

TOWN BOARD MEETING

Town of Westfield

September 4, 2024

PUBLIC HEARING

Town of Westfield

A LOCAL LAW ENACTING A MORATORIUM ON COMMERCIAL SOLAR ENERGY FACILITIES

Supervisor Bills called the public hearing to order at 7:21pm in Eason Hall North Room, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	Guests:	QG Best
Councilmember:	David Brown		Carol Ford
	David Spann		Sandra Brown
	William Northrop		
	James Herbert		

Code Officer: Kenneth Shearer
Highway Superintendent: David Babcock
Town Attorney: Joel Seachrist
Town Clerk: Andrea L. Babcock

Supervisor Bills opened the public hearing to discuss the proposed Local Law. Attorney Joel Seachrist gave an overview of the law. The law will allow for the Town officials to review, clarify, amend, and update the Town's regulations, particularly with regard to where such development that are not residential solar energy installations within the Town of Westfield.

The Legal notice was posted in the Dunkirk Observer, Westfield Republican, Town website and Town Clerks sign wall of the Public Hearing.

No comments from the public.

Councilmember David Brown made the motion to move that the public hearing be closed at 7:25pm. Councilmember David Spann seconded the motion. Motion carried.

Respectfully submitted,
//original signed//
Andrea L. Babcock, Town Clerk

TOWN BOARD MEETING

Town of Westfield

September 4, 2024

PUBLIC HEARING

Town of Westfield

A LOCAL LAW ENACTING A MORATORIUM ON WIND ENERGY CONVERSION SYSTEMS

Supervisor Bills called the public hearing to order at 7:25pm in Eason Hall North Room, 23 Elm Street, Westfield, NY, with the following members and guests present:

Supervisor:	Martha R. Bills	Guests:	QG Best
Councilmember:	David Brown		Carol Ford
	David Spann		Sandra Brown
	William Northrop		
	James Herbert		

Code Officer: Kenneth Shearer
Highway Superintendent: David Babcock
Town Attorney: Joel Seachrist
Town Clerk: Andrea L. Babcock

Supervisor Bills opened the public hearing to discuss the proposed Local Law. Attorney Joel Seachrist gave an overview of the law. The law will allow for the Town officials to review, clarify, amend, and update the Town's regulations, particularly with large-scale wind energy conversion systems under Section 94-c of New York's Executive Law.

The Legal notice was posted in the Dunkirk Observer, Westfield Republican, Town website and Town Clerks sign wall of the Public Hearing.

No comments from the public.

Councilmember David Spann made the motion to move that the public hearing be closed at 7:25pm. Councilmember David Brown seconded the motion. Motion carried.

Respectfully submitted,
//original signed//
Andrea L. Babcock, Town Clerk

TOWN BOARD MEETING
Town of Westfield
September 4, 2024

The regular meeting of the Town Board of the Town of Westfield was called to order at 7:30pm in Eason Hall, 23 Elm Street, Westfield, NY, with the following members:

Supervisor:	Martha R. Bills	Guests:	QG Best
Councilmember:	David Brown		Carol Ford
	David Spann		Sandra Brown
	William Northrop		
	James Herbert		

Code Officer: Kenneth Shearer
Highway Superintendent: David Babcock
Town Attorney: Joel Seachrist
Town Clerk: Andrea L. Babcock

Pledge of Allegiance

Councilmember William Northrop made the motion to waive the reading of the August 7, 2024, minutes inasmuch as all members received a copy thereof and the minutes be accepted. Councilmember David Brown seconded the motion. The motion was carried unanimously.

Reports:

The Supervisor's August monthly report was distributed and accepted as submitted including up to date spending and revenues on all accounts. All board members have received a copy, and the monthly report is always available in the Supervisor's office for anyone to view. The Supervisor's office is working on the 2025 preliminary budget.

The Town Clerk's report together with a check in the amount of \$8,790.19 totaling representing fees for the month of August 2024 is turned over to the Supervisor. A check for \$135.00 representing fees for the month of July to NYS Department of Health for Marriage Licenses. The amount of \$45.00 has been turned over to NYS Department of Agriculture and Markets. NYS Decals licenses in the amount of \$3,346.81 will be withdrawn on the 13th. The town's commission from the August sales of decals transactions is \$195.19.

