivan, Town Highway  
Dennis P. Kelly, Town Resident  
Jerry Caruso, Town Resident  
Dan Colomb, Town Resident  
Dan Ellsworth, Town Business Owner  
Celeste McDonald, Town Resident

The meeting was called to order by Supervisor Dana Hogan at 7:00 PM and opened for Order of business with the Flag Salute by Councilman Doyle.

A **motion** by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to accept the minutes of the August 3, 2020 Town Board Meeting as submitted by the Town Clerk with a correction from Councilman Havens to Councilwoman Havens.

Supervisor Dana Hogan called for a public comment session to be pulled up to the first of the agenda at 7:02 pm.

Business Owner Daniel Ellsworth spoke, a local business owner, addressed the Board as he purchased a farm at 74 Bardin Road in Kingsbury about a year ago. It was operating as a dairy farm when purchased. Once closer to winter he had issues due to the cold, sales of milk and COVID, milking was not necessarily his forte, so he sold the milk cows and kept some beef cows to get through until spring. He stated he has been getting some nuisance business complaints about him operating his contracting business out of his farm. He is here humbly to clarify with the town that that is not the case. He said he has and owned another business, DE contracting, paving type business in Lake George at 1776 State Route 9 in operation since 1994, where he has his office, a secretary, telephones, billing and receives all of his mail. He said he does keep some of his DE construction trucks at the farm. His construction company is actually operating the farm. He uses the same employees. He has done massive infrastructure improvements to the farm, such as; drainage, roads, fill, fencing, buildings, wells, workable tillable fields and irrigation. To start a farm and have to buy all the equipment to do specific jobs is not reasonably or financially feasible. So, he uses employees and equipment from his construction company to do the work on the farm. At this time, he doesn't have any employees specific for the farm. He needs to build a business model to sustain that. He is paying his employees as construction workers not farm workers. In his opinion, his attorney, accountant and NY State by paying the construction higher wages to employees and higher insurance rate cost for work comp this covers for contracting construction work

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employees to work on the farm. It would be an unreasonable burden for him to have to move equipment in & out on a daily basis. He doesn't use all equipment every day, sometimes it sits on the farms for days or weeks, depending on the need. He tries to organize himself and doesn't want to continue down this road defending himself against complaints in the future. He said he has spoken with the Commissioner of Agriculture, trying to give them insight of what is going on. Their opinion is that as long as he is invested and conducting agricultural activities. Also, in the Kingsbury town code it talks about the right to farm in the town of Kingsbury. In the definition section it says agriculture farm operation; any person, organization, entity, association, partnership or corporation engaged in the business of agriculture for profit or nonprofit. So, myself, Dan Ellsworth, LLC and my contracting company are all engaged in agriculture. Dan just purchased another 82 acres which has added to his farm and now has 300 acres. The land was overgrown, he cleared it from brush and planted 60 acres of corn and sold it to Ideal Dairy as feed. He grows a type of hay as well but at this current time he doesn't have animals. By Spring he will have black angus cows. He wants to get to the point of being organic certified so that in the future the farm can stand on its own. He just can't do it without all his construction tools available to him in order to make it happen. He wanted to explain his issues and is hoping to get guidance from the town regarding future complaints. He is willing to take advise, follow protocol's, anything that you ask of me, instruct me to do and help me get the land where it needs to be for a sustainable business. He is not here to cause problems. He needs to make improvements as it was a garbage dump. He feels he is an asset to this community. He says if you drive by other local farm's you'll see other nonagricultural companies and multiple business such as paving, tree business, tractor trailers, dump trucks. He feels he is being targeted as he is the new guy on the block. Supervisor Dana Hogan asked who has targeted him? Dan replied, neighbors. Dan said he just wants to be part of the community and willing to work with the town in any way. He wants to do the best that he can. Dana Hogan thanked him. Dana Hogan asked if there were any other public comments? No replies.

