Town of Clayton
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David M. Storandt, Jr., Supervisor
Kathleen E. LaClair, Town Clerk

Town Council: Robert W. Cantwell III Christopher D. Matthews Mary Zovistoski Donna J. Patchen

RESOLUTION NO. 47 OF 2016
A RESOLUTION OF THE TOWN BOARDTO APPROVE LOCAL LAW #2 OF 2016, TO ESTABLISH A MORATORIUM ON APPLICATIONS FOR THE REVIEW AND APPROVAL OF PERMITS FOR WIND ENERGY FACILITIES WITHIN THE TOWN OF CLAYTON.
APRIL 27, 2016

Title: A resolution of the Town Board to approve Local Law #2 of 2016, to establish a moratorium on applications for the review and approval of permits for Wind energy Facilities within the Town of Clayton.

At a regular meeting of the Town Board of the Town of Clayton held at the Town Offices, 405 Riverside Drive, Clayton, Jefferson County, New York, at 5:00 P.M. on April 27, 2016, there were

Present:

David M. Storandt, Jr., Supervisor

Christopher D. Matthews, Councilmember

Mary Zovistoski , Councilmember

Donna J. Patchen , Councilmember

Absent:

Robert W. Cantwell III, Councilmember

WHEREAS, by Local Law No. 1 of the year 2007, this Board adopted the Wind Energy Facilities Law of the Town of Clayton, New York, to promote the effective and efficient use of the Town's wind energy resource through Wind Energy Conversion Systems ("WECS"), and to regulate the placement of such systems so that the public health, safety and welfare would not be jeopardized, and

WHEREAS, by amendment to the Town of Clayton Zoning Ordinance this Board established a Wind Energy Facilities Overlay District within the Town of Clayton where

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Wind Energy Facilities are permitted subject to the provisions of the Wind Energy Facilities Law, and

WHEREAS, by Local Laws No. 1 and 2 of the year 2011 this Board adopted certain amendments to the Wind Energy Facilities Law which law, as amended, is currently in effect within the Town of Clayton (the "Wind Law"), and

WHEREAS, subsequent to the adoption of the Wind Law, the technology of Wind Energy Facilities has evolved resulting in an increase in the height of the towers and the size of the wind turbines, new studies have been conducted in connection with the impact of Wind Energy Facilities, and there have been significant changes that have occurred within the Town of Clayton, all of which must be considered in determining whether the Wind Law is adequate to protect the public health, safety and welfare while promoting the effective and efficient use of the Town's wind energy resources, and

WHEREAS, Local Law No. 2 of the year 2016, A Local Law To Establish A Moratorium On Applications For The Review And Approval Of Permits For Wind Energy Facilities Within The Town of Clayton was duly introduced at a regular meeting of the Town Board held on April 6, 2016, and a public hearing was duly scheduled to consider Local Law No. 2 of the year 2016 for April 20, 2016, and

WHEREAS, on April 7, 2016, Local Law No. 2 of the year 2016 was forwarded to the Jefferson County Planning Board for review pursuant to §239-M of the General Municipal Law, and

WHEREAS, the public hearing was duly noticed and held on April 20, 2016, and all person's wishing to be heard on the subject thereof were provided an opportunity to address this Board, and

WHEREAS, the Jefferson County Planning Board has reviewed Local Law No. 2 of 2016 and determined that the subject of the Local Law is of local concern only with no county wide impact but provided certain recommendations which the Board has considered, and

WHEREAS, prior to the introduction of Local Law No. 2 of 2016, a previous Local Law was introduced to prohibit Wind Energy Facilities within the Town and a public hearing was held thereon, and

WHEREAS, subsequent to the public hearing on the Local Law to prohibit Wind Energy Facilities, that proposed Local Law was withdrawn from consideration.

NOW, THEREFORE, be it resolved by the Town Board of the Town of Clayton as follows:

1. The foregoing recitations are incorporated herein and are made a part hereof as if fully set forth hereafter.

2. It is evident to this Board that the technology of wind energy production has significantly changed since the adoption of the Wind Law which has resulted in the increased height of the towers and the size and capacity of the wind turbines.