- The Town Tax Collector is talking with Community Bank regarding a credit card payment option for taxpayers. More information will be forthcoming.
- The Dog Warden's report for the month of August 2024 was not received.
- The Town Historian report for the month of August 2024 was received and placed on file in the Town Clerk's office.
- Westfield Fire Department report for the month of July 2024 was not received.
- The Town Court report for August 2024 was received and placed on file in the Town Clerk's office.
- The WPD report for July and August was received and placed on file in the Town Clerk's office.

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Highway:

Highway Superintendent's August 2024 report was received and placed on file in the Town Clerk's office. The report highlighted fuel usages, mowing, ditching, blacktopping with the Village, recently received the new Loader (Cat 938), materials are ordered for the new boat launch project. The Highway Superintendent received a verbal quote for a new 60 x 60 garage add on. The Town Highway Department will assist with the project to help cut the cost of the garage add on, timeframe and cost were discussed. No action was taken, just a discussion took place.

Code Enforcement:

The Code Enforcement Officer's August 2024 report was received and placed on file in the Town Clerk's office. The report highlighted the permits issued and daily tasks.

- A decommission plan has not been received from the developer for the NYPA Electric Charging Station project in Barcelona. Town representatives discussed options with the applicant to consider and or submit a new plan.
- Continuous ongoing education for code enforcement and assessor training, working with property owners, attending meetings and webinars. The office is working on digitizing properties in the code office.
- A Special Use Permit application was received for a storage building on Pigeon Road and referred to the Town Planning Board. Supervisor Bills made a motion to set a public hearing for October 2, 2024, for 7:15pm, seconded by Councilmember Brown and carried unanimously.

Barcelona Harbor:

- The Us Army Corps of Engineers have awarded the dredging project.
- Councilmember David Spann gave an overview of the Barcelona Harbor Coastal Assessment progress report study.
- Sunday September 15, 2024, is the last day for the season.

Public Comment:

- NONE

Announcements:

- School Tax Collection started Tuesday, September 3rd at the Town Bookkeepers window.
- Grape and Wine Festival at Moore Park and Grape Discovery Center, September 7th & 8th
- Cemetery walk at the Westfield Cemetery will be September 20th and 21st, 2024
- The Comprehensive Plan public meeting will be September 17, 2024, at 6:00pm at Eason Hall.

Project Updates:

- Route 5 East Lake Road Water Project No. 2 project is on hold. The Supervisor will have a phone conference with USDA regarding the bids received that are over budget. More information will be forthcoming at the October meeting.
- The Village and the Town steering committee continues to work on the new comprehensive plan. A community questionnaire survey is asked to be filled out by the community. The questionnaire is available on paper or online.
- The Town and Village officials will meet with NCCR to discuss the existing agreement in September.

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New Business:

Councilmember David Spann offered the following resolution and moved for its adoption

**Resolution No. 45 of 2024
TOWN OF WESTFIELD
RESOLUTION TO ADOPT LOCAL LAW NO. 2 OF 2024
Local Law enacting a moratorium on commercial solar energy facilities.**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Westfield for a public hearing to be held by said Board on September 4, 2024 at Eason Hall, 23 Elm Street, Westfield, to hear all interested parties on a proposed Local Law enacting a moratorium on commercial solar energy facilities and

WHEREAS, notice of said public hearing was duly published in the *Dunkirk Observer, Westfield Republican* and posted in the Town Clerk's office, and

WHEREAS, said public hearing was duly held on September 4, 2024, at the said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interests of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Westfield hereby adopts said Local Law as Local Law No. 2 of 2024, a copy of which is attached hereto and made a part hereof, and the Town Clerk hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Westfield, and to give due notice of the adoption of the Local Law to the Secretary of State.

**TOWN OF WESTFIELD
LOCAL LAW NO. 2 FOR THE YEAR 2024**

**A LOCAL LAW ENACTING A MORATORIUM ON COMMERCIAL SOLAR ENERGY
FACILITIES**

Section 1. Enactment and Title.

