

A **motion** by Councilman Freebern, seconded by Councilman Collins and carried by a vote of 5 ayes to contract with Washington County Department of Public Works to mow the roadsides along the County highways. The amount charged, \$4,677.05, is the same as last year's.

Dog Control Officer Frank Diamond will be retiring July 4, 2014. Applications will be reviewed, possibly interviews conducted and a decision will be announced at the next Town Board meeting on June 23, 2014.

A **motion** by Councilman Bromley, seconded by Councilman Freeborn, carried by a vote of 5 ayes to hire crossing guards for the summer school session at the Hudson Falls Primary School and the Hudson Falls Middle School.

A **motion** by Councilman Bromley, seconded by Councilman Freebern, carried by a vote of 5 ayes granting approval for the Glens Falls Lions Club annual Duathlon on Sunday, October 12, 2014. The Duathlon, a bike race, will be going through the Town of Kingsbury.

We have yet to receive a renewal contract from Countryside Veterinary. Supervisor Lindsay reported that Dr. James Keller would like to attend the next Town Board meeting to discuss PILOT agreements at his new facility on Queensbury Avenue, the location of the former SPCA.

Supervisor Lindsay reported that Recreation Director Debbie Battiste had encountered some problems with the ordering of the t-shirts from W.B. Mason. Councilman Freebern spoke with Jeff Toney, of W.B. Mason, on three occasions. Councilman Freebern feels they are making every effort to complete the order for the recreation program. After discussion it was decided that W.B. Mason continue to complete the order. It was also decided that in the future, the t-shirt bid be more specific.

A **motion** by Councilman Bromley, seconded by Councilman Freebern, carried by a vote of 5 ayes to declare 1246 Dix Avenue as real property surplus as follows:

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

Resolution No. 8 of 2014
Adopted June 9, 2014, 2014

Introduced by Councilman Bromley
Who moved its adoption.

Seconded by Councilman Freebern

RESOLUTION DECLARING TOWN OWNED REAL PROPERTY SURPLUS

WHEREAS, the Town Board of the Town of Kingsbury (the "Town") has determined that certain real property located at 1246 Dix Avenue in the Town of

Kingsbury, County of Washington and referred to as tax map parcel number 146.14-2-3 (the “Property”) consisting of 1.80 +/- acres is no longer needed by the Town; and

WHEREAS, the property and its outbuildings previously housed the Town Highway Department and the Town Highway Department has since relocated; and

WHEREAS, the Town desires to declare the Property surplus property and further desires to attempt to sell the same; and

WHEREAS, the Town is affirming the determination that it is in its best interest to declare the Property surplus and to list the Property for sale with a licensed real estate broker.

NOW, THEREFORE BE IT RESOLVED THAT the Town Board hereby declares the real property located at 1246 Dix Avenue in the Town of Kingsbury, County of Washington and referred to as tax map parcel number 146.14-2-3 (the “Property”) as surplus; and be it further

RESOLVED, that the Town hereby determines that the Property may be listed for sale with a licensed real estate broker with any possible sale of the Property subject to permissive referendum pursuant to and in accordance with Town Law; and be it further

RESOLVED, that this resolution shall take effect immediately.

A **motion** made by Councilman Freebern, seconded by Councilman Collins to hire Alpha Geo Science to conduct Phase 1 and Phase 2 at 1246 Dix Avenue, the location of the former Town Highway Garage. A discussion followed, Craig Darby will be at the next meeting to advise the Town Board on the sale of 1246 Dix Avenue.

The Town Board conducted a SEQRA review and issued a negative declaration on the proposed local law to amend certain sections of the zoning local law. On a **motion** by Councilman Freebern, seconded by Councilman Doyle and carried by a vote of 5 ayes a resolution adopting a local law amending certain sections of the zoning law of the Town of Kingsbury contained in Chapter 80 of the Code of Kingsbury as follows:

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

Resolution No. 9 of 2014
Adopted June 9, 2014

Introduced by Councilman Freebern

Who moved its adoption.

