

**TOWN OF SULLIVAN
TOWN BOARD MEETING
OCTOBER 18, 2023 AT 9:00 A.M.**

A regular meeting of the Town Board of the Town of Sullivan was convened at 9:00 A.M. on October 18, 2023 by Supervisor John Becker.

The meeting was held at the Town Office Building located at 7507 Lakeport Road. The meeting was also streamed live via YouTube. The link and a passcode for the public to join the meeting were posted on the Town’s website.

Present were: Supervisor John M. Becker; Town Councilors David Montroy, Jeffrey Martin; Daniel Gibbons, and John Brzuszkiewicz; Attorney for the Town John Langey; Tax Receiver Katy Vanderwerken; Comptroller Beth Ellis; and Deputy Town Clerk Jill Doss.

Also present were: Bruce Burke of PAC99; Kenneth Greene; Fire Chief Jim Ostrowski; Town resident; Jean Stevens; and Jennifer Keville.

Pledge to the flag was led by Supervisor John Becker.

APPROVAL OF OCTOBER 4, 2023 MEETING MINUTES

A motion was duly made by Councilor Gibbons, seconded by Councilor Brzuszkiewicz to approve the minutes of October 4, 2023 and, with no further discussion, the following vote was recorded to adopt the Town Board meeting minutes of October 4, 2023.

DAVID MONTROY	COUNCILOR	VOTED	YES
DANIEL GIBBONS	COUNCILOR	VOTED	YES
JOHN E. BRZUSZKIEWICZ	COUNCILOR	VOTED	YES
JEFFREY MARTIN	COUNCILOR	VOTED	YES
JOHN M. BECKER	SUPERVISOR	VOTED	YES

Motion carried.

**PUBLIC HEARING ON
TOWN OF SULLIVAN LOCAL LAW NO. C OF 2023
("A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM ON
BATTERY ENERGY STORAGE SYSTEMS WITHIN THE TOWN OF SULLIVAN")**

Councilor Martin made the motion to open the public hearing for proposed Local Law No. C-2023, titled “A Local Law Imposing a Twelve (12) Month Moratorium on Battery Energy Storage Systems within the Town of Sullivan and seconded by Councilor Montroy with all members voting in favor. The Supervisor briefly summarized the proposed Local Law. Resident Kenneth Greene asked for clarification on the Law – regarding the length of time the moratorium would be in place. Attorney for the Town Langey explained. With no further discussion and upon the motion made by Councilor Martin and seconded by Councilor Gibbons, the public hearing was closed with all Town Board members voting in favor.

**TOWN OF SULLIVAN LOCAL LAW NO. C OF 2023
("A Local Law Imposing a Twelve (12) Month Moratorium on
Battery Energy Storage Systems within the Town of Sullivan")**

The following resolution was offered by Councilor Martin who moved its adoption, seconded by Councilor Montroy, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, proposed Local Law No. C-2023, titled “A Local Law Imposing a Twelve (12) Month Moratorium on Battery Energy Storage Systems within the Town of Sullivan,” was presented and introduced at a regular meeting of the Town Board of the Town of Sullivan held on October 4, 2023; and

WHEREAS, a public hearing was held on such proposed local law on this 18th day of October, 2023, by the Town Board of the Town of Sullivan and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Sullivan in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law of New York (SEQRA), requires that as early as possible in the consideration of a proposed action, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on October 4, 2023, the Town Board declared itself lead agency and determined that the enactment of proposed Local Law No. C-2023 is a Type II action and therefore will have no significant effect on the environment, thus concluding environmental review under State Environmental Quality Review Act; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. C-2023.

NOW, THEREFORE, it is

RESOLVED that the Town Board of the Town of Sullivan, Madison County, New York, does hereby enact Proposed Local Law No. C-2023 as Local Law No. 3-2023 as follows:

**“TOWN OF SULLIVAN
LOCAL LAW NO. 3 OF 2023**

**A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM ON
BATTERY ENERGY STORAGE SYSTEMS WITHIN THE TOWN OF SULLIVAN**

Be it enacted by the Town Board of the Town of Sullivan as follows:

SECTION 1. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 2. INTENT.

It is the intent of the Town Board of the Town of Sullivan to impose a twelve (120-month moratorium on the siting, establishment, placement, installation, construction, erection, modification and/or enlargement of battery energy storage systems within the Town of Sullivan.

SECTION 3. LEGISLATIVE PURPOSE.