The Town Board of the Town of Westfield does hereby enact the Town of Westfield Moratorium on Solar Energy Facilities Law. This Local Law shall impose a moratorium on applications or proceedings for applications for, the review of applications for, or the issuance of approvals or permits for the construction of any Commercial Solar Energy Facilities that are not Residential Solar Energy Installations, within the Town of Westfield, for roughly one year.

The capitalized terms in the foregoing sentence, and as used throughout this local law, shall have the following meanings ascribed to them:

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September 4, 2024

Commercial Solar Energy Facilities - Any collection of solar panels which are designed to capture photons or sunlight and transform it into electricity and any and all related infrastructure, electrical lines, substations, access roads and accessory structures that cover more than ¼ acre of land, which are designed with the intent of producing electricity to be consumed off site. *For purposes of this definition and this moratorium law, a “commercial solar energy facility” may include large scale solar energy systems, as defined in the Town of Westfield Zoning Code, but shall not include those systems for which the developer will file an Article 94-C application.*

Residential Solar Energy Installations - Any collection of solar panels which are designated to capture sunlight and transform it into electricity and requires less than ¼ acre of land.

Residential Solar Energy Installations shall also include, for purposes of this local law, all traditional agricultural uses and alternative agricultural energy uses that are intended to principally generate power for the agricultural enterprise when located within a designated Agriculture District, or as otherwise protected or recognized under New York State Agriculture and Markets Law Article 25-AA, including, without limitation § 305(3), § 305(4) and § 305-a therein, and all implementing regulations and rules, and further including policies therein implemented and hereby adopted relative to supporting traditional and generally acceptable farming practices, further including but not limited to heat recovery from composting systems, biogas recovery systems, anaerobic digester gas-to-electricity systems, and other alternative energy systems that significantly support or advance agriculture and agribusinesses within the Town and its Agricultural Districts.

Applicant - All landowners and all those claiming through or on behalf of the owner(s), whether by license, lease, easement, contract, or by owner's designation as an agent for purposes of making any application or any land use review or approval, whether for a permit or otherwise.

Section 2. Authorization, Purpose and Intent.

Pursuant to the authority and provisions of the New York State Constitution, and Section 10 of the Municipal Home Rule Law, and the statutory powers vested in the Town of Westfield to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board (the “Board”) of the Town of Westfield hereby declares moratorium on applications or proceedings for applications for, the review of applications, or the issuance of approvals or permits for the construction of Commercial Solar Energy Facilities within the Town of Westfield (the “Town”), lasting through **August 31, 2025**.

This moratorium will allow time for Town officials to review, clarify, amend, and update the Town's Regulations for commercial solar development, particularly with regard to where such development may be located in the Town. Additionally, this moratorium will allow the Town to adopt such other regulations as may be necessary to promote and preserve the health, safety and welfare of the Town and its citizens.

Section 3. Scope of Controls.

During the effective period of this Local Law:

- A. Neither the Town Board, the Zoning Board of Appeals, nor the Planning Board shall conduct any review or consider or grant any special permit or other approval that will

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result in the approval, establishment or construction of any Commercial Solar Energy Facility within the Town.

- B. To the extent permitted by law, this moratorium shall supersede all relevant provisions of the New York State Town Law, the New York State Building Code, any relevant Town local law and any other applicable law, rule or regulation, that may be in conflict herewith. If any ambiguity or conflict exists, this local law shall govern and the presumption shall in each case be that the moratorium is in effect.

Section 4. No Consideration of New, Revised, or Renewal Applications.

No new, revised, or renewal applications shall be accepted for filing, review, or consideration, and no site plans, authorizations, special permits, permits, building permits, variances, waivers or other approvals that purport to allow or advance the development, siting, or construction of any Commercial Solar Energy Facility shall be undertaken, reviewed, considered or issued by any board, officer, employee or agent of the Town, except as specifically set forth in Section 10 of this local law. Nor shall any language or term in this moratorium effect, or be construed to result in, any default approval, and any matter now pending shall be stayed in place during the pendency of this moratorium, with all deadlines or other timelines suspended for the same number of days that this moratorium is in effect.”

