

Hamlin Public Hearing
March 13, 2017

The Hamlin Town Board held a Public Hearing in the Hamlin Town Hall located at 1658 Lake Road, Hamlin, New York. The meeting was called to order at 6:30 PM by Supervisor Peters.

Present: Councilperson Jennifer Voelkl, Councilperson Martin Maier, and Supervisor Eric Peters. Councilperson Jason Baxter and Councilperson Dave Rose excused.

Also present: Town Attorney Ken Licht and Deputy Town Clerk Michelle Johnson

LOCAL LAW NO. 2 OF 2017

A LOCAL LAW EXTENDING A MORATORIUM ON THE CONSTRUCTION OR PLACEMENT OF COMMERCIAL SOLAR ENERGY EQUIPMENT, FACILITIES, MATERIALS AND SUPPORT ACTIVITIES IN THE TOWN OF HAMLIN UNTIL MAY 31, 2017.

Section 1. Title.

This Local Law shall be known as “ A Local Law Extending a Moratorium on the Construction or Placement of Commercial Solar Energy Equipment, Facilities, Materials and Support Activities in the Town of Hamlin Until May 31, 2017”.

Section 2. Purposes.

A. On July 11, 2016 the Town Board of the Town of Hamlin approved Local Law _ of 2016 entitled “A Local Law Enacting A Moratorium on the Construction or Placement of Commercial Solar Energy Equipment, Facilities, Materials and Support Activities in the Town of Hamlin”. Said Local Law imposed a moratorium for a period of 8 months from its effective date on the acceptance or processing of any applications for the construction or operation of any land, building or structure within the Town of Hamlin for any commercial solar energy facility and on the use of any land, building or structure for any commercial solar energy activity or use.

B. The Town of Hamlin currently has no legislation specifically permitting the construction or operation of commercial solar energy facilities or “solar farms”, and has no regulations regarding the location, operation, maintenance and removal of such facilities. The purpose of the aforesaid Local Law was to enable the Town to stay the construction, placement, operation and establishment of such facilities and the submission and processing of applications for permits, special use permits, building permits, zoning variances, site plans, certificates of compliance or occupancy and any other approvals from the Town of Hamlin for a reasonable period of time so as to allow the Town adequate time to study the potential impacts and effects of such land use and to consider possible amendments to the comprehensive plan and town zoning laws to address such issues.

C. Since the enactment of said moratorium the town has studied model laws regarding commercial solar energy projects and has examined and reviewed legislation regulating such facilities adopted by numerous municipalities within the State of New York. The town has organized several workshops

attended by members of the Town Board, Planning Board, Zoning Board and Conservation Board as well as interested town residents to discuss what areas of the town are suitable for the siting of such projects and regulations pertaining to the permitting and operation of such projects.

D. Following such review, comprehensive draft legislation has been developed which addresses the zoning districts in which large-scale solar energy systems will be permitted, the application requirements for special use permits for the development and operation of such systems and proposed regulations and standards for such large-scale solar energy projects.

E. The Town will be unable to complete review of the proposed local law and hold a public hearing on the proposed law prior to the expiration of the current moratorium on March 18, 2017. The Town anticipates that the Local Law authorizing and regulating solar energy systems will be completed, adopted and filed by May 31, 2017.

Section 3. Continuation of Moratorium.

A. Until May 31, 2017 or such earlier date that the Town Board has either repealed this moratorium or passed and filed a local law authorizing and regulating solar-energy systems within the Town of Hamlin, no application for any permit, special use permit, building permit, zoning variance, site plan approval, certificate of occupancy or certificate of compliance, or any other town-level approval shall be accepted, processed or approved for the construction, placement, establishment or use or operation of any land, building or structure within the Town of Hamlin for any commercial solar energy facility or activity.

B. Until May 31, 2017, or such earlier date that the Town Board has either repealed this moratorium or passed and filed a local law authorizing and regulating solar energy systems within the Town of Hamlin, no individual, corporation, partnership, association, limited liability company or any other legal entity shall use or permit to be used any land, building structure within the Town of Hamlin for any commercial solar energy activity or use.

Section 4. Penalties.

A. It shall be the duty of the Code Enforcement Officer of the Town of Hamlin to enforce the provisions of this Local Law. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this Local Law.

B. A violation of this Local Law is hereby declared to be a violation and upon conviction thereof punishable by a fine of not more than \$350.00 or to imprisonment for a period not exceeding 15 days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate violation.

C. An action or proceeding may be instituted in the name of the Town of Hamlin in any court of competent jurisdiction, to prevent, restrain, enjoin, correct or abate any violation of, or to enforce, any provision of this Local Law. No such action or proceeding pursuant to this Paragraph C of section 4 shall be commenced without the appropriate authorization from the Town Board.

D. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. In addition to the above described remedies, the Town Board, in an action in any court of competent jurisdiction, may also seek reimbursement of costs incurred by the Town in identifying and remedying each violation, including but not limited to reasonable attorney's fees.

Section 5. Hardship Variances.

The Town Board is authorized to accept and review applications for hardship use variances by persons aggrieved hereby. No such use variance shall be granted unless the applicant demonstrates to the Town Board, after a public hearing, that this Local Law has caused the applicant unnecessary hardship. In order to demonstrate and prove unnecessary hardship the applicant shall demonstrate to the Town Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood, and
- (d) the alleged hardship has not been self-created.

Section 6. Pre-Existing, Legal, Non-Conforming Use

Any solar energy facility that is being conducted within the Town as of the effective date of this Local Law in accordance with all applicable laws and regulations, including valid permits and approvals required to be issued by the New York State Department of Environmental Conservation and any other regulating agencies, shall be considered a pre-existing non-conforming use and shall be allowed to continue, provided, however, that no expansion of such lawful, pre-existing non-conforming use shall be grand-fathered and shall be prohibited as provided in section 3 of this Local Law.

Section 7. Validity

If any section, sentence, clause or phrase of this Local law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Local Law.

Section 8. Effective Date

This Local Law shall become effective upon filing in the Office of the Secretary of State.

PUBLIC QUESTIONS

With no one wishing to address the board the Public Hearing was closed.

PUBLIC HEARING CLOSED

Resolution #104 Motion was made by Councilperson Voelkl, seconded by Councilperson Maier, requesting Town Board resolution to close the Public Hearing regarding the local law to extend a moratorium on the construction or placement of commercial solar energy equipment, facilities, materials and support activities in the Town of Hamlin until May 31, 2017 at 6:31 PM as all business was concluded.

Polled Votes: Councilperson Voelkl aye, Councilperson Maier aye, Supervisor Peters aye. Motion carried.

Respectfully submitted,

Michelle D. Johnson
Hamlin Deputy Town Clerk