FENNER TOWN BOARD SPECIAL MEETING

TOWN OFFICE BUILDING – 12:00PM

February 13, 2017

PRESENT: SUPERVISOR JONES

DEPUTY SUPERVISOR STRACK

COUNCILPERSON PUSHLAR

COUNCILPERSON WESTER

ATTORNEY STOKES

DEPUTY CLERK STOKER

A Special Meeting of the Fenner Town Board was called to order at 12:05PM by Supervisor Jones.

Resolution 3 to correct 2017 tax roll as requested by National Grid and recommended by Madison County. It is determined National Grid will receive a refund for the allotted adjustment amount.

**RESOLUTION NO. 2017-3**

**OF THE TOWN BOARD**

**OF THE TOWN OF FENNER**

**A RESOLUTION TO CORRECT THE 2017 TAX ROLL**

WHEREAS, Niagara Mohawk, a National Grid Company, is the owner of special franchise property (electric distribution facilities) located in the Town of Fenner (“Town”), Madison County, State of New York, which is subject to assessment and taxation, and

WHEREAS, said property is commonly identified as Account/Map No. 500.-51-10 (the “Property”), and

WHEREAS, the Property was placed on the 2017 tax roll as having a taxable assessment of $617,978, and

WHEREAS, Niagara Mohawk, in accordance with 554 of the Real Property Tax Law filed an Application For Corrected Tax Roll For the Year 2017 with the Madison County Director of Real Property Tax services (“County”), and

WHEREAS, upon review, the County determined the assessment on the Property, as it appears on the 2017 tax roll, should have been $605,616 in accordance with its special franchise valuation by the State of New York, and

WHEREAS, through its Treasurer, by letter dated January 19, 2017, the County recommended to the Town that it correct the assessment on the Property on the 2017 tax roll to $605,616.

Now Therefore, be it Resolved and Ordered as follows:

1. The Real Property Tax Law (“RPTL”) sets forth a procedure for the correction of errors in the assessment and taxation of real property, including special franchise property.

2. In accordance with RPTL 554 and other provisions of the RPTL, the County investigated the application of Niagara Mohawk, dated January 17, 2017, and recommended to the Town, by approval of the application on January 19, 2017, that the Property be placed on the tax roll at the reduced assessed value of $605,616 (a reduction from the original value of $617,978).

3. The County has provided the Town with a copy of Niagara Mohawk’s application and its recommendation.

4. The Town Assessor agrees with the County’s recommendation for reduction.

5. Upon examination of the assessment, the application and the County’s recommendation, the Town, as a tax levying body, hereby determines that an “error in essential fact” exists, as determined by the County pursuant to RPTL 550, and also that the original assessment as it appeared on the 2017 tax roll constitutes an unlawful entry pursuant to RPTL 550(7)(e) to the extent the original assessment exceeded the State assessment of $605,616.

6. The application for Correction is approved.

7. This resolution constitutes an order: (1) correcting all the original assessments and original taxes to the “Reduced Assessment[s]” to the “Adjusted Tax[es]” set forth on the Correction of Errors statement attached hereto and incorporated; and (2) directing the officer having jurisdiction of the 2017 tax roll to correct the 2017 tax roll so as to include said Reduced Assessments and Adjusted Taxes figures, and to collect said Adjusted Taxes.

8. A copy of this Order shall be transmitted immediately to the officer having jurisdiction of the 2017 tax roll, mailed to the applicant (Niagara Mohawk) and to the County Treasurer, and filed in the Office of the Town Clerk along with a copy of the application and the County’s letter of January 19, 2017(including attachments thereto).

Councilperson Strack made a motion to approve the resolution. Seconded by Councilperson Pushlar. Approved by the Board.

Supervisor Jones - Aye

Deputy Supervisor Strack - Aye

Councilperson Pushlar- Aye

Councilperson Wester - Aye

Motion to rescind the resolution from the January 2017 Town Board meeting regarding approval of Local Law 2017-1 (land use regulation with respect to fences). Councilperson Wester moved to rescind. Councilperson Pushlar seconded. Approved by the Board.

Supervisor Jones - Aye

Deputy Supervisor Strack - Aye

Councilperson Pushlar- Aye

Councilperson Wester - Aye

Motion to approve resolution approving Local Law 2017-1 as follows:

**Local Law No**. 1 **of the year 2017**

**A local law** to amend the Town of Fenner Land Use Regulations with respect to Fence Regulations

(Insert Title)

**Be it enacted by the** Town Board of the Town of Fenner **as follows:**

1. Local Law 1997-1 of the Town of Fenner, as amended, (the Revised Town of Fenner Land Use Local Law) is hereby amended to add a new section 409 to read as follows:

