

**Resolution of the Town of Farmersville
Francis Pete Lounsbury, Supervisor**

Members of the Town Council: Donna Vickman | Pamela Tilton | Mark Heberling | Richard Westfall
Clerk: Bridget Holmes

DATE: 10/12/2020

RESOLUTION NUMBER: 22 YEAR: 2020

MOVED BY: Donna Vickman SECOND BY: Francis Lounsbury

TITLE: Resolution Terminating a Road Use Agreement dated September 23, 2019.

WHEREAS, on September 23, 2019 the Town Board of the Town of Farmersville adopted a resolution directing the Town Supervisor to adopt a certain Road Use Agreement attached hereto as Exhibit A, (hereinafter "the Agreement"); and

WHEREAS, Local Law 2 of 2001 provides "no vehicle weighing more than eight (8) tons shall be operated on any Farmersville Town highway, except for the pick-up or delivery of any merchandise or commodity to any customer located on a Town Highway." Local Law 2 of 2001 provides an exception for "vehicles owned by public utilities such as electric, gas telephone and cable companies..."; and

WHEREAS, a local law cannot be repealed or amended by resolution or contract; and

WHEREAS, the Town Board determined that the Agreement approved on September 23, 2019 authorizes activity in violation of Local Law 2 of 2001; and

WHEREAS, the Town Board determined that the parties to the 2019 Agreement negligently and mistakenly entered into the Agreement; thereby rendering the Agreement void because of the mutual mistake of the parties regarding the legality of several material terms contained in the Agreement; and

WHEREAS, notwithstanding the illegality of the Agreement, the Town Board finds that the Agreement is unconscionable and not in the best interests of the Town because it permits activity that will result in extensive damage to Town roads and does not provide adequate compensation for necessary repairs; therefore be it

RESOLVED, that the Town Board of Farmersville hereby determines that the Agreement is void and has no effect insofar as it violates Local Law 2 of 2001;

RESOLVED, to the extent the Agreement is not void as a matter of law; the Town Board hereby terminates the Agreement and directs the Supervisor to send correspondence to Alle-Catt Wind Energy, LLC informing it that the Agreement is terminated.

The resolution as stated above is hereby adopted by a majority vote of the Town of Farmersville Town Board at an official meeting held on the 12th day of October in the year 2020, the ayes and nays taken and recorded below:

yes Francis Pete Lounsbury, Supervisor

yes Donna Vickman, Councilmember

no Pamela Tilton, Councilmember

yes Mark Heberling, Councilmember

no Richard Westfall, Councilmember

CERTIFIED:

Bridget Holmes
Bridget Holmes, Clerk, Town of Farmersville