Resident Dennis Kelly, commented that in line with the solar energy thing one of the things coming up in the industrial park is looking at selling lot #3 to a propane facility, which is 3 places down from Dennis's place. They are proposing two 30,000-gallon tanks as a default for a company. They are also proposing and suggesting a pilot program, a mortgage tax abatement and one other tax abatement. The sculpt of the project is to start with one-half part-time position to begin with and then over the whole project they are talking about having a total of 3 employees at the facility. In regards to the pilot program, in my respect, it is ridiculous that we give them tax abatement for 10 years to gain 3 jobs. It doesn't make any sense to me, why do it? There is another propane business in town that didn't ask for any of that. I don't understand. I would ask this board when and if it does come to light in the town of Kingsbury that you reject the pilot program because it doesn't benefit in what we're going to lose.

Supervisor Dana Hogan said that it is his understanding that all pilots essentially must be approved by the Town of Kingsbury. There was some discussion recently, based on current policy in place we will have the option to review it. Dana Hogan thanked Dennis.

Resident Jerry Caruso asked is this a definite on this propane thing as these was one years ago that got shot down. Where is lot #3?

Supervisor Dana Hogan said this is a new propane company it is over on County Line Road next to Kingsbury printing.

Supervisor Dana Hogan asked Enforcement Officer Huminston if there was anything on the planning board about this?

Enforcement Officer Humiston responded; I have not heard a thing.

Resident Dan Colomb commented he lives next to Dennis Kelly, he also is obviously not excited about a propane storage facility that close to us. I think it would look like hell, to be perfectly honest. Do they plan on taking in old tanks and storing them too? Look at Amerigas, it looks like hell. I have concerns with the IDA is already wanting to making exceptions to the covenants that are in place and they want to fast-track it. I'm sick and tired, we have regulations to govern these things and they just throw it out the window. We've dealt with shavings that just doesn't fit the profile of the park. It's going to be an eye sore. A guy down the road has granite slabs out front and it looks like hell. There's another skilled fabricator that was required to put fencing up that was affected by a storm 3 years ago and it still looks like hell. I mean, it's becoming a junkyard down there. Some places really take good care of their property. They just want to sell them, get somebody in there then just forget about it. I think it was designed for small businesses. Most people are inside doing their jobs. I live down the road, I think Kingsbury Printing should be made aware of it as they are going to have a negatively effect on their value. These are my concerns.

Supervisor Dana Hogan thanked Dan Colomb and announced the meeting tomorrow on this subject is at the Washington County building.

Supervisor Dana Hogan opened the public hearing at 7:18 pm for public comment regarding number one on the agenda and stated to discuss a proposed local law imposing a limited large-scale solar energy generating land use moratorium. He asked for any public comments.

Resident Dan Colomb spoke and advised there was some concern as there was a talk at the planning board meeting of if it was a good idea to put this in there than why do they need tax relief. They are cutting down 12 acres of trees to put in green energy which is counterproductive, using grassland is one thing they're removing carbon from the air. He doesn't know what Kingsbury has set up for solar. Dan doesn't know how this is even getting into an AG business? Is it because the business name has farm in it?

Supervisor Dana Hogan stated this is not related to any specific project that has approval or pending approval. Dana does have a couple of concerns based on input received. We don't have an agricultural stewardship plan nor a master plan. Dana's understanding is that the state had signed into law an accelerated renewal solar growth generating act for April 2020 and it feels like solar arrays have sped up requests in our community. Warren/Washington County IDA is now looking at whether they want to provide a county wide solar. All of these reasons combined has led me to feel we don't have enough information right now to make a decision to whether or not we should be doing something differently. There was a press release by the Governor's office they indicated that their hope was that solar arrays would utilize landfills, brown fields, abandoned properties. Our concern is we don't have a lot of that in Kingsbury but we do have a lot of fertile farm land. Acknowledging that or not addressing our agricultural stewardship needs we're leaving ourselves potentially long-term negative impact, putting too many of these solar arrays in the wrong places in the town of Kingsbury.

Mr. Colomb commented; he was surprised they weren't talking about putting something like this at the airport which has a huge mass area. This would be perfect, it's all open, next to the industrial park and already fenced in, yet not pursued.

Councilman Richard Doyle replied there is some reflection problems with solar panels with airplanes. We ran into this with Cypress, another solar farm near an airport. They had to get FAA approval.

Mr. Colomb stated this one coming up is a property between Dennis and I, we are right next to the airport in the flightpath. If it's o.k. there, it should be o.k. at the airport. He doesn't mind it being there so much as long as nobody sees it. He doesn't think anybody that lives in a rural area wants to look at it.