Section 409 – FENCES

1. No fence, except an agricultural fence, as defined in Appendix I hereto, shall be erected on any lot or parcel within the Town of Fenner except upon the prior issuance of a building permit by the Code Enforcement Officer. No fee shall be required for the issuance of any such permit. Agricultural fences are exempt from the requirements of this section.
2. Fences requiring a building permit under subsection A above shall comply with the following requirements and limitations:
3. Maximum fence height from grade to the top of the fence shall be six feet in any front yard, and eight feet in any side or rear yard. Notwithstanding the foregoing, the maximum height for any fence enclosing a tennis court shall be twelve feet in height, provided that it complies with the applicable setback requirements set forth in paragraph “2” below.
4. No fence or portion thereof shall be erected less than five feet from a property line. Notwithstanding the foregoing, no fence shall be erected in such a manner and /or in such a location, as determined by the Code Enforcement Officer, so as to impair visibility for traffic or pedestrian safety.
5. The exterior (good) side of the fence shall face outward toward adjoining properties and / or roads, and with wiring, structural elements and / or other components of the fencing not designated for presentation to the public facing inward from the property lines.
6. No fence other than an agricultural fence shall be constructed in a highway right-of-way.
7. Electric fences shall be installed in accordance with all applicable code requirements.
8. Underground low-voltage electric fences shall comply with the five foot setback requirement.
9. The Code Enforcement Officer may require that a property boundary survey be provided prior to the issuance of a building permit in any instance where the Code Enforcement Officer, in his judgment, is otherwise unable to accurately determine whether the proposed fence location is in accordance with all applicable setback requirements.
10. Appendix I to Local Law 1997-1, as amended, is hereby amended to add the following definition:

FENCE: A structure constructed of any material or combination of materials that creates a barrier erected to enclose, isolate, limit access to, and / or screen from view a lot or portion of a lot.

AGRICULTURAL FENCE: A fence erected on a Farm for the express purpose of containing and restraining livestock, or for protecting crops from wild animals.

III. This local law shall be effective immediately upon filing with the Secretary of State.

**RESOLUTION NO. 2017-4**

**OF THE TOWN BOARD**

**OF THE TOWN OF FENNER**

**A RESOLUTION MAKING A DETERMINATION OF**

**ENVIRONMENTAL NON-SIGNIFICANCE UNDER THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT AND ENACTING LOCAL LAW 2017-1 TO AMEND THE LAND USE REGULATIONS OF THE TOWN OF FENNER WITH RESPECT TO FENCES**

WHEREAS, this Town Board has developed and is considering proposed local law 2017-1 to enact revisions to the Town’s Land Use Local Law to establish regulations relative to non-agricultural fences, and

WHEREAS, pursuant to a referral duly made pursuant to the provisions of Section 239-m of the General Municipal Law, the Madison County Planning Agency has reviewed proposed Local Law 2017-1, and has recommended that the question of the adoption of this local law be returned to this Town Board for local determination, and

WHEREAS, upon notice duly published and posted, a public hearing on the adoption of proposed Local Law 2017-1 was duly held by this Town Board; and

WHEREAS, the public hearing has been, or hereby is closed, and

WHEREAS, this Board has reviewed the short environmental assessment form and has considered the likelihood of any potential adverse environmental impacts that might result from the adoption of Local Law 2017-1.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. That the enactment of Local Law 2017-1 is an unlisted action for purposes of the New York State Environmental Quality Review Act. There are no involved federal agencies, and there are no other involved agencies. The enactment of Local Law 2017-1 does not affect any agricultural lands located within New York State agricultural districts and does not involve the exercise of eminent domain or other public acquisition of land or the advance of public funds for any construction.
2. That the enactment of Local Law 2017-1 will not have any significant adverse effects upon the environment. This resolution shall constitute a negative declaration pursuant to the New York State Environmental Quality Review Act in accordance with SEQRA’S implementing regulations. The reasons supporting this determination are as follows:

the action consists solely of a legislative enactment designed and intended to avoid conflict between neighbors and avoid aesthetically unpleasing conditions that may otherwise result from the continued unregulated construction and placement of residential fences. The Board finds that the regulations that will result from the enactment of this local law are in accordance with the Town’s comprehensive plan. There will be no physical changes to the land or environment as a result of this action.

AND BE IT HEREBY FURTHER RESOLVED that the adoption of Local Law 2017-1 will promote and protect the health, safety and general welfare of the Town of Fenner and its residents, and that Local Law 2017-1 entitled “A local law to amend the Town of Fenner Land Use Regulations with respect to Fence Regulations”, is hereby adopted, to be effective immediately upon its filing with the Secretary of State, and that the Town Clerk be and hereby is directed to enter said Local Law in the minutes of this meeting, and to give due notice of the adoption of said Local Law to the public and to the Secretary of State.

Councilperson Strack moved to approve the resolution. Seconded by Councilperson Wester. Approved by the Board.

Supervisor Jones - Aye

Deputy Supervisor Strack - Aye

Councilperson Pushlar- Aye

Councilperson Wester - Aye

Resolution 2017-5 and declaration of official intent authorizing the execution of a lease-purchase agreement for 2018 International Plow Truck.

