

TOWN OF ENFIELD- Resolution # _____

LOCAL LAW #1-2017

MORATORIUM ON COMMERCIAL WIND AND SOLAR ENERGY FACILITIES

WHEREAS, the Town of Enfield (the “Town”), under the laws of New York State, desires to maintain its long tradition of protecting the health, safety, general welfare, property, and environment within its borders; and

WHEREAS, the Governing Board recognizes that regulations that oversee commercial renewable energy development are either non-existent or insufficient to provide for the promotion and protection of public health, safety, general welfare, property and environment in the Town; and

WHEREAS, the Town has participated in a rigorous exploration of public concerns through open public forums and comment periods addressing renewable energy development and the creation of a Wind Advisory Committee, all of which have resulted in a determined need and now declared desire to review, analyze, and update current regulatory oversight protocols for these activities; and

WHEREAS, New York statutes are not sufficient to protect the health, safety and well-being of Town residents, and over decades, starting with the New York Constitution, and continuing with the Statute of Local Governments and the Municipal Home Rule Law, New York has recognized that New York is a geographically and geologically diverse state, such that local regulation of local environments and land use and development is a hallmark of New York State law; and

WHEREAS, New York State Home Rule law grants the Town broad powers to adopt procedures and local laws to promote and protect the public health, safety, general welfare, property, and environment in the Town in order to protect against adverse risks and impacts of development; and

WHEREAS, moratoria are “Type II Actions” under the State Environmental Quality Review Act (SEQRA) regulations (6NYCRR section 617.5(c)(30)), and it is hereby determined that this proposed action—the adoption of a land use moratorium concerning certain alternative energy facilities—does not require further environmental impact review, a determination of significance, or the preparation of any other SEQRA documents; and

WHEREAS, a proposed final draft of such law has been duly presented to the Town Board by Councilperson McGee, in May, 2017; and

WHEREAS, a public hearing for the proposed local law was held on the 31st day of May, 2017, all comments and evidence were duly received and considered, and the proposed local law has not substantially changed such that no additional public hearings are required; and

WHEREAS, the Tompkins County Department of Planning has reviewed the proposed local law and has made only one official comment addressing a preference, desire, or requirement that existing or proposed alternative energy applications be exempted from the local law, presumably based upon selecting some measuring stick to differentiate between those projects that are mere ideas versus those that are the subject of completed applications or which are actually feasible, and while the Town Board believes it has adhered to such request by differentiating between those that have been issued permits and approvals and those that have not, there is an interpretation of the County recommendation that is divorced from land use regulation and application processes in that such recommendation seeks to advance a county-based green energy plan, which is a political and not land use objective and thus not properly related to General Municipal Law (“GML”) § 239-1, *et seq.*; and

WHEREAS, therefore, to the extent that the Town is not making changes to implement the County’s recommendation, this resolution shall suffice as the explanation required by said sections of the GML, and it is thus further noted that the whole point of the moratorium was to maintain the status quo and prevent damage to land and to the public health and welfare to allow the rapidly advancing technologies of alternative energy to be assessed and deleterious or potentially harmful impacts to be identified, mitigated, regulated, or prevented; and

WHEREAS, contrary to the entire purpose underlying moratoria generally, if fully implemented the County’s recommendations would actually defeat the very purpose of this moratorium, and thus the Town of Enfield has elected not to adopt a self-defeating position, and will instead proceed with its moratorium as written to protect the Town and its land and citizens; and

WHEREAS, upon consideration of all of the foregoing, all of which shall be and be deemed a material part of this resolution, and upon due deliberation hereupon, the Town Board of Enfield adopts the following resolutions; so now therefore it be

RESOLVED, that the Town Board of the Town of Enfield hereby enacts, adopts and approves this local law in the form as presented to this meeting, being the same as was presented at the Public Hearing held on the 31st day of May, 2017; and further be it

RESOLVED, that the Town Clerk file this Local Law with the Attorney for the Town of Enfield and the New York Department of State; and it is further

RESOLVED, that the Town Board shall hereafter create, and populate by appointment, a citizens advisory committee to be named the “Renewable Energy Advisory Committee,” as a standing committee for the duration of this Local Law, unless earlier dissolved or as may be hereafter extended by the Town Board, and the goals and purposes of this committee will be to gather and substantiate relevant information concerning alternative energy impacts and regulations, particularly in the fields of wind and solar power, and to make recommendations to the Town Board in furtherance of the intent and purpose of this Local Law.

Motion by: _____ Motion seconded by: _____

Virginia Bryant: _____ Michael Carpenter: _____ Beth McGee: _____

Beck Sims:_____

Ann Rider:_____