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On the north side where he is, in a raised ranch, he's going to see the whole thing as they were only willing to put trees only so far down in a very small section. These are some of the things to think about when you are developing a plan. We all love them because it's free energy but we shouldn't have to look at them.

Mr. Caruso asked what is the definition of large scale?

Supervisor Hogan replied anything over 1 megawatt. We do get a lot of phone calls on a regular basis and until someone goes to the planning board and gets their approval we just never know. This is a commercial array not an individual property owner. Again, this not related to any specific project but this just feels like a perfect storm that could be coming our way if we don't do this the right way. We can rescind our moratorium at any time, if needed.

Resident Dennis Kelly questioned this proposal for the moratorium is for a year or two year?

Supervisor Dana Hogan replied the moratorium is for 6 months with the opportunity to extend twice more for additional 6-month periods, for an additional year.

Resident Dennis Kelly asked if pilot programs will be discussed?

Supervisor Dana Hogan responded by saying the town of Kingsbury remains opted in real property tax 487 where we retain the authority to negotiate pilots individually to this town, that does not apply to the school nor the county they have opted out. If solar array wants to come in to our community they still have to pay full school and county taxes based on the assessed value of the property.

Resident Dan Colomb asked how do they come up with the assessed value because they are talking about a 12-million-dollar project, is that the dollar amount to be used?

Supervisor Dana Hogan said that is a better question for our assessor. If you want specifics, I can ask her to call you as there are different criteria/methods that can be used for assessments. Leave your telephone number and I'll ask our assessor to call you. I think solar arrays have their own beliefs as how they should be assessed.

Mr. Colomb, commented they mentioned there was a hundred-foot setback on the property and rest of it is going to be enclosed with a fence. There was a question regarding land maintenance.

Supervisor Dana Hogan responded that at this point it seems that there are more questions than there are answers, this is why we need to revisit the moratorium.

Councilman William Haessly commented as he wanted to recap at first the way the taxes are is in our town last year or a year and a half ago, we developed a pilot format agreement that every developer has to use. In accounting it's called a sewer to double declining depreciation in analysis in reverse. In the beginning they pay a small amount of taxes, after 15 years they are paying full taxes on the whole installation. Developers generally don't buy the land; they lease the land. They take over and pay the taxes. Lease agreements are proprietary to the company any may sell their interest to someone else. At the town we have forced the developers to show us the lease agreement so we know what's going on. Anybody else who comes here will still have to pay taxes under the pilot format that we have as a resolution about a year and a half ago. Based value of the whole project the assessor will have to come up with a whole value, there is a formula. Solar companies pay at the same rate, they don't get special deals. The state has indicated they want to identify throughout New York state all the places where solar energy could be put in. Also identify by map where solar could go based on connectivity to power. Our solar areas are our agricultural areas. My concern is that they'll go in and negotiate a real good deal with the land owner, offer to pay his taxes. The farmers will lease their land, which is real good land for 10-12 dollars per acre up to 15. The benefit of leasing this land is they all get an agricultural exemption. This is why we need to identify, from this town, where solar can go. This way our local farmers are not forced out of their farm land because of a developer coming and grabbing it. This is the reason we need the moratorium so town of Kingsbury can have better land use. Councilman Haessly stated this is his take is on this issue.

Supervisor Dana Hogan asked if there were any more comments on the moratorium? There were no comments.

Supervisor Dana Hogan stated at 7:35 pm he would like to close the public hearing.

A **motion** by Councilwoman Jane Havens, seconded by Councilman William Haessly and carried by a vote of 5 ayes to accept the local law imposing a limited large-scale energy generating land use moratorium with one change to strike out paragraph III which was a duplicate of paragraph II

**TOWN BOARD OF THE TOWN OF KINGSBURY**

**COUNTY OF WASHINGTON, STATE OF NEW YORK**

Resolution No. 3 of 2020

Adopted August 17, 2020

Introduced by Councilwoman Havens

who moved its adoption

Seconded by Councilman Haessly

**RESOLUTION ADOPTING PROPOSED LOCAL LAW**

**IMPOSING A LIMITED LARGE SCALE SOLAR ENERGY GENERATING FACILITY LAND USE MORATORIUM**

**WHEREAS**, pursuant to Section 10 of Municipal Home Rule Law and Sections 264 and 265 of Town Law, the Town Board of the Town of Kingsbury (the "Town") has the authority to adopt local laws amending the Zoning Local Law of the Town of Kingsbury and the Code of the Town of Kingsbury; and

