

**TOWN OF FARMERSVILLE
RESOLUTION AUTHORIZING EXECUTION OF
STIPULATION WITHDRAWING MOTION AS MOOT**

Adopted: April 13, 2022

The Town Board of the Town of Farmersville met at a regular board meeting at the Town Hall of Farmersville, located at 8963 Lake Avenue, Franklinville, New York 14737, on the 13th day of April 2022, commencing at 7:00 p.m. and the following members were:

Present:	Supervisor	
	Councilperson	<u>Pam Tilton</u>
	Councilperson	<u>Richard Westfall</u>
	Councilperson	<u>Dale Scurr</u>
	Councilperson	
Absent:	<u>Councilperson</u>	<u>Mark Heberling</u>
	<u>Supervisor</u>	<u>Francis Lounsbury</u>

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, on July 26, 2021 Judge Terrence M. Parker entered a Decision and Order in the matter of Alle-Catt Wind Energy LLC vs. Town of Farmersville relative to the road use agreement (Index No. 89872); and

WHEREAS, on March 23, 2022, Linda Joseph, Attorney for Mark Heberling, filed a motion for summary judgement against the previously decided road use matter; and

WHEREAS, the Town Board of the Town of Farmersville has had the opportunity to review the July 26, 2021 Decision and Order, as well as the recently filed motion for summary judgement submitted by Attorney Linda Joseph; and

WHEREAS, Attorney Linda Joseph was never authorized or approved by the Town Board of the Town of Farmersville to submit a motion for summary judgement on this matter; and

WHEREAS, the referenced Decision and Order dated July 26, 2021 is annexed hereto as **Exhibit A**; and

WHEREAS, the referenced Motion for Summary Judgement dated March 23, 2022 is annexed hereto as **Exhibit B**; and

WHEREAS, the Town Board of the Town of Farmersville agrees that the Court's July 26, 2021 Decision and Order was a final order and judgment; and

WHEREAS, the Town Board of the Town of Farmersville recognizes that the July 26, 2021 Decision and Order formally closes the matter; and

WHEREAS, the Town Board of the Town of Farmersville believes the motion for summary judgement shall be deemed moot, as this matter was resolved in 2021; and

WHEREAS, the Town Board of the Town of Farmersville has reviewed the proposed Stipulation Withdrawing Motion as Moot, which is annexed hereto as **Exhibit C**; and

NOW ON MOTION OF Dale Scurr which has been duly seconded by Pam Tilton, now therefore, be it

RESOLVED, the Town Board of the Town of Farmersville hereby authorizes special counsel, David M. DiMatteo, to execute a Stipulation Withdrawing Motion as Moot; and be it further

RESOLVED, the Town Board of the Town of Farmersville hereby authorizes Supervisor Francis Peter Lounsbury to sign this resolution to reflect the Town Board's approval of the proposed Stipulation Withdrawing Motion as Moot.

Pamela C. Tilton

Francis Peter Lounsbury, Supervisor

Presiding Officer Pam Tilton

Ayes: 3

Nays:

Quorum Present: Yes No

Dated: 4/13, 2022

Bridget Holmes

Bridget Holmes, Clerk

Town of Farmersville

[SEAL]