Section 5. Term.

The moratorium imposed by this Local Law shall be in effect until August 31, 2025 starting from the effective date of this Local Law. This moratorium may be extended, or rescinded or removed, by local law.

During the period of this moratorium the Town shall endeavor to adopt changes its zoning code with regard to the siting, establishment and construction of Solar Energy Facilities; and

Section 6. Location.

The moratorium imposed by this Local Law shall apply to the territorial limits of the Town of Westfield. Any dispute as to whether a property is encompassed within the geographic area detailed above shall be resolved by reference to the official tax maps of Chautauqua County and the official New York corporate boundary maps for the Town of Westfield.

Section 7. Penalties.

The following provisions shall apply generally, and the violation of this Local Law shall allow and permit enforcement in any one or more of the following manners:

- A. When any term, provision, or requirement of this Local Law is violated the Enforcement Officer may issue a written notice of violation to the Applicant (or other Person in violation hereof). The notice of violation shall contain; (i) the name and address of the Person alleged to have violated this Local Law; (ii) the address, when available, or a description of the building, structure or parcel upon which the violation occurred or is occurring; (iii) a brief statement specifying the nature of the violation; (iv) a statement of the fine or penalty that may or could be assessed against any Person to whom the notice of violation is directed; and (v) a clear statement identifying whether the notice commences or may commence a civil or criminal proceeding. The failure to comply with a written notice of violation by correcting the violation is in itself a separate violation of this Local Law and may be further enforced as such. In addition, Executive Law § 382 may be duly enforced separately from any such notice, and both notices may take the

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form of a single notice which must, in addition to the above, contain the information and be served as required by said § 382.

- B. The Enforcement Officer may issue stop work orders for violations of this Local Law. Any Person receiving a stop work order shall be required to halt all clearing, grading, construction, and any other or related activities, until the Enforcement Officer or a court of competent jurisdiction allows work to re-commence.
- C. Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with, restrain by injunction the violation of any provision or requirement of this Local Law, including to prevent, enjoin, correct, enforce, or abate any violation of, or non-conformance with, any provision or requirement of this local law or the terms and conditions set forth in any waiver or approval issued hereunder. In any such proceeding the Town shall not be required to: (i) prove the lack of an adequate remedy at law; or (ii) to post a bond or other undertaking as a condition or requirement for any preliminary, interim, or permanent restraining order or injunction. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board.
- D. This Local Law may be enforced civilly or criminally by seeking fines, penalties, and like punishments to deter future violations and sanction offenders. All provisions of New York law and process generally applicable to misdemeanors shall apply to any criminal proceeding brought upon any violations of this Local Law, including for purposes of conferring jurisdiction. The following civil and criminal fines and penalties shall apply to any violation of the requirements or terms of this Local Law:
 - 1. For a first offense, any Person that violates any of the provisions of this Local Law shall be (i) guilty of a violation and subject to a fine of not more than \$500, or (ii) subject to a civil penalty of not more than \$500 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.
 - 2. For a second offense, being any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any violation of this Local Law, a Person shall be (i) guilty of an unclassified misdemeanor and subject to a fine of not more than \$2,500, or (2) subject to a civil penalty of not more than \$2,500 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.
 - 3. The above fines are in addition to any penalty, fine, or sentence allowed or imposable pursuant to said Executive Law § 382.
- E. Upon any violation of this Local Law by an Applicant or any Person, the Town may, and the Enforcement Officer shall, decline and refuse to issue any approvals, endorsements,

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certifications, building permits, certificates of occupancy, certificates of compliance, and any similar or other document or approval until the Applicant or Person rectifies and cures such violation.