**WHEREAS**, a sudden increase in developmental pressures within the Town of Kingsbury with respect to development of large scale solar energy generating facilities has raised the prospect that the existing Chapter 280 of the Code of the Town of Kingsbury may not be adequate for the review of the impacts and mitigation of the consequences of such uses and the approval thereof; and

**WHEREAS**, the Town Board wishes to further evaluate the impact of the existing Solar Energy System PILOT local law, the available option of opting out of the tax exemption under §487 of the Real Property Tax Law, and the possibility of the Counties of Warren and Washington Industrial Development Agency unilaterally negotiating PILOT agreements absent Town approval; and

**WHEREAS**, the Town Board scheduled a public hearing to be held before the Town Board on August 17, 2020 at 7:05 p.m. at the Offices of the Town of Kingsbury, 6 Michigan Street, Hudson Falls, New York, to hear all interested parties regarding the adoption of a proposed Local Law Imposing a Limited Large Scale Solar Energy Generating Facility Land Use Moratorium; and

**WHEREAS**, notice of said public hearing was duly posted and then published in *The Post Star*, the official newspaper of the Town, pursuant to and in conformance with Section 20 of the Municipal Home Rule Law and Sections 264 and 265 of Town Law; and

**WHEREAS**, said public hearing was duly held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to the proposed Local Law; and

**WHEREAS**, the proposed Local Law, is a Type II action pursuant to the State Environmental Quality Review Act (“SEQRA”), as codified under 6 NYCRR Part 617 et. seq.

**NOW, THEREFORE BE IT**

**RESOLVED**, the Board, upon due deliberation of the proposed Local Law and the comments presented at the public hearing, finds that the adoption of the same shall be in the best interests of the Town and protects the public health, safety and welfare. The proposed Local Law is limited in its duration and scope to evaluate the efficacy of the existing zoning regulations as they relate to the large scale solar energy generating facilities and the impact of section 487 of the Real Property Tax Law with respect to establishing programs for the payment in lieu of taxes agreements; and be it further

**RESOLVED**, the proposed Local Law is hereby adopted, copies of which are attached hereto and made a part hereof; and be it further

**RESOLVED**, the Clerk is hereby instructed to file a certified copy of the Local Law in the Office of the Secretary of State; and be it further

**RESOLVED**, the Law shall take effect upon its filing with the Office of the Secretary of State and filing of an affidavit of publication with the Clerk; and be it further

**RESOLVED**, this resolution shall take effect immediately.

**TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK  
Local Law No. 2 of 2020**

**A LOCAL LAW IMPOSING A LIMITED LARGE SCALE SOLAR ENERGY GENERATING FACILITY LAND USE  
MORATORIUM**

**Be it enacted** by the Town Board of the Town of Kingsbury (“Town”), County of Washington, State of New York (“State”) as follows:

### **Section 1. Legislative Intent.**

The purpose of this local law is to protect the public health, safety and welfare by restricting the development of large scale solar energy generating facilities within the Town of Kingsbury for a limited period of time in order to further develop and revise the applicable zoning law provisions specific to large scale solar arrays and to review the established policies and procedures to implement a program for payment in lieu of taxes pursuant to section 487(9)(a) of the NYS Real Property Tax Law or opt out of the tax exemption under section 487 of the NYS Real Property Tax Law.

### **Section 2. Findings.**

The State of New York has, as a matter of public policy, undertaken a policy to encourage the development of facilities for the generation of solar energy. This includes the passage of Accelerated Renewable Energy Growth and Community Benefit Act, which was included as part of the 2020-2021 State Budget. As the result, there has been a sudden increase in developmental pressures within the Town of Kingsbury with respect to development of large scale solar energy generating facilities. The Town Board is therefore concerned that the existing Chapter 280 of the Code of the Town of Kingsbury ("the Zoning Law") may not be adequate for the review of the impacts and mitigation of the consequences of such uses and the approval thereof.

