

**TOWN OF CANAJOHARIE  
MONTGOMERY COUNTY**

**March 10, 2016**

The Town Council met for a regular monthly meeting at the Town Hall building, 12 Mitchell Street, Canajoharie, New York.

**Present:** Supervisor Herbert Allen, Councilpersons: William Armitstead, John Toomey, Jr., and, John Peruzzi; Bookkeeper Amy Kretser, Highway Superintendent David Hodge, Code Enforcement Officer Les Hassan; Councilman Rodney Young not present

The meeting was opened by the Supervisor at 7:30pm, and the evening's agenda was presented

On a **motion** by Councilman Armitstead, **seconded** by Councilman Toomey, the agenda was **approved, all in favor, and carried**

On a **motion** by Councilman Toomey, **seconded** by Councilman Armitstead, the February meeting minutes was **approved, all in favor, and carried**

**7:30pm Public Hearing to hear for/against a Local Law to Establish a six (6) month moratorium which would temporarily prohibit construction , installation, approval and processing of applications for solar energy system, with the exception of installation of rooftop panels**

-Two (2) Town property owners discuss with the Board the very lucrative offers they have received from a solar company to lease their lands in order to build commercial solar farms. They discussed the proposed leases with an attorney, who brought up the questions of what would happen if the solar company went bankrupt or if the company sold to another solar company; The gentlemen would like to know how the Town is going to proceed with the moratorium

-Supervisor Allen explains that the Town and the Town Planning Board is going to thoroughly investigate regarding the creation of commercial solar farms within the Town including but not limited to ie: changing the lands from agricultural exemptions to commercial property and what that would entail, including any penalty fees and back agricultural exemption tax payments; taxes on commercial properties; impact on neighbors; the zoning regulations regarding commercial building; examining neighboring Towns' local laws, etc.

-The gentlemen questions the Board as to what could happen if the Planning Board decides against the building of these solar farms, but the property owners want to go ahead with the construction; Supervisor Allen informs the gentlemen that the Town Board would adhere to the Planning Board's decision

-Supervisor Allen explains further that the Town is trying to protect all town residents to make sure the proposed commercial solar farms are built correctly and landowners are not taken advantage of in future years

-Code Enforcement Officer Les Hassan indicates also that a SEQR process should take place and there should be special use hearings with neighbors notified

**7:46pm Hearing Closed**

**7:46pm-Public Hearing to discuss a local law to Opt-Out of Section 487 of the NYS Real Property Tax Law regarding assessment for local property tax purposes related to construction of solar, wind, or farm waste energy systems**

-No Comment

**7:47pm Hearing Closed**

**7:48pm-Public Hearing to extend Local Law #2 of 2015 for a period of six (6) months which establishes a moratorium on the establishment and/or construction of kennels, pet breeding facilities, or puppy mills in the Town of Canajoharie**

-No public comment

-Supervisor Allen states that County Legislator Roy Dimond provided a copy of the County's proposed dog law which will be voted on by the County on March 22<sup>nd</sup>; Also indicates that the Planning Board has formed a committee to examine the dog law

**7:50pm-Hearing Closed**

**Public Comment-** None

**Supervisor:** Received a quote from Xerox to lease a new copier, fax, scanner for \$127.91 a month, which includes service contract

**Motion to approve lease of new copier/fax/scanner** by Councilman Toomey, **seconded** by Councilman Armitstead, all in favor, ayes, carried

### **Local Law #2 of 2016**

To Establish a Six (6) Month Moratorium on Solar Energy Systems. Such local law would temporarily prohibit construction, installation, approval, and processing of applications for solar energy systems. Installation of rooftop panels would not be subject to the moratorium.

Sponsor: Councilman William Armitstead

Second: Councilman John Toomey

Voting:

Supervisor Herbert Allen: Aye

Councilman William Armitstead: Aye

Councilman John Toomey: Aye

Councilman John Peruzzi: Aye

Councilman Rodney Young: Absent

**LOCAL LAW NUMBER 3 OF 2016**

Sponsor: Supervisor Herbert Allen  
Second: Councilman William Armitstead  
Voting:  
Supervisor Herbert Allen: Aye  
Councilman William Armitstead: Aye  
Councilman John Toomey: Aye  
Councilman John Peruzzi: Aye  
Councilman Rodney Young: Absent

TO EXTEND LOCAL LAW NUMBER 2 OF 2015 FOR  
AN ADDITIONAL PERIOD OF SIX MONTHS

Be it enacted by the Town Board of the Town of Canajoharie, Montgomery County, New York as Follows:

A LOCAL LAW ESTABLISHING A MORATORIUM ON THE ESTABLISHMENT AND/OR  
CONSTRUCTION OF KENNELS, PET BREEDING FACILITIES OR PUPPY MILLS IN THE  
TOWN OF CANAJOHARIE

Section 1. STATE OF LEGISLATIVE INTENT:

The Town of CANAJOHARIE is currently in the process of considering and implementing a Comprehensive Plan for the Town. The present regulations in the Town Code do not address the emergence of large scale kennels, pet breeding facilities or puppy mills. When unregulated or improperly regulated, these facilities can be detrimental to the health, safety and welfare of the dogs or other domestic animals in these facilities, to the public who will work in, patronize, visit, conduct business with or otherwise come in contact with or feel the effects of such facilities and to the environment.

