

TOWN OF CONCORD TOWN BOARD MEETING
Public Hearing
Battery Energy Storage Systems Moratorium Local Law

July 22, 2024
9 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 9:00 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 wind 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 the proposed Local Law: A local law enacting a temporary moratorium on all battery energy storage system facilities. Said hearing will take place on Monday, July 22, 2024, at 9:00 a.m. at the Concord Town Hall, 86 Franklin Street, Springville, New York 14141.

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 #3 of 2024:

Town of Concord
Local Law No. 3 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 as follows:

SECTION I.
SHORT TITLE

This local law shall be cited as Local Law No. 3 of 2024 of the Town of Concord and it is entitled the "2024 Temporary Moratorium Law on Battery Energy Storage System Facilities."

SECTION II.
LEGISLATIVE FINDINGS

WHEREAS, communities are witnessing the introduction of a previously unfamiliar form of Green-adjacent technology in the form of Battery Energy Storage Systems, or "BESS"; and

WHEREAS, BESS facilities generally consist of rows of rechargeable batteries housed in self-contained, interconnected storage units. BESS facilities typically operate by drawing surplus energy from the local power grid during periods of low usage and storing it for later distribution back into the grid during peak demand; and

WHEREAS, the Town of Concord Town Board, Disaster Coordinator, and local Fire Companies have raised concerns regarding BESS facilities over the presence of highly flammable substances, such as from lithium-ion batteries, and possible air and groundwater contamination; and

WHEREAS, following the third fire at a battery energy storage facility in as many months in New York this summer, Gov. Kathy Hochul announced the creation of a state inter-agency working group tasked with ensuring the safety of battery energy storage systems across New York; and

WHEREAS, the Town Board finds it imperative that the town undertake a thorough examination of these systems to identify any possible threats to public health, safety and welfare as well as evaluate the potential for environmental degradation; and

WHEREAS, other potentially significant planning concerns associated with BESS facilities such as noise generated by cooling fans may affect the quality of life of our residents; and

WHEREAS, it is essential for the Town of Concord to enact a temporary moratorium to carefully evaluate the implications of BESS facilities and assess how they may impact the Town, its residents, and its fire prevention infrastructure; and

WHEREAS, the Town Board of the Town of Concord has determined that in accordance with Section 617.5(c)(30) SEAR the adoption of a moratorium on applications for building permits and/or certificate of occupancies for land development or construction of Battery Energy Storage System Facilities constitutes a Type II Action, and further that the proposed moratorium has been identified as an Action not having a significant impact on the environment and is not subject to review under SEQRA.

IT IS THEREFORE FOUND BY TOWN OF CONCORD TOWN BOARD that the Town of Concord shall implement a moratorium to allow for a comprehensive and deliberate examination of BESS facilities and the recently introduced state inter-agency working group, with the aim of preserving the Town's ability to address the unique needs and concerns of its community in the realm of battery energy storage system regulations.

SECTION III.
AUTHORITY

This moratorium is enacted by the Town Board of the Town of Concord pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law Section 10.

SECTION IV.
MORATORIUM

- A. For a period of one (1) year from the effective date of this Local Law, no applications shall be accepted or considered by the Planning Board or the Town Board of the Town of Concord for any battery energy storage system facilities, or stand-alone.
- B. This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Town Board upon a finding of the necessity for such extension.

SECTION V.
SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

SECTION VI.
REPEAL OF OTHER LAWS

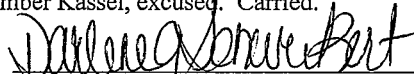
All local laws in conflict with provisions of this Local Law are hereby superseded and suspended for the duration of this moratorium and for any additional period that this Local Law is extended. This Local Law also supersedes, amends and takes precedence over any inconsistent provisions of New York State Town Law, the Town's Municipal Home Rule powers, pursuant to Municipal Home Rule Law Sections 10 and 22. The Town Law provisions intended to be superseded include all of the Article 16 of the Town Law, Sections 261-285 inclusive and any other provisions of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and to apply such intent in the event the Town has failed to specify any provisions of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provisions had it been apparent.

SECTION VII.
EFFECTIVE DATE

This Local Law shall take effect immediately, as provided by law, upon filing with the New York State Secretary of State.

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

The Public Hearing remained opened until 9:15 a.m. Motion by Council Member Krzemien, seconded by Council Member Drake, to close the Public Hearing at 9:15 a.m. Council Members Drake & Krzemien; Supervisor Drozd, voting aye; Council Member Zittel abstained; Council Member Kassel, excused. Carried.



Darlene G. Schweikert
Town Clerk