There is also little guidance within the provisions of §487 of the Real Property Tax Law with respect to establishing programs for payment in lieu of taxes agreements as an alternative to opting out of the exemption provided thereby. The Town Board wishes to further evaluate the impact of the existing Solar Energy System PILOT local law, the available option of opting out of the tax exemption under §487 of the Real Property Tax Law, and the possibility of the Counties of Warren and Washington Industrial Development Agency unilaterally negotiating PILOT agreements absent Town approval. Therefore, it is necessary and appropriate to implement a temporary and limited moratorium with respect to the development of large scale solar energy generating systems in the Town of Kingsbury. Doing so shall preserve the status quo while the Town Board completes an evaluation and formulates revisions in the Zoning Law to provide for an effective process to regulate, review and approve applications for large scale solar energy generating facilities, and develops policies and procedures for a payment in lieu of taxes program, thereby reducing the possibility that any such zoning revisions may be rendered ineffective and their purpose defeated in the interim, and avoiding the necessity of once again, opting out of the tax exemption afforded under §487 of the Real Property Tax Law.

### **Section 3. Moratorium Imposed.**

**Large Scale Solar Energy Generating Facilities Temporarily Prohibited.** For a period of six (6) months following the date of adoption of this local law, no new site plan applications shall be accepted, reviewed, or approved by the Planning Board with respect to large scale solar energy generating facilities, hereby defined as non-farm large scale solar systems generating 1 MW or more of energy for sale to utility companies or for other commercial use. This shall not in any way limit or prevent or hinder the provision of building permits for such existing projects already approved by the Planning Board.

- A. **Evaluation and Revision of Existing Regulations.** During the period of the moratorium established by this local law, the Town Board shall endeavor to evaluate and adopt revisions to the Town's Zoning Law to address the use and regulation of large scale solar energy generating facilities and to evaluate and adopt policies and procedures for a payment in lieu of taxes program pursuant to the provisions of Real Property Tax Law §287(9)(a).

**Section 4. Extension of Moratorium.**

This moratorium may be extended for up to two (2) additional periods not exceeding six (6) months each by resolution of the Town Board upon a finding of necessity for such extension.

**Section 5. Relief From Requirements.**

The Town Board reserves to itself the right and sole discretion to vary or adapt the strict application of this local law in the case of unusual hardship or circumstances that would deprive a property owner of the reasonable use of lands affected by this local law. Accordingly, by duly adopted resolution, the Town Board may authorize the Planning Board to review and consider for approval or disapproval a site plan application, the review of which is otherwise precluded by this local law, or the Code Enforcement Officer to issue a building permit that is otherwise precluded by this local law, subject to the regular review process for such special use and site plan, or building permit, under circumstances where:

An application for a variance is filed, in writing, with the Town Clerk, together with a filing fee in the sum of \$150.00. The application shall specifically identify the land involved, recite the nature and scope of the proposed development, provide a narrative description and a sketch plan of the proposed development, and describe the reasons for which the variance is requested and the grounds upon which it is sought to be approved, including all facts and circumstances upon which hardship is claimed.

- A. All costs incurred by the Town in connection with the consideration of the application for a variance are paid by the applicant, including but not limited to, all professional consulting fees such as attorneys, engineers, and planners.

B.

The applicant demonstrates that this local law has resulted in unnecessary hardship in that: the applicant has been deprived of substantially all economic use or benefit from the property in question, which must be established by competent financial evidence; the alleged hardship is unique to the applicant's property and does not apply to a substantial portion of other properties in the areas of the Town to which this local law applies; and the variance, if granted, will not pose a present or future risk to the health, safety and welfare of the residents in the vicinity of the proposed development and the Town at large.

The Town Board may refer any applications for a variance hereunder to the Planning Board, the Zoning Board of Appeals, any other Town board, committee or department, and/or its professional consultants for their advice and recommendations. Nevertheless, all decisions as to the granting or denying of such variances shall be made by the Town Board in its sole and absolute discretion after determining whether the requested variance is compatible with protection of the environment and any contemplated revisions to the Town's Zoning Law. No variance shall be granted unless the Town Board determines the requested variance is compatible therewith.



