

**TOWN OF WESTERLO**  
**THREE (3) PUBLIC HEARINGS REGARDING A PROPOSED LOCAL LAW TO REPEAL AND REPLACE**  
**LOCAL LAW 1 OF 2019 TITLED “COMMERCIAL SOLAR ENERGY SYSTEMS”, A PROPOSED LOCAL**  
**LAW “WIND ENERGY SYSTEMS” AND PROPOSED LOCAL LAW “BATTERY ENERGY STORAGE**  
**SYSTEMS”**  
**&**  
**SPECIAL TOWN BOARD**  
**MEETING OF**  
**TUESDAY JULY 14, 2021**

The Town of Westerlo Town Board held three (3) Public Hearings regarding a proposed Local Law to repeal and replace Local Law 1-2019 titled “Commercial Solar Energy Systems”, a proposed local law for “Wind Energy Systems” and a proposed local law for “Battery Energy Storage Systems” followed by a Special Town Board meeting on Tuesday, July 14, 2021 at the Richard H. Rapp Municipal Building located at 933 County Route 401, Westerlo, NY 12193. Deputy Supervisor Kryzak opened the meeting at 7:08pm with the Pledge of Allegiance to the Flag.

Attending were: Councilwoman Amie L. Burnside  
Deputy Supervisor/Councilman Matthew Kryzak  
Councilman Joseph J. Boone  
Councilman Richard Filkins

Also attending were: Highway Superintendent Jody Ostrander, Zoning Board of Appeals (ZBA) Chairperson Jillian Henck, Broadband Research Committee (BRC) member Leonard Laub, previous Planning Board Chairwoman Dorothy Verch, Town Clerk Karla Weaver and approximately four interested residents.

**PUBLIC HEARINGS**

**COMMERCIAL SOLAR ENERGY SYSTEMS**

Councilwoman Burnside made a motion to open the Public Hearing on the proposed Local Law regarding Commercial Solar Energy Systems at 7:09pm. Councilman Filkins seconded; all in favor motion carried.

Councilman Kryzak reviewed previous comments/suggestions for the proposed law as follows:

- Section 4, create definition for “Consuming” versus the selling of solar.
- Section 4, #3- was suggested to read “Commercial/Utility Scale Solar Energy System”.
- Remove references of “WECS” throughout the document
- Section 7- Councilman Kryzak indicated he would work with Leonard Laub to update “ix” where it refers to 400 sf.
- Section 7- it was previously discussed that arrays higher than 20’ need a Special Use Permit. This will be changed to 12’.
- Section 8- remove “prime soils”, hard to enforce.
- Section 9, #1- either define “non-conforming” or remove completely.

Additional comments/suggestions were as follows:

- Section 4, #9- either remove map reference at the end of the paragraph or reference map in Comprehensive Plan.
- It was suggested to change all references within the document of Zoning Administrator or Building Inspector to Code Enforcement. Discussion continued, ultimately should be changed to Building Department.
- Strike section 7, viii and section 8, I and any other sections that reference battery storage systems as long as it is in the proposed battery law.
- Section 4, #8- Mature Forest definition was discussed. Change 6' to 8'.
- Section 4, #9- If "Prime Soils" were to be left in the law, it should be reviewed by the Planning Board. Councilman Kryzak mentioned this definition needs to be researched. Discussion continued regarding ag exemptions. Mr. Laub suggested removing Prime Soil but keep Prime Farmland.
- Section 8, #3, xii, b, ii- Mrs. Henck suggested striking the second sentence "The applicant may submit information to demonstrate that the soils on the proposed project site are not Prime Soils or have poor drainage."
- Reference DEC for definition of mature forests
- Review definitions of Community Based Solar vs Utility Scale
- Section 8, #3, b, exhibit 1 is not attached. It was also suggested that the last sentence read, "The sign shall satisfy local zoning requirements in the following criteria standards"
- Section 8, #2, o, change "singing" to "signage"
- Add information on fire from the proposed Wind law, on pg 14, H, #4

Councilwoman Burnside made a motion to adjourn the Public Hearing for Commercial Solar Energy Systems at 8:16pm. Councilman Filkins seconded; all in favor motion carried.

### **WIND ENERGY SYSTEMS**

Councilman Boone made a motion to open the Public Hearing on the proposed Local Law regarding Wind Energy Systems at 8:16pm. Councilman Filkins seconded; all in favor motion carried. Items discussed were as follows:

- Review why signage posting requirements as stated in the solar and battery documents haven't been added to the Wind document.
- WECS should be consistent throughout the document
- Remove any language of tables as they will not be included with the document.
- Definitions should be consistent throughout all proposed documents
- Section 3, A, replace ZBA with Planning Board throughout this paragraph and throughout the document.
- Section 3, B, the second sentence shall read "The Applicant shall attend any Board meeting where the application is to be considered".
- Section 1, remove "MET towers" and throughout the document
- Section 2, top of page, remove "set forth in the Schedule of Use Table and upon showing"
- Section 2, J, change "maximum" to "minimum" in last sentence.

