

**Town Board Special Meeting
238 Main Street, Cold Spring, New York**

November 20, 2013

Town Hall

7:30 p.m.

Public Hearing – A LOCAL LAW ESTABLISHING A SIX (6) MONTH MORATORIUM ON THE SUBMISSION AND PROCESSING OF APPLICATIONS FOR WIND ENERGY CONVERSION SYSTEMS WITHIN THE TOWN OF PHILIPSTOWN.

AGENDA

1. Resolution adopting Local Law for a six-month moratorium for wind energy conversion systems applications.

- SEQRA / Negative Declaration
- Adopt Local Law

2. Adopt Final Budget for fiscal year 2014.

3. Any other business that may come before the Town Board.

4. Adjournment.

TOWN OF PHILIPSTOWN LOCAL LAW NO. OF 2013

A LOCAL LAW ESTABLISHING A SIX (6) MONTH MORATORIUM ON THE SUBMISSION AND PROCESSING OF APPLICATIONS FOR MAJOR WIND ENERGY CONVERSION SYSTEMS WITHIN THE TOWN OF PHILIPSTOWN.

SECTION 1. INTENT and AUTHORITY

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York and Article 16 of the Town Law of the State of New York, with the procedural provisions of the Municipal Home Rule Law controlling.

SECTION 2. PURPOSE

A. The purpose of this Local Law is to enable the Town of Philipstown (the "Town") to prevent the submission and processing of any applications for Major Wind Energy Conversion Systems within the Town for a reasonable time for the Town Board to review, clarify, amend and update the Town's Special Permit and Accessory Use Regulations for Major Wind Energy Conversion Systems.

B. It is further the purpose of this Local Law to fulfill the Town's constitutional, statutory, and legal obligations to protect and preserve the public health, welfare, and safety of the citizens of the Town, as well as to protect the value, use and enjoyment of property in the Town by temporarily prohibiting the submission and processing of applications for Major Wind Energy Conversion Systems within the Town.

C. That to preserve the resources and character of the Town, to consider further the concerns of the residents and property owners of the Town, and to address further the needs of those residents and property owners, the Town finds that it will require some time to review, clarify, amend and update the Town's Special Permit and Accessory Use Regulations for Major Wind Energy Conversion Systems.

D. That the submission and processing of applications for approvals for Major Wind Energy Conversion Systems within the Town without first addressing the provisions in the Town Code pertaining to such uses may have a permanent, significant, and substantial negative impact on the nature and quality of life in the Town and on the health, safety, general welfare, and comfort of its residents.

E. The Town Board hereby finds that a moratorium of six (6) months duration, coupled with exempting pending applications from the moratorium and creating a hardship waiver procedure and mechanism for persons seeking Major Wind Energy Conversion System approvals within the Town, will achieve the balancing of interests between the public need to safeguard the resources and character of the Town, the health, safety and general welfare of its residents, and the rights of individual property owners, persons, or businesses engaging in various development activities during such period.

SECTION 3. IMPOSITION OF MARATORIUM

A. For a period of six (6) months from and after the effective date of this Local Law, except as provided in Sections 4 and 5 below, no new applications for Major Wind Energy Conversion System approvals shall be accepted or processed by the Town.

B. This moratorium may be extended by one (1) additional period of up to three (3) months by resolution of the Town Board upon a finding and a necessity for such extension, or may be terminated earlier if the Town Board determines by resolution that the purpose of the moratorium has been fulfilled.

SECTION 4. EXCEPTIONS

A. This Local Law shall not apply to the following:

1. Proposed accessory uses of Wind Energy Conversion Systems producing electricity and/or heat primarily for on-site use and not exceeding forty feet (40') in height.
2. Applications for Major Wind Energy Conversion System approvals that are pending before the Town Planning Board or Town Zoning Board of Appeals on the effective date of this Local Law.

SECTION 5. ALLEVIATION OF EXTRAORDINARY HARDSHIP

A. The Town Board may authorize exceptions to the moratorium imposed by this Local Law when it finds, based upon evidence presented to it, that deferral of action on an application for a Major Wind Energy Conversion System would impose an extraordinary hardship on a landowner or applicant.

B. An application for an exception based upon extraordinary hardship shall be filed with the Town Clerk, including a fee of five hundred and 00/100 Dollars (\$500.00) for each tax map parcel claimed to be subject to extraordinary hardship, by the landowner or the applicant, upon the consent of the landowner. The application shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship and shall contain such other information and/or documentation as the Town Board or its designee, shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

C. A public hearing on any application for an exception to this Local Law based upon extraordinary hardship shall be held by the Town Board at a meeting of the Town Board no later than forty-five (45) days after the complete application for extraordinary hardship has been filed with the Town Clerk. The Town Board shall determine, by motion duly adopted, when an application based upon extraordinary hardship is complete.