- C. The Town Board shall conduct a public hearing on any request for a variance within fortyfive (45) days after it determines that a complete application has been submitted to it. The Town Board shall render its determination upon any application for a variance within sixtytwo (62) days after the conclusion of the public hearing.
  
- D. The granting of a variance by the Town Board does not preclude or otherwise restrict the Planning Board's review and jurisdiction of the site plan application pursuant to the Zoning Law.

**Section 6. Conflict With Other Laws.**

This local law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law and, during the time it is in effect, it specifically supersedes and shall take precedence over any contrary laws, ordinances and provisions, including but not limited to §267, §267-a, §267-b, §274-a and §274-b of the Town Law of the State of New York, or Town Code of the Town of Kingsbury.

**Section 7. Penalties for Offenses and Enforcement.**

Any person who shall develop or erect or install improvements upon land in violation of this local law, or break ground for the purpose thereof, shall be guilty of a violation and subject to a fine not to exceed \$1,000.00 or six (6) months in jail, or both. Each week a violation continues shall be considered a separate and distinct violation. This local law shall be enforced by the Code Enforcement Officer of the Town of Kingsbury who is hereby granted authority to issue appearance tickets for the purpose thereof. Upon authorization by the Town Board, this local law may also be enforced by civil action brought in the name of the Town for the purpose of obtaining injunctive relief and recovering civil penalties of \$1,000.00 for each week a violation of the local law continues.

**Section 8. Effect of Invalidity.**

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

**Section 9. Effective Date.**

This local law shall take effect immediately upon adoption.

A **motion** by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to accept the following agreement:

DATE: \_\_\_\_\_

**TITLE: Exemption of Matters of Local Concern from County Planning Agency Review Agreement**

The following actions shall be considered by the Town of Kingsbury Town Board to be of a local, rather than an inter-municipal or county-wide concern, unless such actions would result in the placement, replacement or extension of any structure into the right-of-way of any State or County highway; or unless such actions would result in new entrances onto State or County highways or any highway which serves as a border between adjacent communities:

**Actions of Local Concern-**

1. The granting of an individual setback, lot-line variance or an area variance for a single-family or two-family residence;
2. Conversion of single-family home to a two-family home;
3. The replacement or reconstruction of a facility in-kind, on the same site, within the same footprint;
4. Construction or placement of minor structure accessory or appurtenant to existing facilities, including garages, carports, patios, decks, porches, fences, barns, or other buildings not changing land use, density or drainage patterns, including upgrading of buildings to meet building or fire codes;
5. The construction or expansion of a single-family or two-family residence on an approved lot that includes the provision of the necessary utility connections and installation, maintenance and/ or upgrade of a drinking water well and a septic system;
6. Placement of individual mobile homes through site plan, special permit or variance permitting procedures;
7. Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with the generally accepted principles of farming;
8. Minor temporary uses of land having negligible or no permanent effect on the environment as determined by a negative declaration of significance under the State Environmental Quality Review Act by the referring body;

9. Temporary land use moratoria which do not act to restrict the actions of State, County or other governmental agencies;
10. The extension of utility distribution facilities to serve new or altered single or two-family residential structures or to render service in approved subdivisions;
11. Home occupations that do not require significant alteration to the building, expansion of water or wastewater facilities, or increased parking;
12. Placement of signs which are not visible from State or County highways or visible from any other highway which serves as a border between adjacent communities and placement of signs which are visible from state or County highways or visible from any other highway which serves as a border between adjacent communities which DOES NOT require a variance from the current local law;
13. Designation of local landmarks or their inclusion within historic districts.

The following considerations shall apply to exempted actions under this agreement:

1. The exemption of the actions shall not preclude any board reviewing an action pursuant to the regulations and zoning of the Town of Kingsbury, at its discretion, from submitting any such action for referral to the County Planning Agency pursuant to the provisions of General Municipal Law Article B, Sections 239 l and m (GML 239). Such referral shall comply with and be bound by all requirements and time frames associated with said section.
2. Any board reviewing an action pursuant to the regulations and zoning of the Town of Kingsbury may at any time request the assistance of the Washington County Department of Planning and Community Development to assist in making its determination of the applicability of these provisions.
3. The County Planning Agency shall be sent a copy of any public hearing notice required for any project, which would normally be subject to County Planning Agency review pursuant to GML 239 at least ten (10) days prior to the date of such hearing.
4. The Washington County Planning Agency shall be provided with a copy of any approval issued for an exempted action.