- F. Any Person violating this Local Law may be required to restore land to its prior or undisturbed condition. If restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid. In addition, the Town may commence any one or more civil proceedings in the Town Court, or any other court or tribunal of competent jurisdiction, to recover the costs of such restoration.
- G. For purposes of this Local Law the Justice Court of the Town is hereby vested and imbued with jurisdiction to: (i) issue administrative or other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York; and (ii) hear and adjudicate allegations relating to the criminal or civil violation of this Local Law and to thereafter, if appropriate, impose any fine, penalty, or sanction.
- H. Criminal matters arising in relation to enforcement matters under this local law shall be and be classified as offenses per the following guidelines: (i) first offenses shall be deemed violations; (ii) second offenses shall be deemed unclassified misdemeanors; and (iii) violations of Executive Law § 382 shall be classified as set forth by New York State in such § 382.
- I. No remedy or penalty specified in this local law shall be the exclusive remedy available to the Town to address any violation of, or non-compliance with, the requirements of this local law. The rights and remedies of the Town are independent of each other and cumulative. The grant of any right or remedy in this Local Law is in addition to, and not in limitation of or in substitution for any other right or remedy of the Town, whether sounding in law, equity, or admiralty. Further, the election by the Town of any one right or remedy does not forestall or prevent the simultaneous or future election of any other right or remedy, whether relating to enforcement, sentencing, or otherwise.

Section 8. Exemptions and Non-Conforming Uses.

Notwithstanding any provision hereof to the contrary, any Commercial Solar Energy Facility that has already been issued all necessary approvals or permits from the Town Board or the Planning Board (the “Town Approvals”) may continue such projects and such support activities that are being conducted in the Town as of the effective date of this Local Law, so long as such supporting activities are in all respects being conducted in accordance with all applicable laws and regulations and any conditions of approval, including all Town Approvals. Such limited right to proceed when Town Approvals have been issued shall include the right to apply for and obtain a building permit, so long as the same is or are in conformance with any existing Town Approvals.

Any expansion of a lawful, pre-existing, non-conforming use shall not be grandfathered under this Section and instead shall in all respects be prohibited as contemplated by Section 3 hereof. “Grandfathered” and allowed lawful pre-existing uses neither have nor possess any right to expand such non-conforming use whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

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Section 9. Validity.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 10. Hardship.

The Town Board of the Town is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a waiver application of the provisions of this Local Law by persons aggrieved hereby.

No such waiver shall be granted by the Town Board without a showing by the Applicant that applicable regulations and restrictions have caused unnecessary hardship.

- A. Unnecessary Hardship. In order to prove such unnecessary hardship the Applicant is required to demonstrate to the Town Board that, with respect to every permitted use under Town land use, each of the following four criteria is satisfied: (i) the Applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the neighborhood; and (iv) the alleged hardship has not been self-created.

- B. Reasonable Rate of Return. In evaluating whether the Applicant can realize a reasonable rate of return, the Town Board must examine whether the entire original or expanded property holdings of the Applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No waiver shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Town Board finds that the Applicant has clearly demonstrated by detailed “dollar and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the area of the Town the property is located.

- C. Unique Hardship. No waiver shall be granted unless, in addition to satisfying all other applicable provisions of the law and this Law, the Town Board finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

- D. Essential Character of the Neighborhood. In making its determination, of whether the proposed development project will alter the essential character of the neighborhood, the Town Board shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential and agricultural character of the Town, (ii) its irreplaceable recreation, historic, and tourism sites, (iii) the extent of hazard to life, limb or property may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (viii) whether the Applicant will engage in the type of development that will result in degradation to the air quality, water quality or scenic or other natural resources of the Town. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Board shall interpret the public interest in

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said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

- E. Self-Created Hardship. The Town Board may find that the Applicant suffers from a self-created hardship in the event that the Board finds that (i) the Applicant’s inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the Applicant previously divided the property and is left with only a portion which suffers from some unique conditions for which relief is sought and which did not apply to the parcel as a whole; (iii) when the Applicant purchased the property, he or she knew or should have known the property was subject to the land use restrictions; or (iv) that the Applicant transferred or obtained property rights with only a unilateral expectation of development or investment character, and it shall be material to this question to examine the degree to which opposed to in fee (actual acquisition of fee simple title), and whether the anticipated income, profits, or receipts were conditional, contingent, or guaranteed.

If the Town Board grants a waiver from the provisions of this Local Law to the Applicant, the Applicant shall be required to comply with all provisions of the Town’s then applicable land use regulations and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any waiver that is granted shall grant only the minimum waiver that the Town Boards deems necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and health, safety, and welfare of the community.