Seconded by Councilman Doyle

**RESOLUTION ADOPTING PROPOSED LOCAL LAW
AMENDING CERTAIN SECTIONS OF THE ZONING LOCAL LAW OF THE TOWN
OF KINGSBURY CONTAINED IN CHAPTER 280 OF
THE CODE OF THE TOWN OF KINGSBURY**

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, the Town Board has consulted with the Planning Board, the Zoning Board of Appeals and the Zoning Administrator, and after due deliberation, finds and determines that updates and amendments to certain sections of the Zoning Local Law of the Town of Kingsbury contained in Chapter 280 of the Code of the Town of Kingsbury as it applies to Junkyards and related activities are necessary and appropriate; and

WHEREAS, the Town Board scheduled a public hearing to be held before the Town Board on February 24, 2014 at 7:05 p.m. at the Offices of the Town of Kingsbury, 210 Main Street, Hudson Falls, New York, to hear all interested parties regarding the adoption of a proposed Local Law amending certain sections of zoning regulations contained in Chapter 280 of the Code of the Town of Kingsbury; and

WHEREAS, notice of said public hearing was duly posted and then published in *The Post Star*, the official newspaper of the Town, on February 12 , 2014 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 Town Board referred the proposal Local Law to the Washington County Planning Board, and that board’s recommendation was to approve the changes, with comments concerning the language used; and

WHEREAS, the Town Board after reviewing the Short EAF and taking a hard look at the potential environmental impacts of the proposed Local Law, the Town Board

issued a Negative Declaration in connection with its findings pursuant to the State Environmental Quality Review Act (“SEQRA”), as codified under 6 NYCRR Part 617 ET. seq., relative to the adoption of the proposed Local Law, whereby the adoption thereof constitutes an Unlisted action that will not have any significant adverse impact upon the environment.

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 designed to clarify the ambiguity that exists relative certain language found in the Code and to update the penalty and enforcement sections found in the Code; 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 publish a copy of the Local Law in *The Post Star* and 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.

PRESENT:

James T. Lindsay, Supervisor
William R. Collins, Councilman
Henry C. Freebern, Councilman
Paul R. Bromley, Councilman
Richard J. Doyle, Councilman

AYES: 5
NAYES: 0
ABSENT: 0

{Seal}

Cynthia A. Bardin, Town Clerk
Town of Kingsbury

Motion by Councilman Bromley, seconded by Councilman Collins and carried by a vote of 5 ayes to close the public hearing on the amendment of certain sections contained in Chapter 80 of the Code of the Town of Kingsbury.

Attorney Bitter, attorney for Northeast Metals, Inc. addressed the Town Board, thanking them for their patience. She assured the Town Board that everything is in place for the junkyard license. Attorney Fuller verified the insurance is in place and progress has been made with the DEC. The Town Board would prefer a letter of credit which should be ready on June 16, 2014. At this time \$20,000.00 Northeast Metal Recyclers, Inc. will notify the Town Board when operation of the car crushing begins. The Town Board conducted a SEQRA review with a negative declaration. A **motion** by Councilman Doyle, seconded by Councilman Collins and carried by a vote of 5 ayes to adopt a declaration that the project will not result in any significant adverse environmental impacts. A **motion** by Councilman Bromley, seconded by Councilman Doyle and carried by a vote of 5 ayes to grant Northeast Metal Recyclers, Inc. a license to operate a junkyard.

