

TOWN OF CONCORD TOWN BOARD MEETING
Public Hearing
Solar Energy Moratorium Local Law

July 22, 2024
9:15 a.m.

MEETING CALLED TO ORDER BY PHILIP DROZD, SUPERVISOR

ROLL CALL: PHILIP DROZD, SUPERVISOR
CLYDE M. DRAKE, COUNCIL MEMBER
KENNETH D. ZITTEL, COUNCIL MEMBER
KIMBERLY S. KRZEMIEN, COUNCIL MEMBER

EXCUSED: KENNETH KASSEL, COUNCIL MEMBER

ALSO PRESENT: DARLENE G. SCHWEIKERT, Town Clerk

JAMES TARAVELLA

PETER SORGI

Supervisor Drozd opened the Public Hearing at 9:15 a.m. regarding the proposed Local Law imposing a temporary moratorium on the issuance of applications and the granting of permits, licenses or approvals for any solar energy systems in the Town of Concord.

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Concord will hold a Public Hearing on a proposed: A local law entitled the "2024 Temporary Moratorium Law on solar energy facilities." For a period of one year from the effective date of this Local Law, no applications may be processed, and no permits, certificates of occupancy, approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms. Said hearing will take place on Monday, July 22, 2024 at 9:15 a.m. at the Concord Town Hall, 86 Franklin Street, Springville, New York 14141. Special Town Board Meeting will immediately follow this Public Hearing. Any and all interested persons will be heard. Copies of said proposed Local Law are available for review at the Office of the Town Clerk, 86 Franklin Street, Springville, New York, during regular business hours.

The Notice of the Public Hearing was published in the Springville Journal on July 18, 2024 and was also posted on the Town's signboard at 86 Franklin Street, Springville, New York, and the Town's website www.townofconcordny.com on July 12, 2024.

Supervisor Drozd began the Public Hearing regarding the proposed Local Law #4 of 2024:

Town of Concord
Local Law No. 4 of the Year 2024

A local law enacting a temporary moratorium on all battery energy storage system facilities.

BE IT ENACTED by the Town Board of the Town of Concord, Erie County, New York as follows:

SECTION 1.
PURPOSE AND INTENT

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the Town of Concord and to maintain the status quo as to certain solar energy uses, as the present zoning regulations in the Town do not adequately address this type of use. The moratorium will stop the processing of applications for, and the issuance of any permits, certificates of occupancy and approvals for certain land uses relating to solar energy, including but not limited to solar farms. The moratorium is for a period of one

year, allowing the Town Board to analyze and determine potential appropriate revisions and amendments to the Town of Concord Zoning Code concerning this use.

SECTION 2.
LEGISLATIVE FINDINGS

The Town of Concord Town Board does hereby find that without a temporary halt on the processing, permitting, and approvals for certain solar land uses there is the potential that such uses could be located in unsuitable areas within the Town and/or on particular lots without adequate dimensional regulations in place. The potential for the unsuitable location of and lack of proper dimensional regulations for, such uses would have materially adverse and irreversible impacts on the Town.

The Town Board also finds that it is in need of time to perform the necessary analysis of the potential types of solar energy facilities that could be located in the Town. By maintaining the status quo regarding such uses the Town Board can provide for the planned orderly growth and development of the Town.

SECTION 3.
MORATORIUM IMPOSED; APPLICABILITY

For a period of time of one year following the effective date of the adoption of this Local Law no application may be processed, and no permits, certificates of occupancy, approvals, denials, determinations or interpretations may be issued or granted for any land uses relating to solar energy, including but not limited to solar farms. The term "land uses relating to solar energy" shall be broadly construed to include any facility designed to generate electric power to be marketed, sold or used for other than the power demands of the improvements on the property on which such facility is located. Not included within the scope of this moratorium are solar energy facilities designed to generate electric power solely for the use of the improvements located on the same property.

The term "solar farm" shall mean "a collection of solar panels covering one-quarter (1/4) acres or more of land that are designed to capture sunlight and transform it into electricity. This definition includes freestanding and ground pole-mounted photovoltaic and parabolic solar installations. This definition does not include photovoltaic panels that are mounted on or affixed to residential dwellings for their use, or municipal buildings, or existing panels mounted on commercial or industrial buildings.

This Local Law shall be binding on the Town Board, Planning Board, Zoning Board of Appeals, Building Inspector, all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a permit, certificate of occupancy or approval in the Town of Concord. During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Town of Concord Code. During the period of the moratorium, no applications will be accepted, nor permits, certificates of occupancy or approvals issued, which would authorize development within the Town for land uses relating to solar energy as described above.

Notwithstanding anything contained herein to the contrary, the Local Law and Moratorium shall not apply to the continued review by the Town of Concord and other applicable government entities of solar energy projects that have been applied for and are under review including the issuance of any permits, certificates of occupancy, and approvals for any such solar energy projects that have been applied for and are under review by the Town of Concord and other applicable government entities as of the date of enactment.

SECTION 4.
TERM

This moratorium shall be in effect for a period of one-year consecutive months from its effective date. This Local Law shall be subject to renewal for a cumulative period of up to an additional one year, if necessary, by Resolution(s) of the Town Board.

SECTION 5.
EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 16 of the New York State Town Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control and supersede such law ordinance, rule or regulation.

SECTION 6.
WAIVER

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium.

SECTION 7.
SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

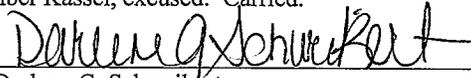
SECTION 8.
EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

Supervisor Drozd asked if there were any comments. Peter Sorgi, the attorney for RIC Energy, addressed the Board. At the last Town Board Meeting on July 11th, when the Town Board set this Public Hearing date, he had asked the question that since RIC Energy had already applied for and was in process, if their application was going to be exempted from this moratorium and they were told yes. Mr. Sorgi had conversation with Town Attorney Attea stating that there was no specific exemption in the law for this RIC Energy project. Mr. Sorgi suggested some language to put it in and Town Attorney Attea said sure and Town Attorney Attea confirmed that this moratorium will not be applied to the RIC Energy project. RIC Energy believes the Board and Town Attorney but would like to have that language included in the law. Mr. Sorgi provided the Town Board with copies of emails between Town Attorney Attea and himself as well as the draft local law with the suggested language that they ask be added in the law. Basically, saying that the RIC Energy project is exempted from this moratorium. Mr. Sorgi said that he would ask the Board to approve the law with the exemption and Town Attorney Attea could review the final language. Supervisor Drozd noted that the Town Board could make a motion to approve this local law per Town Attorney's final paperwork.

Supervisor Drozd asked if there were any other comments; there were none.

The Public Hearing remained opened until 9:30 a.m. Motion by Council Member Drake, seconded by Council Member Krzemien, to close the Public Hearing at 9:30 a.m. Council Members Drake & Krzemien; Supervisor Drozd, voting aye; Council Member Zittel, abstained; Council Member Kassel, excused. Carried.



Darlene G. Schweikert
Town Clerk

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