This agreement shall take effect immediately and shall remain in effect until July 1, 2024 or until such time as it may be amended by one or both parties.

Signature: \_\_\_\_\_

{Seal}

A **motion** by Councilman Doyle seconded by Councilwoman Havens and carried by a vote of 5 ayes to adopt the following resolution:

**TOWN BOARD OF THE TOWN OF KINGSBURY  
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Resolution No. 3 of 2020  
Adopted August 17, 2020

Introduced by  
Who moved its adoption

Seconded by

**RESOLUTION TO ADOPT THE RETENTION AND DISPOSITION SCHEDULE  
FOR NEW YORK LOCAL GOVERNMENT RECORDS (LGS-1)**

**RESOLVED**, Town Board of the Town of Kingsbury that *Retention and Disposition Schedule for New York Local Government Records (LGS-1)*, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed herein.

**FURTHER RESOLVED**, that in accordance with Article 57-A:

(a) only those records will be disposed that are described in *Retention and Disposition Schedule for New York Local Government Records (LGS-1)*, after they have met the minimum retention periods described therein:

(b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

**RESOLVED**, that this resolution shall take effect immediately.

Comptroller Rebecca Pomainville recommends the Town continue with the current health coverage for employees. A **motion** by Councilman Haessly seconded by Councilman Doyle and carried by a vote of 5 ayes to continue with the current health insurance plan for the employees.

Councilwoman Havens made a resolution that she would like to rescind the Local Law 136 adopted 6/20/2005 prohibiting the possession of firearms on Town property, to discuss an alternative law allowing pistol licensees with unrestricted designations to carry concealed on Town property and to hold a public hearing on the proposed. A **motion** by Councilman Haessly to second the resolution presented by Councilwoman Havens to rescind the Local Law 136 prohibiting firearms on Town property, carried by a vote of 4 ayes and 1 nay.

Councilman Doyle stated before we rescind the law that is on the books; he had reached out to retired Supervisor Jim Lindsay and retired Councilman Hank Freebern to ask why the firearms law had been passed. Both stated it dealt with the Court and the close proximity to the Town offices. The Judge and the Court Officer had an open carry/concealed carry firearm. The Board was concerned with the people standing in the hallway on court days; they could possibly overtake the Court Officer and take his firearm. Before we rescind the law, the law has a paragraph that indicates the Town Board can grant exemptions for persons to carry in the Town Hall, which is something to be considered by the Board. Councilwoman Havens stated the floor plan of the former Town Hall is different than the current Town Hall. The current Town Hall is separate from the Town Court; anything the Board does would exclude the Court. Councilwoman Havens continued to express her opinions in regard to research she had conducted about firearms and people who carry firearms. Councilwoman Havens would like to set a Public Hearing to hear what the Public has to say.

Councilman Haessly expressed his opinions in regard to the right to carry firearms.

Councilwoman Havens re-read her proposed resolution to rescind Local Law 136.

Supervisor Hogan asked Councilwoman Havens if her resolution reads to rescind the current law immediately and then schedule a Public Hearing. Councilwoman stated the verbiage in Local Law 136 is really bad and she would like to start at square one.

Attorney Meyer stated procedurally the laws and resolutions require to be replaced or substituted with a similar mechanism. Resolutions can change resolutions: a local law can replace a local law. A new local law would need to be prepared and introduced at a Public Hearing if you want to completely rescind and make changes to Local Law 136.

Attorney Meyer suggested Councilwoman Havens and Councilman Haessly give him their thoughts; he could get them a draft and introduce it at the next Board Meeting.

Councilwoman Havens withdraws her motion to rescind Local Law # 136 prohibiting firearms on Town property. A **motion** by Councilwoman Havens seconded by Councilman Haessly and carried by a vote of 4 ayes and one nay to confirm with the Town Council and Councilman Haessly to introduce a proposal at the next Town Board meeting on September 8, 2020 to amend Chapter 136 to provide for the complete re-write of the law which states that you are allowed to carry firearms if you have an unrestricted carry permit. Supervisor Hogan votes no on any changes he feels the law is relatively flexible in its current form.

