

Warren County Board of Supervisors

RESOLUTION NO. 391 OF 2011

Resolution introduced by Supervisors Belden, Bentley, Merlino, Champagne, Monroe, McCoy, Conover, Wood and Taylor

INTRODUCING PROPOSED LOCAL LAW NO. 5 OF 2011 AND AUTHORIZING PUBLIC HEARING THEREON

RESOLVED, that proposed Local Law No. 5 of 2011 entitled "A Local Law Superseding County Law Section 215 and Authorizing a Six Month Extension of a Five Year Lease with Perkins Recycling Corporation of Certain County Owned Real Property in the Town of Queensbury Without Public Advertisement or Auction", attached hereto and made a part hereof, be, and the same hereby is, introduced before the Warren County Board of Supervisors, and a public hearing shall be held at the Supervisors' Rooms in the Warren County Municipal Center on the 15th day of July, 2011 at 10:30 a.m., on the matter of the adoption of said proposed Local Law No. 5 of 2011, and be it further

RESOLVED, that the Clerk of the Board of Supervisors be, and he hereby is, authorized and directed to give notice of such public hearing in the manner provided by law.

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COUNTY OF WARREN

PROPOSED LOCAL LAW NO. 5 OF 2011

A LOCAL LAW SUPERSEDING COUNTY LAW SECTION 215 AND AUTHORIZING A SIX MONTH EXTENSION OF A FIVE YEAR LEASE WITH PERKINS RECYCLING CORPORATION OF CERTAIN COUNTY OWNED REAL PROPERTY IN THE TOWN OF QUEENSBURY WITHOUT PUBLIC ADVERTISEMENT OR AUCTION

BE IT ENACTED, by the Board of Supervisors of the County of Warren, New York, as follows:

SECTION 1. Legislation Intent and Purpose. This Local Law is enacted to allow a six (6) month extension of an existing five (5) year lease with Perkins Recycling Corporation. The five year lease was the subject of an earlier Local Law (Local Law No. 4 of 2006) and is to expire June 30, 2011. The purpose of this Local Law providing for the six (6) month extension is to allow the superseding of County Law Section 215 to avoid the need to advertise and lease all or a portion of the property identified in Section 3 hereof to the highest bidder following public auction. This Local Law allows the flexibility to extend a lease with a tenant that the Board determines to be compatible with the nature of the property, the County's ownership rights and County goals and interests - as opposed to selecting a tenant based on the amount bid in response to specifications. Of concern is the retention of the ability to select and maintain sufficient control over a tenant, the use of the property and the terms of the lease agreement to: (1) help protect the County from liability arising out of possible environmental contamination for which the County agreed to be responsible for in an agreement made with Ciba-Geigy Corporation at the time of acquisition of certain real property (the real property described in Section 3 being a portion thereof) in 1991; (2) continue the use of property as a recycling facility.

SECTION 2. County Law Section 215 Amended and/or Superseded. It is the intent of this Local Law to supersede County Law Section 215(6) which provides that property no longer necessary for public use "...may be sold or leased only to the highest responsible bidder after public advertisement." It is desired

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to provide authority for a six (6) month extension of a private lease of certain County property more specifically described herein under the circumstances set forth in this Local Law and without public advertisement or auction.

SECTION 3. Description of County Owned Real Property Affected by Local Law. The property which is the subject of this Local Law and which is referred to in Section 1 hereof is described as follows: a recycling building, bailer, scale and scale house, fixtures contained therein or a part thereof and 5.1 acres of land and a limited non-exclusive and non-transferrable license to use designated access roads. The property lies and exists on the southerly side of New York State Routes 254 and 32(b) (also known as Lower Warren Street) in the Town of Queensbury, Warren County, New York. While this Local Law anticipates a lease to a single specific entity, this description shall not be deemed to require the County to lease all of the identified property and the Warren County Board of Supervisors may agree to lease only a part thereof. Further, any lease of all or a portion of the property may be subject to any terms or conditions deemed advisable by the Board. The Board shall also, at all times, have the authority hereunder to add other property rights as may be reasonably related to the described property.

SECTION 4. Authorization to Lease Certain County Property in the Town of Queensbury. The Warren County Board of Supervisors is hereby authorized and empowered, without public advertisement or auction and in the name of and on behalf of the County, to grant a six (6) month extension to the lease with the Perkins Recycling Corporation of all or a portion of the County owned real property described in Section 3 hereof together with such other reasonably related property rights as the Board may deem appropriate, provided that: (A) a minimum monthly rental payment of Eight Thousand Dollars (\$8,000) is received under circumstances where the County is responsible for County Town Special District and school taxes and assessments except that the County shall not be responsible for water and sewer rents or other taxes and assessments added to said real estate taxes by reason of the Lessee's failure to pay the same; (B) the renewal lease is for a term no longer than six (6) months; (C) the use of the property be limited to that

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of a recycling business; (D) the Lessee provides insurance and agrees to defend, indemnify and hold harmless the County, its boards, officers, employees and agents to the extent to be determined by the Board of Supervisors by agreement; and (E) the lease agreement may contain such other and further terms and conditions as may be deemed advisable by the Board and be generally in a form approved by the County Attorney.

SECTION 5. Nature and Extent of Authority. Determination that the County property is not needed. The authority provided in Section 4 hereof is optional and the Warren County Board of Supervisors shall at all times have the option of authorizing or not authorizing a lease of any portion or all of the property as allowed herein for by this local law or State Statute. Further, this Local Law shall not be deemed to require the Board to authorize an extension of the lease of the property to the Perkins Recycling Corporation or any other entity if the Board is unable to obtain an agreement with terms agreeable to the Board or if the Board should determine, at any time including after the time this Local Law shall become effective, that it is in the County's best interest, for whatever reason, not to complete the transaction authorized by this Local Law. Finally, the Board shall, by resolution adopted by majority vote and before authorizing any lease agreement, make a determination as to whether the portion of the property to be leased is needed for County purposes.

SECTION 6. Local Law Subject to Referendum of Petition. This Local Law shall not take effect until at least forty-five (45) days after its adoption nor until approved by the affirmative vote of a majority of the qualified electors of Warren County voting on a proposition for its approval if, within forty-five (45) days after adoption, there shall be filed with the Clerk, a petition protesting against such Local Law, signed and authenticated as required by the Municipal Home Rule Law of the State of New York. The Clerk shall publish this Local Law and take such further action as may be required by the Municipal Home Rule Law concerning this Local Law.

SECTION 7. Effective Date. This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.