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

Resolution No. 10 of 2014
Adopted June 9, 2014

Introduced by **Councilman Bromley**
who moved its adoption

Seconded by **Councilman Doyle**

**RESOLUTION APPROVING JUNKYARD LICENSE APPLICATION
OF
NORTHEAST METAL RECYCLERS, INC.**

WHEREAS, pursuant to Chapter 174 of the Code of the Town of Kingsbury, Section 10 of the Municipal Home Rule Law, and Section 136 of the General Municipal Law, the Town Board of the Town of Kingsbury (the "Town") has the authority to license and regulate junkyard facilities; and

WHEREAS, by materials originally submitted on March 24, 2014 Northeast Metal Recyclers, Inc. (hereafter "Applicant" or "NEMRI") applied for a Junkyard License and a Scrap

Processor License for a facility at 2323 NYS Route 149 (the “Site”); and

WHEREAS, on June 4, 2009 East Side Used Auto Parts received a license to operate a Junkyard and Scrap Processing Facility at the Site, which expires annually on March 31; and

WHEREAS, East Side Used Auto Parts has been sold to the Applicant with Anthony Marro, a principal with East Side Used Auto Parts retaining a fifty percent (50%) ownership interest in Northeast Metal Recyclers, Inc.; and

WHEREAS, the Applicant has submitted the required application materials found in Section 13 of the Junkyard Regulation and Licensing Law, along with all of the materials submitted by the Applicant’s predecessor East Side Used Auto Parts for the original license shall be considered in reviewing this matter and hereafter referred to collectively as the “Application”; and

WHEREAS, the Town Board has conducted an uncoordinated review under the State Environmental Quality Review Act (hereafter “SEQRA”), reviewed the potential environmental impact of the application and issued a negative declaration upon concluding their review; and

WHEREAS, upon due consideration, the Town Board is prepared to review the application and make a final determination thereon in accordance with Sections 8, 9, and 13 of the Junkyard Regulation and Licensing Law of the Town of Kingsbury.

NOW THEREFORE BE IT RESOLVED by the Town Board of the Town as follows:

Section 1. Licensing Standards.

- a. Ownership and control: The Applicant shall provide proof of legal ownership or the right to use the property for a junkyard proposed during the license period.

The Applicant has previously provided a copy of the deed evidencing ownership of the property by a Limited Liability Company owned by J & A Marro Associates II, LLC. Additionally, an affidavit or lease has been provided affirming the Applicants ability to operate the junkyard facility on Site. The DEC also provided confirmation that the operation of the facility by NEMRI would be permissible relative to the pending enforcement actions the State of New York is pursuing against East Side Used Auto Parts, James Marro, Anthony Marro, or any other related subsidiary.

- b. Location: The location must be suitable to the safe operation of the junkyard facility. The following shall be taken into account: the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors, smoke, noise, dust, or other pollution. The following shall also be taken into account: the available site access to the proposed location, whether the transportation infrastructure is sufficient to provide ingress and egress to the proposed site, as well as

accommodating for the increase in scope and intensity of the traffic. No license shall be issued without obtaining a certificate of zoning compliance as provided for in this law.

The Applicant has established the proposed Site is in compliance with the Zoning Ordinance for the Town of Kingsbury and has obtained a certificate of zoning compliance. Impacts to such properties will be further minimized by the physical distance separating the proposed operations and by the Planning Board's careful review of the site plan. The location and proposed site shall minimize any potential impact provided the Site is completed as designed and approved by the Planning Board.

The Applicant has affirmed to have completed Phase I of the Site Plan, and submitted as-built construction plans prepared by Jarrett Engineers, PLLC, certifying to the same. The Town Board has required an independent engineer retained at the Applicant's expense to evaluate the site to confirm the commercial development has been completed in accordance with the plans.

The Applicant has affirmed that they will be operating the facility in accordance with the Site Plan Approval previously received by East Side Used Auto Parts.

- c. Aesthetic: A clean, wholesome and attractive environment has been declared to be of vital importance to the general welfare of the town citizens. Consideration shall be made to whether the proposed location can be reasonably protected from having an unfavorable effect thereon. Pursuant thereto, special attention shall be made collectively to the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes to the site, as well as the reasonable availability of other suitable sites for the junkyard.

The Town previously reviewed and approved the aesthetic components of the Application. The Planning Board previous reviewed the addition revisions to the approved site plan whereby the Applicant received permission to store certain metals behind the Auto Processing Building and around the perimeter of the Metals building as depicted on the approved site plan, as revised.