3. There is currently pending within the Town of Clayton investigations into the feasibility of wind energy development and production within the Town, and some land owners in the Town have received offers to lease for such purposes.

4. There is currently pending before the Town of Clayton Planning Board two applications for Wind Measurement Towers upon which public hearings have been held, but no determination has been made. Wind Measurement Towers are included within the definition of Wind Energy Facilities in the Wind Law and the Town Zoning Law and are intended to be included within the meaning of Wind Energy Facilities in Local Law No. 2 of 2016.

5. In addition to the evidence received by this Board at the public hearing on April 20, 2016, this Board has considered the evidence presented in connection with the proposed Local Law to prohibit Wind Energy Facilities within the Town and hereby incorporates the same in the record of the proceedings on Local Law No. 2 of 2016.

6. From information provided to this Board by members of the public, it is evident that there have been significant studies undertaken since 2011 regarding the effect of WECS on surrounding properties, communities, the environment and the public health and safety that this Board should consider and evaluate to determine if any revisions to the Wind Law are appropriate and necessary to protect the public safety and welfare of the residents of the Town of Clayton.

7. Subsequent to the adoption of the Wind Law, this Board has adopted a new Local Waterfront Revitalization Plan (LWRP) that has resulted in the adoption of an amendment to the Town Zoning Ordinance establishing a Scenic Overlay District which recognizes the importance of the Scenic assets of the St. Lawrence River to the community. In addition, significant public and private money has been invested in infrastructure to enhance the region's premier industry of tourism.

8. The Town of Clayton is currently undergoing the process to update it's Comprehensive Plan, and subsequent to that process it is anticipated that significant changes may be made to the Town's land use regulations.

9. Although the Wind Law establishes procedures and regulations for permitting and regulating the placement and construction of Wind Energy Facilities within the Town, based upon information provided to this Board, members of this Board are concerned that such regulations may not be adequate to address the public safety and overall public interest of the residents of the Town of Clayton in connection with such facilities and may not be consistent with the LWRP, the zoning amendments adopted in connection therewith, or the proposed revisions to the Comprehensive Plan. Therefore, further study and investigation is necessary in order to determine whether any amendments should be made to the Wind Law in connection with the regulations of such facilities.

10. Based upon the foregoing, it is hereby determined by this Board that it is in the best interest of the residents of the Town of Clayton, that a moratorium be established on accepted or reviewing any applications for Wind Energy Facilities, the making of determinations in connection applications, or the issuance of permits in connection therewith, until this Board has an opportunity to review the substantive and regulatory provisions of the Wind Law, the studies that have been conducted subsequent to 2011 concerning the impact of Wind Energy Facilities, and the proposed revisions to the Comprehensive Plan in order to determine whether and to what extent changes should be made to the Wind Law in the overall interest of the Town of Clayton.

11. The Adoption of Local Law No. 2 of 2016 constitutes a Type 2 action under the provisions of New York State Environmental Quality Review Act and the regulations promulgated thereunder, to wit: 6NYCRR617.5(c)(30).

12. Based upon the foregoing Local Law No. 2 of the Year 2016 is hereby adopted and the Town Clerk is hereby directed to file a copy in the office of the Town Clerk and with the New York Department of State as required by the provisions of the Municipal Home Rule Law, and the Local Law shall take effect upon filing.

A motion to adopt the foregoing resolution was made by Councilmember Mary Zovistoski and seconded by Councilmember Christopher D. Matthews and upon a roll call vote of the Board was duly adopted as follows:

Supervisor David M. Storandt, Jr. yes_X_ no___

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Councilwoman Mary Zovistoski	yes X	no___
Councilwoman Donna Patchen	yes -	no -
Councilman Chris Matthews	yes X	no___
Councilman Robert W. Cantwell III	yes -	no -

Yes 3 No 0 Abstain 1 Absent 1

Dated: April 27, 2016

Certification:
I, Kathleen E. LaClair, Town Clerk of the Town of Clayton, do hereby certify that the above resolution was adopted at a regular meeting of the Town Board of the Town of Clayton held on April 27, 2016 and it's on file and or record, and that said resolution has not been altered, amended or revoked and it's in full force and effect.

(SEAL)

Kathleen E. LaClair

Kathleen E. LaClair, Town Clerk

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