D. In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Board shall consider the following:

1. The extent to which the proposed Major Wind Energy Conversion System presents safety concerns, would have negative visual impacts or may otherwise negatively affect public health or comfort.

2. Whether application of the moratorium will expose the property owner or applicant to substantial monetary liability to a third person.

E. Mere delay in obtaining approvals for Major Wind Energy Conversion Systems or concern that new regulations may be adopted precluding approval of a proposed Major Wind Energy Conversion System is insufficient to constitute an extraordinary hardship under this section.

F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall, in its sole discretion, act upon the application for an exception based upon extraordinary hardship. The Town Board may approve, deny or approve in part and deny in part the application being acted upon.

SECTION 6. SUPERSEDING AND REPEALER PROVISIONS

This Local Law shall supersede the applicable sections of Article 16 of the Town Law, including, but not necessarily limited to Sections, 130, 261, 262, 263, 264, 265, 267, 268, 269 and 274-a, and Executive Law Section 381 to the extent inconsistent with the same and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other statute determined to be in conflict with the provisions hereof.

SECTION 7. SEVERABILITY

If any clause, sentence, paragraph, word, section or part of this local law shall be judged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

SECTION 8. EFFECTIVE DATE

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

PART I – PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR TOWN BOARD, TOWN OF PHILIPSTOWN	2. PROJECT NAME LOCAL LAW NO. ____ OF THE YEAR 2013
3. PROJECT LOCATION: Municipality: TOWN OF PHILIPSTOWN County: PUTNAM	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) THE ACTION IS THE ADOPTION OF A LOCAL LAW ESTABLISHING A SIX (6)-MONTH MORATORIUM ON THE SUBMISSION AND PROCESSING OF APPLICATIONS FOR MAJOR WIND ENERGY CONVERSION SYSTEM APPROVALS WITHIN THE TOWN OF PHILIPSTOWN.	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: THE TOWN BOARD PROPOSES TO ADOPT A LOCAL LAW ESTABLISHING A SIX (6)-MONTH MORATORIUM ON THE SUBMISSION AND PROCESSING OF APPLICATIONS FOR MAJOR WIND ENERGY CONVERSION SYSTEM APPROVALS WITHIN THE TOWN OF PHILIPSTOWN.	
7. AMOUNT OF LAND AFFECTED: TOWN WIDE Initially ____ acres Ultimately ____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly: N/A	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: N/A	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY, FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL?) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permits/Approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?) <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permits/Approvals: N/A	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/Sponsor Name: TOWN OF PHILIPSTOWN	Date: October , 2013
Signature: _____ RICHARD SHEA, SUPERVISOR	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

PART II – ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another Involved Agency. Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: **NO**

C2. Aesthetic, agricultural, archeological, historic, or other natural or cultural resources, or community or neighborhood character? Explain briefly: **NO**

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: **NO**

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: **NO**

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: **NO**

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: **NO**

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly: **NO**

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly:

PART III – DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important, or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e., urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a Positive Declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

TOWN OF PHILIPSTOWN

Name of Lead Agency

RICHARD SHEA

SUPERVISOR

Print or type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

Date _____, 2013



Putnam County
Department of Planning, Development,
and Public Transportation

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Carmel, NY 10512

Phone: (845) 878-3480

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SECTION 239 CASE REFERRAL

Case Received: 9-30-13 Report Required: 10-30-13 Completed: 10/1/13

Application Name: Prop. Local Law for 60 day Moratorium on Major Wind Conversion System Referral #: 13-PC-60

TOWN: Carmel: Philipstown: x VILLAGE: Brewster: Kent: Putnam Valley: Cold Spring: Patterson: Southeast: Nelsonville:

Referred by: PB: ZBA: Town Board: x Historic District Review Board:

Location of Project: Town of Philipstown

Present Zone: Tax Map #:

Type of action: Variance: Zoning Ordinance: Master Plan: Subdivision: Special Use Permit: Subdivision Regulations: Site Plan: Rezoning: Certificate of Appropriateness: Zoning Amendment: x

DECISION BY COUNTY:

Approved as Submitted: x Modification: Disapproved:

Basis for Decision Other than Approval:

Reviewed by: [Signature] Transportation Planner (Title)

rc 1-13

received 10/4/13 [Signature]

Town of Philipstown
238 Main Street
P.O. Box 155
Cold Spring, New York 10516

October 29, 2013

Town Board
Town of Philipstown
238 Main Street - P.O. Box 155
Cold Spring, New York 10516

ATTN: RICHARD SHEA, Supervisor

Re: Local Law for Moratorium on Wind Turbine Applications

Dear Supervisor Shea:

At its October 17, 2013 meeting the Planning Board read and reviewed the Town of Philipstown's proposed local law imposing a moratorium on wind turbine applications. The Planning Board was in favor of the proposed local law as drafted.

Very truly yours,


MICHAEL LEONARD,
Chairman

cc: Stephen J. Gaba, Esq.

received
10/29/13/ML