- d. Compliance history: The Applicant's history of compliance shall be considered with any federal, state or local law or any of the following: Section 136 of the NYS General Municipal Law, Articles 6 or 6-C of the NYS General Business Law, Section 415-a of the NYS Vehicle and Traffic Law, any applicable provision of the NYS Environmental Conservation Law, or any regulations promulgated pursuant to said laws.

The compliance history of East Side Used Auto Parts was well documented in the original license, therein the years of violations and non-compliance were all clearly set out. Due to the years of non-compliance the Town Board has previously adopted a zero-tolerance policy towards the Applicant and the Site.

East Side Used Auto Parts were issued notices of violations and orders to remedy for

prior violations, including failing to comply with the Financial Security requirements contained in Section 14 of the Junkyard Law, which are currently still pending. Specifically, the Applicant failed to maintain pollution liability insurance of at least \$5 million per occurrence and \$5 million in the aggregate for the term of the license period, by allowing the coverage to lapse in October 2012 and failing to notify the Town, as required by the Junkyard Law and their Junkyard License. Furthermore, East Side Used Auto Parts operated without having the financial security in place for the closure and environmental site assessment as required by the Junkyard Law and their Junkyard License. Both of these lapses are inexcusable and individually were grounds for the immediate revocation of their Junkyard License.

On May 17, 2012, the NYS Department of Environmental Conservation issued the Applicant a Notice of Violation relative to a spill on the site and noted eleven additional findings of fact and violations. Moreover, the DEC also performed a compliance inspection on December 11, 2012 and five additional non-compliance issues. These are all serious concerns of the Town and speak to the importance of the Financial Security requirements found in section 14 of the Junkyard Law. This matter is still pending with the DEC and was a source of delay in granting this Application.

Based on the past history and the continuing ownership and involvement of Anthony Marro, the Town Board will continue the zero-tolerance policy towards non-compliance at the Site. Due to the foregoing, failure to comply with any State, Federal or Local laws will not be tolerated. The Applicant shall keep the Town Board informed as to the status of the pending DEC actions relating to the site.

Section 2. Approval.

In consideration of the suitability of the junkyard at the proposed location, the ability to comply with the licensing standards, regulations and requirements of the Junkyard Regulation and Licensing Law, and other reasonable regulations, the Town Board hereby approves the license to operate the facility in accordance with Phase 1, subject to the conditions set forth below.

Section 3. Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the License for operating a Junkyard, and to operate as a Scrap Processor are hereby approved with the following conditions:

- a. No loaded trucks or product shall be left overnight outside of the fenced storage area.
- b. No product can be stockpiled outside of the fenced open storage, an enclosed structure, or as indicated on the approved revised site plan dated, December 14, 2011.

- c. Un-drained junk motor vehicles shall not be stored and/or stockpiled on Site.
- d. No junk motor vehicles shall be stored or processed on site until the Town Clerk has received copies of all applicable Municipal, State or Federal permits and/or approvals.
- e. No junk motor vehicles shall be stored or processed on site until the Emergency Access Road has been completed to meet the requirements of the Fire Department for emergency access.
- f. The terms of the East Side Used Auto Part's Site Plan approval, original license, subsequent renewals including all of the conditions contained therein, shall be conditions of this license.
- g. Any changes or amendments to the original site plan approval, as amended by the record document submitted by Jarrett Engineers, PLLC last revised on December 14, 2011, or the addition of any new use at the Site shall require an amendment to this license.
- h. This license shall expire on March 31, 2015 pursuant to the Junkyard Regulation and Licensing Law.
- i. The environmental indemnity insurance is acceptable subject to the final terms of the policy being approved by the Town's Attorney or the Town's insurance agent. Failure to comply with the insurance provision shall result in the immediate and automatic revocation of the license.
- j. The bond or letter of credit required pursuant to section 14 (A) of Junkyard Regulation and Licensing Law shall be reinstated in an amount not less than Twenty Thousand Dollars (\$20,000.00) on or before June 16, 2014. The Applicant shall not commence any operations, accept, or process any junk or scrap at the Site unless and until the financial surety is in place in a form acceptable to the Town. Failure to comply with the financial surety provision shall result in the immediate and automatic revocation of the license.
- k. The site shall be made accessible to the Town's Code Enforcement Officer and shall undergo a formal inspection by said Code Enforcement Officer at least one time per license period.