The purpose of this Local Law is to temporarily halt development of battery energy storage systems, for a period of up to twelve (12) months, while the Town of Sullivan considers zoning changes and the enactment of zoning measures to specifically address the matters of community concern.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate battery energy storage systems. In the coming months, the Town will be diligently working towards the development of regulations that will address, in a careful manner, the siting, establishment, placement, installation, construction, erection, modification and/or enlargement of battery energy storage systems on a Town-wide basis and to adopt land use regulations for provisions to specifically regulate same.

SECTION 4. DEFINITIONS.

BATTERY/BATTERIES: A single cell or a group of cells connected together electronically in a series, in parallel or a combination of both, which can charge, discharge and store energy electrochemically. For the purposes of this Law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside of their safe operating parameters and disconnects when temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM: A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to store energy to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Energy Storage System as follows:

- A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- B. Tier 2 Battery Energy Storage Systems have an aggregate capacity greater than 600 kWh or are comprised of more than one storage battery technology in a room or enclosed area.

Such systems shall include so-called "independent" or "stand-alone" systems or systems which are incidental to another primary use, including but not limited to any wind energy or solar energy systems.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

SECTION 5. MORATORIUM.

A. The Town Board hereby enact a moratorium which shall prohibit the siting, establishment, placement, installation, construction, erection, modification and/or enlargement of battery energy storage systems anywhere within the Town of Sullivan.

B. This moratorium shall be in effect for a period of twelve (12) months from the effective date of this Local Law and shall expire on the earlier of (i) the date twelve (12) months from said effective date of this Local Law, unless renewed; or (ii) the enactment by the Town Board of a resolution indicating that the Town Board is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the Town of Sullivan.

D. Battery energy storage systems which have previously been approved and/or are located on Town-owned property are hereby expressly excluded from this moratorium and may be sited, established, placed, installed, constructed, erected and/or operated in accordance with the approved plans. Further modification, enlargement

and/or alteration of previously approved battery energy storage systems is prohibited while the moratorium is in effect.

SECTION 6. RELIEF FROM PROVISIONS OF THIS LOCAL LAW.

A. The Town Board reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for relief shall be filed in triplicate with the Town Code Enforcement Officer, together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorneys' fees, incurred by the Town shall be reimbursed to the Town by the Applicant. The Town Board shall apply Use Variance criteria, as set forth in New York State Town Law §267-b (2), in reviewing any application for relief.

C. The Town Board may refer any applications for relief herein to the Town Planning Board for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Town Board after determining whether or not the requested relief is compatible with any contemplated amendments to the Town Zoning Law. Unless completely satisfied that the proposed relief is compatible, the Town Board shall deny the application.

D. The Town Board shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Town's Code Enforcement Officer and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 7. PENALTIES.

Any person, firm or corporation that shall establish, place, construct, enlarge and/or erect any battery energy storage systems in violation of the provisions of this Local Law, or shall otherwise violate any of the provisions of this Local Law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements or related items or by-products which may have taken place in violation of this Local Law.

SECTION 8. ENFORCEMENT.

This Local Law shall be enforced by the Code Enforcement Office of the Town of Sullivan or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law.

SECTION 9. VALIDITY AND SEVERABILITY.

If any clause, sentence, paragraph, subdivision, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder thereof but shall be limited in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the proceeding in which such judgment is rendered.

SECTION 10. EFFECTIVE DATE.

This Local Law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State. It shall remain in full force and effect for a period of twelve (12) months from the date of passage.”

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

DAVID MONTROY	COUNCILOR	VOTED	YES
DANIEL GIBBONS	COUNCILOR	VOTED	YES
JOHN BRZUSZKIEWICZ	COUNCILOR	VOTED	YES
JEFFREY MARTIN	COUNCILOR	VOTED	YES
JOHN M. BECKER	SUPERVISOR	VOTED	YES

The foregoing resolution was thereupon declared duly adopted.

REVOCABLE PERMIT/LICENSE AGREEMENT RENEWAL (2023)
(PERMIT FOR TEMPORARY PLACEMENT OF SINGLE-WIDE TRAILER
ON PROPERTY LOCATED AT 8429 BLACK CREEK ROAD)

Jean Stevens appeared before the Town Board this evening to discuss the request to extend the revocable permit/license renewal for 2024 for a single-wide trailer located at 8429 Black Creek Road. Her mother, who is 95 and is doing quite well, lives in this trailer. Mrs. Stevens is requesting a one-year extension of the revocable permit/license. The Town Board members discussed the one-year extension request and upon the motion made by Councilor Montroy and seconded by Councilor Gibbons, the Town Board unanimously approved the one-year extension for Jean Stevens for temporary placement of a single-wide trailer at 8429 Black Creek Road, to wit:

THIS REVOCABLE PERMIT/LICENSE AGREEMENT RENEWAL made the 18th day of October, 2023, by and between the **Town of Sullivan**, 7507 Lakeport Road, Chittenango, New York 13037, (hereinafter referred to as the “Town”) and **Dale and Jean Stevens**, 8429 Black Creek Road, Chittenango, New York 13037 (Owners) (hereinafter referred to as the “Permittee/Licensee”), and

Whereas, the parcel (“Lot”) located at 8429 Black Creek Road, designated as Tax Map # 16.-1-10 in the Town of Sullivan, as more particularly described on Schedule “A” hereto, is presently owned by the Permittee/Licensee, the said Permittee/Licensee being Grantee in a deed to said premises recorded in the Office of the Madison County Clerk on August 30, 1977 in Book 701 of Deeds, page 49; and

Whereas, the Permittee/Licensee desires to place a certain temporary improvement, *i.e.*, placement of a 14’ x 65’ single-wide trailer on the Permittee/Licensee’s premises due to an emergency condition as set forth by the Permittee/Licensee (*i.e.*, flooding of the Permittee/Licensee’s mother’s premises); and

Whereas, the placement of such improvement is generally prohibited in the Town, but extreme circumstances exist due to the emergency condition set forth by the Permittee/Licensee; and

Whereas, Permittee/Licensee has requested the Town’s permission to place the 14’ x 65’ single-wide trailer on Permittee/Licensee’s premises for a period not to exceed two (2) years, subject to the conditions set forth below and as more particularly shown on the drawing of the Lot attached hereto as Schedule “B”; and

Whereas, the Town granted the Permittee/Licensee a Revocable Permit/License on October 21, 2013 to maintain such improvement on said premises subject to certain

conditions and entered into a Revocable Permit/License Agreement with Permittee/Licensee on October 23, 2013 ("Original Agreement") with respect to same, which Agreement has been extended annually; and

Whereas, the Permittee/Licensee wishes to extend the terms of the Original Agreement for an additional twelve (12) month period.

Now, therefore, it is agreed as follows:

1. The Town hereby grants a revocable permit/license renewal to Permittee/Licensee for the lot described herein, to temporarily maintain the improvement shown on Schedule "B" in accordance with all other laws, rules and regulations of the Town of Sullivan are as above described. The revocable permit/license granted hereunder shall pertain solely to the placement of the 14' x 65' single-wide trailer, all as shown on the attached Schedule "B." No additional work, uses or improvements shall be allowed and Permittee/Licensee shall at all times keep the premises otherwise in compliance with all Town, County and State laws, rules and regulations.

2. The Town, its agents, contractors or employees may remove or direct the removal of such improvement at any time when required by the Town in its sole discretion and may terminate this permit/license at any time and for any reason. The Town shall have no obligations whatsoever to make any repairs or replace the improvements in any form.

ADDITIONAL CONDITIONS:

3. Prior to this approval taking effect, the Permittee/Licensee shall provide the following to the satisfaction of the Town's consulting engineer and/or Code Enforcement Officer:

- a. Placement and construction of an appropriate building pad with vapor barrier or other required improvement upon which to safely place the single-wide trailer.
- b. Placement of the structure shall meet all applicable building code requirements and zoning requirements.
- c. Approval of appropriate water hook-ups (OCWA) and sanitary waste disposal hook-ups as certified by the appropriate agency.
- d. Approval of electrical/plumbing inspections.
- e. Submission of detailed infiltration on the proposed structure. This approval is solely for the proposed structure with no replacement or improvement without Town Board written approval.

4. The Permittee/Licensee agrees to indemnify and hold harmless the Town, its officers, employees, consultants, contractors and agents from and against any and all losses, damages, costs and expenses including attorneys' fees, liabilities, fines and penalties resulting from any and all claims, proceedings or actions of whatsoever kind or nature whether or not finally adjudicated including any settlement thereof, arising out of or in connection with or on account of any performance of this Agreement or the permit/license hereby granted and this liability shall survive the termination or expiration of the Agreement.

5. This Agreement shall confer no rights upon the Permittee/Licensee for any actions or claims against the Town. Permittee/Licensee acknowledges this permission may be revoked at any time and for any reason, does not run with the land or inure to any other persons. Unless otherwise approved in writing this permit/license is granted solely for purposes of occupation by the Permittee/Licensee's mother and for no other occupants.

6. The Permittee/Licensee shall be responsible for all recording, filing, administrative, engineering and legal (if any) fees incurred by the Town in granting this permit/license.

SCHEDULE "A"

AN UNDIVIDED ONE-HALF INTEREST IN THE FOLLOWING DESCRIBED PROPERTY: ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Sullivan, County of Madison, and State of New York, bounded and described as follows: Stella Heffron Estate, 1950 Tax, Farm of 61 Acres, bounded North by Goodell; East by highway; South by Crouse and West by District 1, Val. \$1500.00.