Section 11. Effective Date.

This Local Law shall take effect immediately.

This was seconded by Councilmember David Brown. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

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Councilmember James Herbert offered the following resolution and moved for its adoption

**Resolution No. 46 of 2024
TOWN OF WESTFIELD
RESOLUTION TO ADOPT LOCAL LAW NO. 3 OF 2024
Local Law enacting a moratorium on wind energy conversion systems.**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Westfield for a public hearing to be held by said Board on September 4, 2024 at Eason Hall, 23 Elm Street, Westfield, to hear all interested parties on a proposed Local Law enacting a moratorium on wind energy conversion systems and

WHEREAS, notice of said public hearing was duly published in the *Dunkirk Observer, Westfield Republican* and posted in the Town Clerk's office, and

WHEREAS, said public hearing was duly held on September 4, 2024, at the said time and place and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof, and

WHEREAS, the Town Board, after due deliberation, finds it in the best interests of the Town to adopt said Local Law,

NOW, THEREFORE, the Town Board of the Town of Westfield hereby adopts said Local Law as Local Law No. 3 of 2024, a copy of which is attached hereto and made a part hereof, and the Town Clerk hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Westfield, and to give due notice of the adoption of the Local Law to the Secretary of State.

**TOWN OF WESTFIELD
LOCAL LAW NO. 3 FOR THE YEAR 2024**

**A LOCAL LAW ENACTING A MORATORIUM ON WIND ENERGY CONVERSION
SYSTEMS**

Section 1. Enactment and Title.

The Town Board of the Town of Westfield does hereby enact the Town of Westfield Moratorium on Wind Energy Conversion Systems Law. This Local Law shall impose a moratorium on applications or proceedings for applications for, the review of applications for, or the issuance of approvals or permits for the construction of any Wind Energy Conversion System within the Town of Westfield for roughly one year. Since the Town Board amended the Town's Zoning Code in 2002 to permit wind energy conversion systems the technology and the laws have evolved so that the Town may now be susceptible to the placement of large-scale wind energy conversion systems under Section 94-c of New York's Executive Law. The Town Board believes that review and modification of the Town's Zoning Code are required.

The capitalized terms in the foregoing sentence, and as used throughout this local law, shall have the following meanings ascribed to them:

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Wind Energy Conversion System - A system of components which converts the kinetic energy of the wind into electrical or mechanical power and which comprises all necessary components, including energy storage, power conditioning, control systems, transmission systems (where appropriate) and structural support systems, to provide electricity or mechanical power for agricultural, residential, commercial, industrial, utility or governmental use.

Section 2. Authorization, Purpose and Intent.

Pursuant to the authority and provisions of the New York State Constitution, and Section 10 of the Municipal Home Rule Law, and the statutory powers vested in the Town of Westfield to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board (the “Board”) of the Town of Westfield hereby declares a moratorium on applications or proceedings for applications for, the review of applications, or the issuance of approvals or permits for the construction of Wind Energy Conversion Systems within the Town of Westfield (the “Town”), lasting through **August 31, 2025**.

This moratorium will allow time for Town officials to review, clarify, amend, and update the Town's Regulations for wind energy conversion systems, particularly with regard to where such development may be located in the Town. Additionally, this moratorium will allow the Town to adopt such other regulations as may be necessary to promote and preserve the health, safety and welfare of the Town and its citizens.

Section 3. Scope of Controls.

During the effective period of this Local Law:

- A. Neither the Town Board, the Zoning Board of Appeals, nor the Planning Board, or any Town Staff shall conduct any review or consider or grant any special permit or other approval that will result in the approval, establishment or construction of any Wind Energy Conversion System within the Town.
- B. To the extent permitted by law, this moratorium shall supersede all relevant provisions of the New York State Town Law, the New York State Building Code, any relevant Town local law and any other applicable law, rule or regulation, that may be in conflict herewith. If any ambiguity or conflict exists, this local law shall govern and the presumption shall in each case be that the moratorium is in effect.

