

Lessons Learned:

Town Of Enfield

Commercial Wind and Solar Development Observations and Recommendations

1. Listen to your community. Solicit community engagement and require community education events to inform residents of proposals, providing many opportunities for asking questions and expressing concerns and other feedback. Don't just have developers provide information. Seek many sources.
2. Complete your Comprehensive Plan. Know the layout and desires of your community for the future. What is important to the people who live there? Understand how you fit into the agendas and strategies of the greater community; County, State, and national, and how you will respond to those expectations.
3. Have a time limit on the application processes. Do full review when the application is complete and not as you go along. Have a written contract regarding who is responsible for all fees from engineering, legal, FOIL review costs and more. Make the developer responsible for these fees. Your residents should not be footing the bills for developers. If they aren't paying, stop all work that has expenses they are responsible for. Insist on pre-payment of fees through escrow and monitor it carefully.
4. If you receive an application, get very familiar with the requirements of NYS Article 10 (for proposals of 25 megawatts or more) and the NYS SEQRA requirements (for all applications). The NYS DEC has a very good SEQRA handbook online that covers the town's requirements in depth for both Article 10 and non-Article 10 proposals. (http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf)

For information regarding Article 10 itself, go here:

<http://www3.dps.ny.gov/W/PSCWeb.nsf/W/PSCWeb.nsf/All/D12E078BF7A746FF85257A70004EF402?OpenDocument>

5. Read everything! And if you don't understand it, hire someone who does who isn't affiliated with the applicant. Be thorough in understanding proposals and your own laws to the best of your ability. If you don't have oversight, think about implementing some. Look at many other municipalities' laws and regulations and choose pieces that fit your community.
6. Do your own research regarding commercial wind and solar applications. There is a lot of conflicting information, but you owe it to your community to do a thorough review so you get a balanced view of the pros and cons of each project proposal. Talk with other town's officials who are reviewing or living with similar projects to get their points of view and experience. The Town of Enfield website TownOfEnfield.org has a lot of information and documentation about our application review process of the Black Oak Wind Farm and our advisory committees' work on these issues.

7. The IDA has taken much of the negotiating power away from municipalities with regard to renewable energy development. Consider managing your own PILOT and Host Community Agreements. NYSERDA staff can assist you and provide guidance for this through their Guidebook (<https://www.nyserda.ny.gov/SolarGuidebook>). Commercial developers will continue to pursue the best tax deal they can. Even after a 20 year PILOT through the IDA, they may insist they cannot afford to pay more than they have been, as has already been experienced by towns where PILOTS have expired. We will all have to learn to navigate this problem whether we have 15 year PILOTS (the limit if your town manages it) or 20 year PILOTS through the IDA. Managing your own will allow you to retain control and negotiate with your community needs in mind. Understand your opt-in requirements with NY RPTL § 487 in order to do this.
8. County Planning can make recommendations in their NY GML § 239 review of applications or ordinances that may make it challenging to manage your own municipal planning or implement laws. You may overcome this if you have a super majority that can override those recommendations, should you see fit to do so. The Enfield Town Board found our County Planning Department's recommendations and information on Solar and Wind installations to be seriously outdated (often 15 years or more) with little citation as to where it was gathered from. This technology and the research around it changes rapidly and that time frame is way too long for proper assessment of impact. Even at the State level, there is confusion as to assessment, taxation, credits, process, control, safety, environmental impacts and more on these proposals.
9. Take anything the developer says with a grain of salt and remember that you have a fiduciary responsibility as a Board member (or other official) to the residents of your town to make any final recommendations based upon the governing or planning board's own due diligence and review. Do not rely on the developer's advisors without doing your own review of the facts and the law before making a final decision.
10. CONSIDER A MORATORIUM- If you feel you are ill prepared to respond to the proposals that you are being approached with and your community is concerned, consider enacting a moratorium on development until such time that you have researched and/or created the oversight you need to protect your municipality and invite responsible development compatible with your community. Understand how the specific applications before you are impacted by such action and if you have any legal liability for freezing the application process.

For questions or more information, please contact:

Beth McGee

Supervisor, Town of Enfield

607.288.2384

Supervisor@townofenfield.org