

September 9, 2020

**ZOOM MEETING**

**SUPERVISOR JONES  
COUNCILPERSON CODY  
COUNCILPERSON PUSHLAR  
COUNCILPERSON STRACK  
COUNCILPERSON WESTER  
TOWN CLERK DOLAN**

The regular meeting of the Fenner Town Board was called to order at 8:02 PM by Supervisor Jones.

Councilperson Strack motioned to accept the August Town Board meeting minutes as presented. Seconded by Councilperson Cody. Approved by the Board.

Councilperson Cody motioned to accept the Town Clerk's Monthly Report as presented. Seconded by Councilperson Strack. Approved by the Board.

Councilperson Cody motioned to accept the Supervisor's Monthly Report as presented. Seconded by Councilperson Wester. Approved by the Board.

The Highway Superintendent Smith report was not presented.

**UNFINISHED BUSINESS:**

Fenner clean up days were August 14 and 15 2020. As always, very successful, residents expressed gratitude for the service. Scrap metal was collected and the Town received 285.00.

The Town of Fenner Tax Assessor has resigned effective October 31, 2020. She will be available until January 1st to assure a smooth transition for the town and her replacement.

**NEW BUSINESS:**

All vouchers will be made available to Board members before each board meeting.

It has come to the Boards attention that someone leaked, the not yet released solar recommendations, to Cypress Creeks' attorney before the Board reviewed it. Supervisor Jones expressed deep regret to the Solar Committee and town residents. He described this as disheartening and discouragingl.

Board passed by vote: Councilperson Wester - aye, Councilperson Strack - aye, Councilperson Cody - aye, Councilperson Pushlar - Aye, Superintendent Jones - aye:  
So approved.

**A local law authorizing a property tax levy in excess of the limit established in General Municipal Law 3-c for the 2021 fiscal year.**

NEW YORK STATE DEPARTMENT OF STATE

*Local Law Filing*

Text of law should be given as amended. indicate new matter.

Do not include matter being eliminated and do not use italics or underlining to

**County**

**Village**

**Town City**

**A local law**

**of**

Fenner

**(Use this form to file a local law with the Secretary of State.)**

41 STATE STREET ALBANY, NY 12231 NEW YORK STATE DEPARTMENT OF STATE 41 STATE STREET  
ALBANY, NY 12231

**Local Law No.**

authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c

**of the year 2020.**

(Insert Title)

for the 2021 fiscal year.

**Be it enacted by the**

**County City**

**Town City**

Town Board

of the

**of Fenner**

**as follows:**

## **Section 1. Legislative Intent**

It is the intent of this local law to allow the Town of Fenner to adopt a budget for the fiscal year commencing January 1, 2021 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

## **Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

## **Section 3. Tax Levy Limit Override**

The Town Board of the Town of Fenner, County of Madison, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2021 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

## **Section 4. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

## **Section 5. Effective date**

This local law shall take effect immediately upon adoption.

**(Complete the certification in the paragraph that applies to the filing of this local law and Strike out that which is not applicable.)**

### **1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 2020

(Town)(City) of Fenner was duly passed by the

Town Board on October 14, 2020, in accordance with the applicable provisions of law. (Name of Legislative Body)

of the

(County)(City)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No.

(Town)(City) of was duly passed by the

20 , and was (approved)(not approved (Name of Legislative Body)

(repassed after disapproval) by the and was deemed duly adopted (Elective Chief Executive Officer\*)

on 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

• (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of was duly passed by the

of 20

of the (County)(City) on

(Name of Legislative Body)

on 20 , and was (approved) (not approved)

(repassed after disapproval) by the on 20 . (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified elector voting thereon at the (general)(special)(annual) election held on



20 , in accordance with the applicable provisions of law.

• **(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

of the (County)(City)(Town)(City)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(City) of was duly passed by the

on 20 , and was (approved) (not approved)

(Name of Legislative Body)

(repassed after disapproval) by the on 20 . (Elective Chief Executive Officer\*)

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 , in accordance with the applicable provisions of law.

\_\_\_\_\_

• Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or City, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

•

**(City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the City of

having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon

at the (special) (general) election held on  
operative.