Section 4. No Consideration of New, Revised, or Renewal Applications.

No new, revised, or renewal applications shall be accepted for filing, review, or consideration, and no site plans, authorizations, special permits, permits, building permits, variances, waivers or other approvals that purport to allow or advance the development, siting, or construction of any Wind Energy Conversion System shall be undertaken, reviewed, considered or issued by any board, officer, employee or agent of the Town. Nor shall any language or term in this moratorium effect, or be construed to result in, any default approval, and any matter now pending shall be stayed in place during the pendency of this moratorium, with all deadlines or other timelines suspended for the same number of days that this moratorium is in effect.

Section 5. Term.

The moratorium imposed by this Local Law shall be in effect until August 31, 2025 starting from the effective date of this Local Law. This moratorium may be extended, or rescinded or removed, by local law.

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During the period of this moratorium the Town shall endeavor to adopt changes to its zoning code with regard to the siting, establishment and construction of Wind Energy Conversion Systems; and

Section 6. Location.

The moratorium imposed by this Local Law shall apply to the territorial limits of the Town of Westfield. Any dispute as to whether a property is encompassed within the geographic area detailed above shall be resolved by reference to the official tax maps of Chautauqua County and the official New York corporate boundary maps for the Town of Westfield.

Section 7. Validity.

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 8. Effective Date.

This Local Law shall take effect immediately.

This was seconded by Councilmember David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

**TOWN BOARD MEETING
Town of Westfield
September 4, 2024**

Councilmember David Spann offered the following resolution and moved for its adoption

**Resolution No. 47 of 2024
TOWN OF WESTFIELD
NCCR Special Exception Resolution**

WHEREAS, Northern Chautauqua Canine Rescue (NCCR), located at 7540 North Gale Street in the R-12 District, plays a vital role in the Westfield community by providing valuable services to the Town and Village; and

WHEREAS, NCCR is a not-for-profit dog shelter serving Westfield and surrounding areas, offering essential services; and

WHEREAS, following the 2017 amendment to Westfield's zoning code, NCCR became a nonconforming use in the R-12 District but continues to fit well within the neighborhood; and

WHEREAS, New York State will implement new regulations for animal shelters in December 2025, requiring NCCR to modify and expand its facility; and

WHEREAS, such an expansion would typically necessitate a zoning amendment for a nonconforming use like NCCR; and

WHEREAS, this expansion is mandated solely due to the new State requirements;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby grants a special zoning exception for NCCR, authorizing and requesting the Code Enforcement Officer to work with NCCR to accommodate any building expansion required by NYS, treating NCCR as a permitted use in the R-12 District, subject to applicable minimum area requirements.

This was seconded by Councilmember David Brown. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

**TOWN BOARD MEETING
Town of Westfield
September 4, 2024**

Councilmember William Northrop offered the following resolution and moved for its adoption

**Resolution No. 48 of 2024
TOWN OF WESTFIELD
Set Budget Workshop Date and Time.**

BE IT RESOLVED, the Town Board of the Town of Westfield set a budget workshop to discuss the 2025 budget Wednesday, September 18, 2024 at 4:30pm in Eason Hall.

This was seconded by Councilmember David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

Councilmember William Northrop offered the following resolution and moved for its adoption

**Resolution No. 49 of 2024
TOWN OF WESTFIELD
Authorize Town Boards to Attend Annual Planning and Zoning Training.**

BE IT RESOLVED, the Town Board of the Town of Westfield hereby authorizes the Town Boards to attend Southern Tier West Fall Planning & Zoning Training in October. The Town will pay a registration fee of \$20.00 per attendee and mileage expense of .655 per mile.