AYES NAYES ABSTAIN ABSENT

James T. Lindsay, Supervisor	X
Paul Bromley, Councilman	X
William Collins, Councilman	X

Richard Doyle, Councilman X
Henry Freebern, Councilman X

{Seal}

Cynthia A. Bardin, Town Clerk
Town of Kingsbury

Supervisor Graham reported on the following:

The blueprints for the pipe for the culvert to be replaced on Town Line Road have been received. The blueprints will be read by Dick Doyle and Mike Breault to make sure everything is correct before placing the order. Then they will continue with the order with delivery being at the end of July or first part of August.

Graham reported new progress at the new Highway Garage. The hydro-seeding is complete, painters have returned and the drain in the shower has been repaired. Councilman Bromley suggested that we postpone the Open House of the new Highway Garage until early fall because this is a busy time for Graham and his staff.

Supervisor Lindsay reported that we need to complete the water chlorination project as soon as possible. Superintendent Graham will complete paving Geer Road this week and work on the chlorination project next week.

In regard to the order of the pick-up truck, Superintendent Graham spoke with Pat Greeno, from Washington County and got some of the state contract bidding. Graham is waiting for a quote from Henderson Ford. He is hoping to have more information for the next Town Board meeting.

Graham is also working on specs to list, for the sale of the old highway garage.

Town Clerk reported that she is now in business as a Notary Public. The first document she notarized was for Supervisor Lindsay.

Attorney Fuller advised it would be a very good move for the Town of Kingsbury to opt into the expansion of the Washington County Sewer District. The Town Board discussed establishing tentative water district lines. Doing so will enable the Washington County Sewer District to give an estimate of cost and rate of flow to the town. If the Town of Kingsbury accepts a proposal

from the Washington County Sewer District the time frame for completion would be approximately 6 – 8 months.

A discussion was had with the Town Board in regard to the sale of the Dix Avenue Property. Supervisor Lindsay reported that if the sale is complete by September, the money from the sale would be used to lower taxes in 2015. Superintendent Graham asked if he should still be mowing the property, Supervisor Lindsay requested that he continue to mow as he had in the past.

Councilman Bromley requested an executive session.

PUBLIC COMMENT:

Supervisor Lindsay introduced High School student, Caitlyne Douglas who is studying government. Supervisor Lindsay invited her to the Finance Committee Meeting at the Washington County Office on Thursday.

Robert and Michelle Springer residing at 11 Quarry Circle Way built a ranch last fall. When they built they put in a crawl-space 4 ½ feet down. There is a small area designated for a retention basin for any over water flow for a short period of time. It appears to be working in reverse – on March 1, 2014 he had about 8 inches of water in his basement. Supervisor Lindsay and Attorney Meyer will speak to owner Bill Nikas to resolve this problem.

A **motion** by Councilman Bromley seconded by Councilman Freebern and carried by a vote of 5 ayes to go in executive session for a client-attorney privilege at 8:55 p.m.

A **motion** by Councilman Freebern, seconded by Councilman Collins carried by a vote of 5 ayes to close the executive session at 9:55 p.m.

A **motion** by Councilman Bromley seconded by Councilman Freeman and carried by a vote of 5 ayes to hire Highlander Engineering Services, PLLC for proposals for the Town of Kingsbury Office Upgrade at an existing office on Michigan Street and also a proposal to design an automatic fire alarm system for the new highway facility on Vaughn Road.

There being no further business before the Town Board, a **motion** by Councilman Collins seconded by Councilman Doyle and carried by a vote of 5 ayes to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Cynthia A, Bardin, Town Clerk