Therefore, it is the intention of the Town Board to enact a moratorium on the establishment, placement, relocation, construction, enlargement, modification or erection of kennels, breeding facilities and puppy mills so that the Town Board can review the present Town, State and Federal laws and regulations pertinent to such facilities and of the environment and to implement regulations and/or local laws in accordance with the Comprehensive Plan.

Section 2 DEFINITIONS

- A. Town: Town of Canajoharie, County of Montgomery, New York
- B. Town Board: Town of Canajoharie Town Board
- C. Planning Board: Town of Canajoharie Planning Board
- D. Zoning Board of Appeals: Town of Canajoharie Board of appeals
- E. Code Officer: Town of Canajoharie Code Enforcement Officer
- F. Dog: Any member of the species canis familiaris, or as otherwise defined in the New York State Agriculture and Markets Law (section 108, as amended) or in the Federal Animal Welfare Act (7 U.S.C. 2131 et seq.).
- G. Domestic Animal. Any animal customarily used or kept as a pet, including but not limited to a cat, rabbit, hamster, ferret or guinea pig, or as otherwise defined in the New York State Agriculture and Markets Law (section 108, as amended) or in the Federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

H. Kennel: Any premises or structure, where, for monetary compensation four (4) or more dogs or other domestic animals other than farm animals, male or female, over the age of four (4) months are bred, incarcerated or offered for sale. Kennel shall not include establishments where dogs are dropped off by their owners to be housed on a temporary basis or for grooming and are picked up by those same owners.

- I. Pet Breeding Facility any building or lot on which any of the following occurs
- 1) at least four (4) or more dogs or cats at any one time are bred or sold for commercial purposes; or
  - 2) any adult female dog or cat is bred more than once in any twelve (12) month period with the intent of selling or giving away said dog's or cat's pups or kittens or
  - 3) more than two (2) litters of pups or kittens are sold or given away in any twelve (12) month period.

J. Puppy Mill: Any large scale dog breeding facilities that operate under substandard breeding conditions that may cause the development of chronic health problems, temperament issues, and/or hereditary defects in puppies that come from such mills.

### Section 3. MORATORIUM

A. The Town Board hereby enacts a moratorium which shall prohibit the establishment, placement, relocation, construction, reconstruction, enlargement, modification or erection of any kennel, pet breeding facility or puppy mill.

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of (i) the date six (6) months from said effective date, unless renewed, or (ii) the enactment by the Town Board of a resolution indicating the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town.

D. Pursuant to this moratorium, the Planning Board shall not review any applications for kennels, pet breeding facilities or puppy mills, nor shall it grant any preliminary or final approval to any special use permit, site plan or subdivision which includes a kennel, pet breeding facility or puppy mill as part of the application.

E. Pursuant to this moratorium, the Code Officer shall not issue Building Permits or Certificates of Occupancy for any kennel, pet breeding facility or puppy mill.

F. Pursuant to this moratorium, the Zoning Board of Appeals shall not grant any approvals for any variance that involves the establishment, placement, relocation, construction, reconstruction, enlargement modification or erection of any kennel, pet breeding facility or puppy mill.

### Section 4 EXCLUSIONS

This moratorium shall not apply to the following: Any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals, any veterinary hospital or clinic operated by a veterinarian or veterinarian which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

Section 5 PENALTIES

Any person, firm, corporation, partnership, limited liability company or other legal entity which shall establish, place or relocate, construct, reconstruct, enlarge, modify or erect any kennel, pet breeding facility or puppy mill in violation of the provisions of this Local Law, shall be subject to:

A. A fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen (15) days or both.

B. A civil penalty in the amount of \$100.00 per day for each dog or domestic animal in any such prohibited facility for each day that such violation shall exist.

C. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction, improvements, or related items or byproducts which may have taken place in violation of this Local Law; or

D. Any other remedy allowed by law.

Section 6 ENFORCEMENT:

It shall be the duty of the Code Officer to enforce the provisions of this Local Law

Section 7 VALIDITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any Court or competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 8 EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York State Department of State and shall remain in force and effect for a period six (6) months from the date of such filing.