20 , became

**• (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20

of the County of , State of New York, having been submitted to electors of the General Election of November 20 , pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in

Paragraph 1

*(Seal)*

, above.

Date: \_\_\_\_\_

\_\_\_\_\_

Clerk of the county legislative body, City, Town or City Clerk or officer designated by local legislative body

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, City Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK COUNTY OF MADISON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Attorney for the Town Title

County Village

of Fenner Town

City Date:

MOTION TO APPROVE Resolution 2020-19 made by Councilperson Strack and  
Seconded by Councilperson Cody. Board approved.

**RESOLUTION NO. 2020-19 OF THE TOWN BOARD OF THE TOWN OF FENNER  
RESOLUTION CONFIRMING RESPONSIBILITY FOR AND MAINTENANCE OF  
STABLES ROAD**

WHEREAS, the Town Highway Superintendent has reported to the Town Board of the Town of Fenner that the New York State Department of Transportation has questioned the listing of Stables Road in the Town of Fenner on the Highway Superintendent's Highway Inventory based upon aerial survey performed by the State.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Town Board, of the Town of Fenner hereby finds, determines and confirms that Stables Road, which extends a distance of .31 mile from its intersection of RTE 13 and Stables Road is a Town road regularly responsibility and liability, and it is further

RESOLVED, that the Town of Fenner shall continue to maintain said Stables Road as a Town road.

Dated: September 9, 2020

David Jones, Town Superintendent

MOTION TO APPROVE Resolution 2020-20 made by Councilperson Pushlar and Seconded by Councilperson Strack. Board approved.

**RESOLUTION NO. 2020-20**

**OF THE TOWN BOARD OF THE TOWN OF FENNER**

**A RESOLUTION AUTHORIZING THE ADOPTION OF A REVISED RETENTION AND DISPOSITION SCHEDULE FOR NEW YORK LOCAL GOVERNMENT RECORDS (LGS-1)**

**WHEREAS**, the Town of Fenner is a local government that is required by New York State to retain records pursuant to minimum standards set forth according to Article 57-A (Local Government Records Law) of the Arts and Cultural Affairs Law; and

**WHEREAS**, the New York State Archives, a part of the Office of Cultural Education of the New York State Education Department, has required all local governments to adopt the newly

published *Retention and Disposition Schedule for New York Local Government Records (LGS-1)* by December 31, 2020; and

**WHEREAS**, by this resolution the Town of Fenner seeks and intends to adopt the LGS-1 in order to adequately preserve and retain records in accordance with State law; and

**NOW, THEREFORE BE IT RESOLVED** that in accordance with said Article 57-A:

- 

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

- 

Only those Town records that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond the established legal minimum periods will be disposed of.

**DATED: September 9, 2020**

MOTION TO APPROVE Resolution 2020-21 made by Councilperson Strack and Seconded by Councilperson Cody. Board approved.

**RESOLUTION NO. 2020-21  
OF THE TOWN BOARD  
OF THE TOWN OF FENNER**

**A RESOLUTION TO ACKNOWLEDGE RECEIPT OF THE REPORT OF THE  
SPECIAL COMMITTEE ON SOLAR ENERGY FACILITIES**

**WHEREAS**, this Town Board appointed a Special Committee to study the impacts, effects, and possible controls over solar energy facilities within the Town of Fenner and to consider amendments to the Town of Fenner zoning laws to address these issues; and

**WHEREAS**, this Town Board has been advised that the Special Committee has completed its work and has prepared and presented a report for review and consideration by the Town Board.

**NOW THEREFORE, IT IS HEREBY RESOLVED** that the Town Board of the Town of Fenner hereby acknowledges receipt of the Solar Committee Report and Recommendations to the Fenner Town Board dated August, 2020, and it is hereby further

**RESOLVED** that the Town Board shall commence its review of said Report and shall take such other and further action as the Town Board may deem appropriate with respect thereto.

Dated: September 9, 2020

## **Solar Committee Report and Recommendations To the Fenner Town Board August - 2020**

### **Purpose of the Solar Committee (charge from the Fenner Town Board)**

To study the impacts, effects, and possible controls over ground solar energy facilities and to consider amendments to the zoning laws to address ground solar.