- Section 1, under Wind Energy Conversion System (“WECS”), switch “a” and “b” to have Non-Commercial listed first. It was also recommended to increase 10 kilowatts to 25 in both “a” and “b” in the Wind and Solar documents.
- Section 5, B, #1, change ZBA to Planning Board
- Section 5, H, #2, replace “solar energy system” with “WECS” in the second to last sentence.
- Section 7, B change “maximum” to “minimum”
- Section 7, B, typo for “Section 4(V)7”
- Section 7, D, #1, 30’ was questioned
- Section 7, D, strike #2
- Section 7, E, add #4 for paragraph after #3 paragraph
- Section 7, F, #3, second sentence should read “Signs shall be placed or positioned four (4) to six (6) feet high, i.e., at eye level.”
- Section 7, H, the applicant should provide a visual representation or mockup
- Section 7, I, #2, ii, “ii” should be “b”
- Section 8, D, #3, the first sentence should read, “the permit for the WECS expires or is not renewed”
- Section 8, F, reduce 140 days to 90 days. The owner/operator should address the deficiencies in writing. Change 18 months to 30 days. Will consult with the Town Attorney regarding both E & F time periods.
- Section 9, A, eliminate “No ground mounted system, however shall be permitted on a nonconforming lot, as the same is described in the Zoning Law.” It should read “WECS must meet the set-back requirements set forth for said zoning district in the Zoning Law.”
- It was recommended to add “iii” paragraph from pg #7, #3, a, of the proposed solar into this document as well.

Discussion ensued regarding addressing escrow accounts and application fees in all zoning. It was also mentioned to have a commissioning plan in place to address all zoning laws in regards to the process of bringing facilities online (pre-functional start-up, pre-functional testing and acceptance).

Councilwoman Burnside made a motion to adjourn the Public Hearing on Wind energy Systems at 9:07pm. Councilman Filkins seconded; all in favor motion carried.

### **BATTERY ENERGY STORAGE SYSTEMS**

Councilman Filkins made a motion to open the Public Hearing on the proposed Local Law regarding Battery Energy Storage Systems (BESS) at 9:08pm. Councilwoman Burnside seconded; all in favor motion carried. Items discussed were as follows:

- Section 8, change from ZBA to Planning Board in the first paragraph
- Section 8, #1, change “Code Enforcement/Zoning Enforcement Officer” to “Building Department”
- Section 8, #9, e, replace “WECS” with “BESS” and throughout the document

- Section 8, #10, change “Zoning Enforcement Officer” to “building department” and throughout the entire document
- This document will be consistent with the other two documents
- Look into PILOT renegotiations when battery storage improvements are made to existing facilities or change of ownership
- Appendix 3, f, it was suggested to have two (2) emergency phone numbers in all documents
- Remote disconnect/monitoring

Councilman Filkins made a motion to adjourn the Public Hearing on the proposed Local Law regarding Battery Energy Storage Systems at 9:28pm. Councilwoman Burnside seconded; all in favor motion carried.

### **SPECIAL TOWN BOARD MEETING**

Councilwoman Burnside made a motion to open the Special Town Board meeting at 9:37pm. Councilman Filkins seconded; all in favor motion carried.

### **MARIJUANA LEGALIZATION EFFECTIVE MARCH 31, 2021**

Councilman Kryzak indicated that marijuana was legalized as of March 1<sup>st</sup> 2021. The Town has an opportunity to opt out of allowing retail dispensaries or on-site consumption and licenses. If opting out, the Town needs to adopt a Local Law by December 31<sup>st</sup> 2021. He reviewed some pros and cons.

### **TRANSFER STATION ANNUAL PERMIT TAGS**

Town Clerk Weaver mentioned annual Transfer Station permit renewals were coming up and she needed to order more hang tags. Discussion continued regarding options for new tags and limitations with the program used for the record keeping in the Town Clerk’s office. She will get a quote for a new hang tag and report back to the Board. Mr. Kryzak recommended whatever is easiest for the Town Clerk’s office.

### **PLANNING BOARD VACANCY**

Councilman Kryzak indicated the Town received two new applications this month for the vacancy on the Planning Board. The deadline for applications is the 30<sup>th</sup> of July.

### **PUBLIC HEARING DISCUSSION**

The Town Board discussed potentially holding additional Public Hearings on a Saturday at the Town Park regarding the proposed Local Laws for renewable energy and the draft Comprehensive Plan. No date set at this time.

### **ASSESSOR APPOINTMENT**

Councilman Kryzak mentioned that a correction needed to be made to the resolution from the last meeting regarding the Assessor appointments as he indicated they were co-assessor’s. Melanie Bunzey is the sole Assessor and Christine is her assistant on an as needed basis; both are paid the same. Councilman Kryzak made a motion to make a correction to the July 6<sup>th</sup> minutes (Resolution # 71 of 2021) that Melanie Bunzey is the Sole Assessor for the Town of

Westerlo appointed through December 31<sup>st</sup> 2021 and Christine Valchovic is the Assessor's assistant as needed appointed through December 31<sup>st</sup> 2021, both at the same hourly rate as before. Councilwoman Burnside seconded; all in favor motion carried. Minutes for July 6<sup>th</sup> will reflect this correction.

#### **WEBSITE UPDATES**

Councilman Kryzak indicated he received a quote from Eric Markson for some updates to be done to the website. Mr. Markson's hourly rate is \$55/hr. Some pages run a little slow so that will be fixed and he will create pages for the Broadband Research Committee (BRC), Historian and Hometown Heroes. The estimate is roughly \$495 for 9 hours of work. It was mentioned that the Planning and Zoning Board should have a page as well. It was suggested to have an email contacts list on the website.

#### **PUBLIC COMMENT**

No public comment.

#### **ADJOURNMENT OF MEETING**

With there being no further business, Councilwoman Burnside made a motion to adjourn the Special Town Board meeting. Councilman Kryzak seconded; all in favor motion carried. Meeting adjourned at 10:09pm.

Respectfully Submitted,

Karla J. Weaver