**RESOLUTION AND**

**DECLARATION OF OFFICIAL INTENT**

**DATED: FEBRUARY 13, 2017**

**RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE-PURCHASE AGREEMENT BY THE TOWN OF FENNER, MADISON COUNTY, NEW YORK IN AN AMOUNT NOT TO EXCEED $200,054, TO PAY THE COST OF THE ACQUISITION OF A NEW MODEL YEAR 2018 International Model 7600 SBA 6x4 2010 (SF667) Truck, w/ Plow Equipment and spreader, including all attachments and accessories FOR HIGHWAY DEPARTMENT USE, IN AND FOR SAID TOWN.**

Lessee: Town of Fenner.

Principal Amount Expected To Be Financed: $200,054.00.

WHEREAS, the above Lessee is a political subdivision of the state in which Lessee is located (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Lessee (“Governing Body”) is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines the execution of one or more lease-purchase agreements (“Equipment Leases”) in the principal amount not exceeding the amount stated above (“Principal Amount”) for the purpose of acquiring the property generally described below (“Property”) and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description of Property: Model Year 2018 International Model 7600 SBA 6x4 2010 (SF667) Truck, w/ Plow Equipment and spreader, including all attachments and accessories.

WHEREAS, Key Government Finance, Inc. (“Lessor”) is expected to act as the Lessor under the Equipment Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the property prior to its receipt of proceeds of the Equipment Leases (“Lease Purchase Proceeds”) for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Town Board of the Town of Fenner:

Section 1. The Lessee hereby determines that it has critically evaluated the financing alternatives available to it pursuant to 2 NYCRR Section 39.2 and that entering into the Equipment Leases and financing the acquisition of the Property thereby is in the best interests of the Lessee. Such evaluation shall be available as a public record.

The specific reason for such determination is that entering into such Equipment Leases results in a lower overall cost to the Lessee. Execution of the Equipment Leases will not cause the Lessee to be in violation of the limits contained in paragraph c of subdivision 6 of Section 109-b of the General Municipal Law.

Section 2. The Lessee is hereby authorized to acquire and install the Property (the “Project”) and is hereby authorized to finance the Project by entering into the Equipment Leases. Any action taken by the Lessee in connection therewith is hereby ratified and confirmed.

Section 3. The Supervisor of the Town of Fenner (the “Authorized Representative”) acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

Section 4. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

Section 5. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 6. The Lessee’s obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee’s obligations under the Equipment Leases shall not constitute general obligations of the lessee or indebtedness under the Constitution or laws of the State.

Section 7. It is hereby determined that the purpose of the Project is an object or purpose described in subdivision 28 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose, is (15) years.

Section 8. It is hereby determined the term of the Equipment Lease authorized by this resolution will not be in excess of five (5) years.

Section 9. The Governmental Body has determined that the Project is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act (“SEQR”) is required.

Section 10. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee’s official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 11. The Authorized Representative is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the

Equipment Leases authorized by this resolution as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code.

Motion to approve the resolution by Councilperson Strack. Seconded by Councilperson Wester. Approved by the Board.

Supervisor Jones - Aye

Deputy Supervisor Strack - Aye

Councilperson Pushlar- Aye

Councilperson Wester - Aye

Resolution 2017-6 authorizing the purchase of the 2018 International Plow Truck for Highway Department use.

**RESOLUTION NO. 2017-6**

**OF THE TOWN BOARD**

**OF THE TOWN OF FENNER**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A NEW MODEL YEAR 2018 International Model 7600 SBA 6x4 2010 (SF667) Truck, w/ Plow Equipment and spreader, including all attachments and accessories FOR HIGHWAY DEPARTMENT USE**

**WHEREAS,** the Town of Fenner Highway Department is in need of a replacement truck equipped with snow plow, spreader and accessories; and

**WHEREAS,** the Town Highway Superintendent has advised that a new Model Year 2018 International Model 7600 SBA 6x4 2010 (SF667) Truck, w/ Plow Equipment and spreader, including all attachments and accessories is available for purchase through the Onondaga County Contract Award #7823, at a contract price for said truck and specified equipment package not to exceed $200,054.00, and

**WHEREAS**, the Town of Fenner Highway Superintendent has recommended the purchase of said truck.

**NOW, THEREFORE BE IT RESOLVED,** by the Town Board of the Town of Fenner that the Town of Fenner Highway Superintendent is hereby authorized to order for purchase one Model Year 2018 International Model 7600 SBA 6x4 2010 (SF667) Truck, w/ Plow Equipment and spreader, including all attachments and accessories, under Onondaga County Contract Award # 7823 at a price not to exceed $200,054.00, and it is further

**RESOLVED** that the Town Highway Superintendent and the Town Supervisor be, and hereby are authorized to execute all such documents and to take all such other actions as may be necessary and/or appropriate to consummate the transaction herein authorized.

Councilperson Wester moved to approve the resolution. Councilperson Strack seconded. Approved by the Board.

Supervisor Jones - Aye

Deputy Supervisor Strack - Aye

Councilperson Pushlar- Aye

Councilperson Wester - Aye

Councilperson Wester made a motion to adjourn the meeting. Seconded by Councilperson Pushlar. Approved by the Board. Meeting adjourned 12:40PM.

By Order of the Town Board

Jennifer Stoker, Fenner Deputy Town Clerk