**The** Town of Fenner appointed a committee to review, research and report back with a recommendation as to the Town's position on increased acceptance of ground solar projects in the Town of Fenner. The committee consisted of a member of the Town Board, a member of the planning Board, a member of the ZBA, an Agricultural representative and a member of the board of directors of the Fenner Renewable Energy Education Center (FREE Center). The result of months of research, recent changes in the State Legislation dealing with renewable energy and the impact on social, economic and day to day life in general due to the Covid 19 pandemic of 2020; the committee is in a position to make its recommendation by majority vote to the Fenner Town Board.

### **Findings of theSolar Committee**

- In early 2020, New York State Legislation was passed creating a new Office of Renewable Energy Siting. This *new* Siting Board has been put in place to "streamline" the process of siting new renewable energy projects, merging into the accelerated process projects that are currently in the Article 10 process. After discussions with the Town of Fenner's attorney and participating in virtual seminars offered by local (NYS) agencies and educational entities; the committee expresses strong concern as to how the new siting Board may operate, what their procedures will be and how they may affect "Home Rule" and local land use ordinances and laws. It is our interpretation of Governor Cuomo's 2020 NYS Legislation, that the new Office of Renewable Energy Permitting will have authority to override Home Rule.
- The Town of Fenner has embraced, and supported renewable energy causes for many years. The installation of a substantial wind farm in Fenner should be recognized by NYS as a significant contribution supporting NYS's renewable energy initiative. The Town of Fenner has been and remains a regional leader in supplying renewable energy to the electrical "grid." The current wind farm demonstrates that the Town is already contributing substantially to the renewable energy needs of New York and adjacent states in New England. The Town of Fenner and its inhabitants understand and champion the "common good" of clean energy, dedicating over 2,000 acres in support of the current wind farm with the addition of five new turbines planned on Cody Rd. The Town of Fenner continues to support New York State's and Governor Cuomo's aggressive renewable energy plans and goals.
  - The cost of infrastructure repair is a concern addressed by the review committee. Town roads are not designed to accommodate the abuse heavy equipment traffic inflicts. The wind farms installation and repair traffic damages to the Town roads, have burdened the Town of Fenner

highway department in recent years with repair costs that exceeded projected and budgeted amounts. In addition to the financial impact, time and resources by Town staff and officials in working with ENEL, dealing with community concerns, and overall support for the wind farm projects has been extensive, with no additional compensation reflecting this contribution.

- The Town of Fenner's most recent Comprehensive Plan states that the Town Board should "ensure that the regulations encourage the preservation of farmland and agricultural uses". This declaration remains as an underpinning directive. The long and noble history of the Town of Fenner as being primarily a farming and agricultural town is to be recognized and perpetuated. While the types of farming have shifted over the years, tradition has been to maintain the Town of Fenner's farming history and legacy.

- Madison County produced a 2019 draft Madison County Agriculture and Farmland Protection Plan, that states: "Towns in Madison County should protect agricultural soils and treat solar farms as a 'permanent use' as far as farming purposes are concerned" It continues: "In reality, agriculture continues to be crucial in economic, social, and geographic issues in Madison County; therefore agricultural issues and resources should play a prominent role in decision-making. While the decline of the on-farm population continues to be a hurdle, it certainly does not make public rapport and understanding impossible. Rather efforts need to be made to engage people to build understanding, interest in, and appreciation of the farm community." (Madison County Plan)

- There continues to be a strong presence of agricultural use of land in the Town of Fenner with generational family owned farms expanding operations.

- Trending are families moving to the Town of Fenner in recent years strictly to pursue farming activities.

- The Covid 19 pandemic has highlighted many other trends. It has exposed the importance of the "farm / land to table" process and supply chain. It has created a decrease in uses of many office buildings, schools, etc. Due to the Covid 19 crisis, we have witnessed farmers dumping or giving away milk because of end user demand changes. Conversely, beef, vegetable and fruit suppliers have struggled keeping up with demands.