Section 9 NUMERICAL/LETTERING DESIGNATIONS

The chapter designations and numerical/lettering designations of the section and article(s) included in the Local Law shall be delegated to the discretion of general Code Publishers, which may renumber the chapter, sections and Article(s) included in this Local Law as necessary to accommodate incorporation of this Local Law in the Code of the Town of Canajoharie.

**Local Law #4 of 2016**

For the Town of Canajoharie to Opt-Out of Section 487 of the New York State Real Property Tax Law regarding assessment for local property tax purposes related to construction of solar, wind, or farm waste energy systems. Changes to this law will not address federal or state tax exemptions or credits.

Before voting upon Local Law #4 of 2016, Supervisor Allen informs the Board that Local Law #1 of 2012 has language contained within it which may addresses proposed Local Law #4 of 2016. It reads as follows: ***Section 602. Tax Exemption*** *The Town hereby exercises its right to opt out of the tax exemption provisions of Real Property Tax Law Section 487, pursuant to the authority granted by paragraph 8 of that law.*

-Supervisor Allen would like to speak with the Town Attorney, as it seems the Town as already passed a law to opt-out of Section 487

**Motion to Table Local Law #4 of 2016** by Councilman Armitstead, **seconded** by Supervisor Allen, all in favor, ayes, carried

**Highway Superintendent:** Received \$14,600.00 bid for the truck on Auctions International

**Motion to accept bid and sell truck** by Councilman Toomey, **seconded** by Councilman Armitstead all in favor, ayes, carried

**Town Clerk-** Gave February tax collection report to the Board, \$200,967.01 given to County; Approximately \$2,000.00 collected in penalty fees for the Town

- Informed the Board that old records are going to be purged
- Informed the Board of training attended for electronic filing of death certificates

**Bookkeeper:**

TOWN OF CANAJOHARIE  
CASH REPORT FEVRUARY 29, 2016

CHECKING ACCOUNTS  
General \$ 201,517.98  
Fire District \$ 39.86  
Consolidated Health \$ 25.28  
Highway Town Wide \$ 232,252.91  
Highway Part Town \$236,346.11  
Total \$670,603.16

MONEY MARKET ACCOUNTS  
General \$131,148.09  
Highway Town Wide \$ 1,716.19  
Highway Part Town \$150,445.50  
Total \$283,309.78

SAVINGS ACCOUNTS  
Consolidated Health \$ 1,493.73  
Highway Cap Reserv \$ 59,672.13  
Gen-Cap Res Garage \$174,658.10  
Gen-Sale of Land \$ 53,826.18  
Total \$289,650.14

BUDGET TRANSFERS FISCAL 2016

From	To	Amount
A9720.6 Debt-Serv-BAN Princ	A1355.4 Assessment Contr	\$54,000.00

This moves money from BAN payment to payment for MAS 2016 @\$4,500 per month

DA 5130.2 Machinery Equip	DA9730.6 Debt Serv-BAN Princ	\$15,000.00
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This moves money from equipment to allow a larger payment on the truck BAN Principal

Respectfully submitted,  
Amy S. Kretser, Bookkeeper

-Planning Board delegated to Zoning Board of Appeals Happy Hollow Rd. zoning issue; The adjoining residents of Happy Hollow Rd have been notified, and the ZBA is scheduled to meet on March 16<sup>th</sup>.

-Supervisor Allen informs the Board that County Executive Matt Ossenfort will attend the next Town Board meeting in April

-Sole Assessor, Mayor Avery, and Supervisor are going to meet this Sat at 10:00am to privately discuss the reassessment project

## **BILLS**

The clerk presented the following bill vouchers for approval:

General fund vouchers #49 through #64, totaling \$27,819.69;

Highway fund vouchers #46 through #67, totaling \$12,775.29

On a **motion** by Councilman Toomey, **seconded** by Councilman Armitstead, the bills and budget transfers were **unanimously approved** for payment.

**8:34pm-Motion** to enter **Executive Session** by Supervisor Allen, **seconded by** Councilman Toomey, **all in favor, unanimous Ayes**

**8:45pm-Motion** to come out of **Executive Session** by Councilman Toomey, **seconded** by Councilman Peruzzi, **all in favor, unanimous Ayes**

**Motion to Support the Village of Canajoharie in Abolishing the Village of Canajoharie Justice Court, and for the Town of Canajoharie to Assume Responsibility for the Justice Court, terms to be negotiated**, by Supervisor Allen, **seconded** by Councilman Toomey, **all in favor, ayes, carried**

## **Adjournment**

On a **motion** by Councilman Toomey, **seconded** by Councilman Armitstead, the meeting was adjourned at 8:46 PM.

Respectfully submitted,

Laurie M. Vroman, Town Clerk