Resident Dennis Sullivan, a Highway employee, stated be prepared, if the law is passed for firearms to be allowed at Town Hall; Highway employees who hunt will have their hunting guns, bows, arrows, etc. on Town property at the Highway Garage.

The discussion continued. Enforcement Officer asked if any of the employees who work for the Town have been asked by the Town Board how they feel about firearms being allowed on Town property. Councilwoman Havens will contact Town employees within the next two weeks.

**LEGAL UPDATE:**

Attorney Meyer has contacted Kevin Egan of Charter to set up a meeting but has not heard anything at this time.

Councilman Haessly reported the cable company would be willing to drop the number of houses from 35 to 20 to provide service. He is concerned they are aware that some areas may not qualify for service.

**ENFORCEMENT OFFICER:**

Todd Humiston received quotes for public notice signs; for permanent aluminum signs, 3 feet tall two feet wide in the price range of \$85 to \$110. There was also an option of a coroplast sign where you would write in and it would be a one-time use sign for approximately \$50 each. The Comptroller and Humiston recommend a one-time use coroplast sign with the cost of the sign added in to the applicant's fee, with no additional cost to the Town. After discussion, the Comptroller will research and negotiate better pricing and do up a purchase agreement and have it set to re-order quickly.

Enforcement Officer Humiston asked Jeffrey Meyer, Town Attorney if there was an option for a Local Law to avoid expenses to adopt a Local Law each time there was a change in the Town fee schedule.

Attorney Meyer stated he could be given direction to introduce a Local Law.

Humiston received no comments from the Board on the draft of the updated Peddler's, Solicitors Law he had sent to the Board. Attorney Meyer stated a Public Hearing must be scheduled to amend the current law. A **motion** by Councilwoman Havens seconded by Councilman Washburn and carried by a vote of 5 ayes to schedule a Public Hearing on September 21, 2020 to amend the Peddler's Law.

**HIGHWAY SUPERINTENDENT:**

Michael Graham reported the new excavator had arrived. Town of Fort Edward Highway Superintendent Brian Brockway would like to purchase the old excavator but it must be deemed surplus by the Town Board. A **motion** by Councilwoman Havens seconded by Councilman Doyle and carried by 5 ayes to deem the CAT 214 Excavator surplus.

**COUNCIL REPORT:**

Councilwoman Havens shared an incident that occurred at the family store, Falls, Farm and Garden where chainsaws were stolen. The family has received threats since the incident. She is sorry to report that thieves are here in this area and due to the Bail Reform Law criminals are empowered.

A **motion** was made by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to accept the reports of certain town officers for the month of July as follows:

Dog Control Officer: Complaints/Calls \_\_26 \_\_; Seizures \_0\_\_\_\_; Written Warnings \_\_1\_\_\_\_;  
Unlicensed Dogs \_\_6\_\_\_\_; Euthanasia \_\_0\_\_\_\_;  
Summons Issued \_\_0\_\_\_\_; Bites Investigated \_\_0\_\_\_\_;  
Mileage \_501 (45,534).

Town Clerk: Paid to EnCon\_ 0\_; Paid to Supervisor \_2,242.75\_\_\_\_;  
State Share of Bingo \_0\_\_\_\_; State Share of Games of Chance \_0\_\_\_\_;  
Paid to the Village of Hudson Falls \_200.00\_\_\_\_; Paid to Ag & Markets for  
Population Control \_138.00\_\_\_\_.

Town Comptroller: Receipts \_\_378,180.04\_\_\_\_; Disbursements \_420,062.03\_\_\_\_.

<http://www.kingsburyny.gov>

A **motion** by Councilman Haessly seconded by Councilman Doyle and carried by a vote of 5 ayes to enter into an executive session at 8:30 pm to discuss potential legal issues that have occurred in the last few weeks.

A **motion** by Councilman Washburn seconded by Councilman Doyle and carried by a vote of 5 ayes to exit the executive session at 9:34 pm. No action was taken during the executive session.

There being no further business before the board a **motion** by Supervisor Hogan seconded by Councilman Haessly and carried by a vote of 5 ayes to adjourn the meeting at 9:34 pm.

Respectfully submitted,

Cynthia Bardin, Town Clerk

Irene Weizenhofer, Deputy Clerk