## **Solar Committee Research**

- 2020 Tompkins County Ag Summit focused on Solar Leasing/Installation and Landscape Put on by Cornell - Siting Utility Scale Solar Projects put on by The Tug Hill Commission

- Personal meeting with Jared Snyder NYSDEC Deputy Commissioner of Air Resources, Climate Change & Energy - Met with Madison County Director of Planning, Scott Ingmire and Planner Jim Petreszyn to discuss The new Madison County Ag and Farmland Protection plan - Gathered and studied County maps pertaining to Soil and topography. - Met with Dan Smith (Fenner Highway Superintendent) to discuss impacts of maintaining the current wind farm and projections for industrial sized solar projects. -Consulted with Dave Haarmon (Operations Manager for ENEL) on the extent of land and resource use in Fenner by the wind farm. -Participating in DEC webinar on "Siting Large Solar Projects" -Studied documents from NYSERDA, Town of Verona Solar Energy Law, Guide to Siting Renewable Energy in the Hudson Valley, Town of Fenner Comprehensive Plan, Madison County Ag and Farmland Protection Plan, and the New York Solar Guidebook



## **Solar Committee Recommendation**

The culmination of data gathered by the committee from discussions with State, County, and Local agencies and representatives, and innumerable hours of research, it is the review committee's recommendation to the Town of Fenner Board that it is in the best interest of the Town of Fenner to prohibit all solar projects of commercial or industrial size. This recommendation reflects the significant unknowns and uncertainties embodied in the State of New York's recently released, yet undefined Legislative laws and the implementation of the new Office of Renewable Energy Permitting. The committee, by majority, recommends the Town of Fenner Board adopt this position, safeguarding the Town of Fenner's agricultural heritage and future. This recommended action by the Fenner Town Board also supports Madison County's Agriculture and Farmland Protection Plan.

## **Minority Position**

One member of the Solar Committee has recommended that the town approve large scale ground solar projects because of three reasons:

1. The Town of Fenner would benefit economically.
2. Individual landowners would benefit economically.
3. Individual landowners should have the right to manage their land as they wish.
4. The best way to preserve farmland is for the farmers to earn a decent living off of the farmland.

MOTION TO APPROVE Resolution 2020-22 made by Councilperson Strack and Seconded by Councilperson Cody. Board approved.

## **RESOLUTION NO. 2020-22 TO THE TOWN BOARD OF THE TOWN OF FENNER**

**WHEREAS**, at the request of the Town Supervisor, the attorney for the Town has prepared and presented a proposed local law entitled, "A local law authorizing a property tax levy in excess of the limit established in General Municipal Law section 3-c for the 2021 fiscal year", and

**WHEREAS**, the proposed local law is intended to authorize the Town of Fenner to exceed the tax levy cap otherwise provided under New York State law for the Town's 2021 budget and fiscal year.

**NOW THEREFORE IT IS HEREBY RESOLVED** that the Town Board of the Town of Fenner will hold a public hearing October 14, 2020 at 8:15 p.m. at the Town of Fenner Town Hall to consider the proposed local law entitled, "A local law authorizing a property tax levy in excess of the limit established in General Municipal Law section 3-c for the 2021 fiscal year."

Dated: September 19, 2020

**PUBLIC COMMENT:**

none

**EXECUTIVE SESSION:** Councilperson Cody moved to go into executive session at 8:52 pm Seconded by Councilperson Pushlar to discuss personnel issues. Councilperson Cody moved to come out of the executive session at 9:10 Seconded by Councilperson Strack.

**VOUCHERS:**

Councilperson Cody moved to approve payment of the General Fund claims numbers G -20-84– G 20-94 in the amount 2249.16 of as set forth in abstract number 8 and as audited. Seconded by Councilperson Wester. Approved by the Board.

Councilperson Pushlar moved to approve payment of the Highway Fund claims numbers H- 20-72- H-20-81 in the amount 2,914.05 as set forth in abstract number 7and as audited. Seconded by Councilperson Strack. Approved by the Board.

**ADJOURNMENT**

Councilperson moved to adjourn meeting at 9:15 pm seconded by Councilperson Jones. Approved by Board

**HANDOUTS AND REPORTS:**

On file in the Town Clerk's Office.  
Town Clerk Report – August 2020  
Supervisors Report – August 2020  
Dog Control Report – August 2020  
Highway Superintendent Report – August 2020  
Resolution 2020-19  
Resolution 2020-20  
Resolution 2020-21  
Resolution 2020-22  
Local Law 2020-1

Respectfully submitted,

Lisa Dolan  
Town Clerk