This was seconded by Councilmember David Brown. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

TOWN BOARD MEETING
Town of Westfield
September 4, 2024

Councilmember David Brown offered the following budget revision and moved for its adoption

Subject: Budget Revision #7 for Budget Year 2024

Revision Description	Decrease	Increase
To move \$211.00 from A Supt of Higways - Equipment A5010.200 to cover the A Supt of Higways - Contractual A5010.400	Expenditures	Expenditures
For the Supt of Highways Contratrual Account being overspent by \$211.00		
Budget Journal		
A Fund (General Fund - Townwide)		
A 5010.200 Supt of Highways-Equipment DR	211.00	
A 5010.400 Supt of Highways-Contractual CR		211.00
Total A Fund	211.00	211.00
Revision Description	Decrease	Increase
To move \$1,878.64 from CM Fund Balance CM 599 Appropriated Fund Balance to CM 1950.400 Taxes & Assess On Munic Prop Contra Exp	Expenditures	
To Cover The 2024-2025 School taxes on the property the Town purchased in March of 2024 on First Street Barcelona		
Budget Journal		
CM Fund (Welch Building Fund)		
CM 599 Appropriated Fund Balance DR	1,878.64	
CM 1950.400 Taxes & Assess On Munic Prop, Contra Exp CR		1,878.64
Total CM Fund	1,878.64	1,878.64
Revision Description	Decrease	Increase
To move \$50.00 from A Justices - Equipment A1110.200 to cover the A Justices - Contractual A1110.400	Expenditures	Expenditures
For the Justices Contractual Account being overspent by \$50.00		
Budget Journal		
A Fund (General Fund - Townwide)		
A 1110.200 Justices-Equipment DR	50.00	
A 1110.400 Justices-Contractual CR		50.00
Total A Fund	50.00	50.00
Revision Description	Decrease	Increase
To move \$10,525.29 from A Fund Balance A599 Approriated Fund Balance to cover A1355.110 Assessor Assistant Personnell Services For 2024	Expenditures	Expenditures
Budget Journal		
A Fund (General Fund - Townwide)		
A 599 Appropriated Fund Balance DR	10,525.29	
A 1355.110 Assessor Assistant CR		10,525.29
Total A Fund	10,525.29	10,525.29
Revision Description	Decrease	Increase
To move \$12,164.18 from B Fund Balance B599 Approriated Fund Balance to cover B3620.100 Safety Inspector Perssonnel Services For 2024	Expenditures	Expenditures
Budget Journal		
B Fund (Part Town Fund)		
B 599 Appropriated Fund Balance DR	12,164.18	
B 3620.100 Safety Inspection Personnel Service CR		12,164.18
Total B Fund	12,164.18	12,164.18

This was seconded by Councilmember David Spann. Voting was as follows: Supervisor Martha Bills, aye; Councilmember David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

Supervisor, Martha Bills made a motion to set a public hearing for the Sherman Fire Distract for 7:20pm and the Westfield Fire Protection for 7:25pm October 2, 2024, seconded by Councilmember David Brown and carried unanimously.

**TOWN BOARD MEETING
Town of Westfield
September 4, 2024**

At 8:15pm Supervisor Bills moved and Councilmember David Brown seconded a motion to audit the bills.

Warrants dated September 2024 (voucher #'s 483-541) in the amount of \$112,693.38 drawn on the following funds:

General	\$ 23,533.93
Highway	\$ 7,533.14
Highway Part-Town	\$ 81,565.31
Forest Park Sewer	\$ 57.93
North Town Water-Shorehaven	\$ 3.07

Warrants dated September 2024 (voucher #'s 4) in the amount of \$1,878.64 drawn on the following funds:

CM2- Welch Building	\$ 1,878.64
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These were presented and audited by the board members. Supervisor Martha Bills moved and Councilmember David Brown seconded a motion that the Supervisor be directed to draw the necessary checks to cover the warrant as audited. Voting was as follows: Supervisor Martha Bills, aye; Councilmember, David Brown, aye; Councilmember David Spann, aye; Councilmember James Herbert, aye; Councilmember William Northrop, aye.

At 8:36pm Supervisor Martha Bills moved, and Councilmember David Spann seconded a motion to move to executive session to discuss a particular personal history. Unanimously carried.

At 9:00pm Supervisor Martha Bills moved, and Councilmember David Brown seconded a motion to return to regular session. Unanimously carried.

There being no further business at 9:00pm Supervisor Martha Bills moved, and Councilmember David Brown seconded a motion to adjourn. Unanimously carried.

Respectfully submitted,
// original signed //
Andrea L Babcock, Town Clerk