CNY STORMWATER COALITION RESOLUTION

Supervisor Becker advised that the resolution for supporting participation in the CNY Stormwater Coalition services and Education Compliance Assistance is up for renewal for 2024. The cost to the Municipality is \$3,600.00. Upon the motion made by Councilor Martin and seconded by Councilor Montroy, the Board unanimously authorized entering into the CNY Stormwater Coalition for 2024 at an annual cost of \$3,600.00.

FORMER LAKE STREET SCHOOL LEASE BETWEEN NEW BUILDING OWNER, ALLIANCE APARTMENTS, LLC, THE TOWN OF SULLIVAN AND THE CHITTENANGO CENTRAL SCHOOL DISTRICT

Councilor Jeff Martin spoke to the Board regarding the status of the lease agreement with the new owner of the former Lake Street School, Alliance Apartments, LLC. Councilor Martin reflected that the agreement agreed upon with the new owners of the building, the School and Town works well for all parties involved. Building fob's will be available next week and the Town should be able to access the building next week. It was noted that Todd Schaal, co-owner of Alliance Apartments, LLC, has been good to work with. There will be a master schedule for building use and groups will work around the scheduled needs of the school's athletic department. Plowing of the lot has been addressed. The space will be ideal for use by the Town's Parks & Recreation Department for the variety of programs offered. Upon the motion made by Councilor Gibbons and seconded by Councilor Martin, the Town Board unanimously approved the lease agreement with Alliance Apartments, LLC, the Town of Sullivan and the Chittenango Central School District.

BRIDGEPORT FIRE DEPARTMENT PURCHASE OF FIRE TURN-OUT GEAR ON NYS CONTRACT

Fire Chief Jim Ostrowski reported that the current turn-out for Bridgeport Fire is reaching the phase which requires replacement of the gear. Turn-out gear is available through State Bid and Bridgeport Fire Department would like to secure money from this year's Town budget for purchase of the necessary replacement gear. Delivery of the replacement gear is expected close to year end. Fire Chief Ostrowski is requesting the 2023 available funds be set aside for this planned purchase. The Board members discussed the request. Councilor Martin made the motion, which was seconded by Councilor Montroy the Town Board unanimously approved the purchase of the required turn-out gear for Bridgeport Fire Department through State Contract and the funds for such purchase will be secured from the 2023 fire budget.

2024 TOWN BUDGET PUBLIC HEARING

Supervisor Becker advised that a preliminary budget has been prepared for 2024 based upon the information presented by various Department Heads. He noted that two Departments had not submitted their requests. The Supervisor noted that a public hearing will need to be scheduled for the budget. Councilor Martin made the motion which was seconded by Councilor Brzuszkiewicz, to schedule the 2024 Budget Public hearing on November 1, 2023. The Board unanimously approved the motion.

BUDGET MODIFICATION

The following budget modifications were presented to the Board:

1. Transferring \$499,705.00 from A1990.4 Contingent to A1997.2 General Equipment outlay-for the construction of the ambulance garage, to be paid for with ARPA funds.
2. Transferring \$6,500.00 from A7110.1801 Director Line to A7110.2000 Parks Equipment. To pay the balance of resurfacing of Chapman Park tennis courts.

Upon the motion made by Councilor Brzuszkiewicz seconded by Councilor Martin, the Board approved the budget modification as outlined above. A roll call vote was taken, as follows:

DAVID MONTROY	COUNCILOR	VOTED	YES
DANIEL GIBBONS	COUNCILOR	VOTED	YES
JOHN BRZUSZKIEWICZ	COUNCILOR	VOTED	YES
JEFFREY MARTIN	COUNCILOR	VOTED	YES
JOHN M. BECKER	SUPERVISOR	VOTED	YES

UPDATE ON FEMA MONEY FOR AIRPAK PURCHASE

Supervisor Becker noted that on October 10, 203 the Town received \$571,428.57 from FEMA for the fire department airpaks. The total billing to Municipal Emergency Services is \$628,542.75 minus the grant amount of \$571,428.57 which will leave a balance of \$57,114.18. This balance will be paid out of the 2023 Fire equipment reserve line.

FIREFIGHTER APPLICATIONS

One firefighter application was received for review at this meeting, Jeremiah LaCelle for the Bridgeport Fire Department. The Town Board reviewed the application from Mr. LaCelle. Councilor Martin made the motion to approve Jeremiah LaCelle as a firefighter for the Bridgeport Fire Department, motion seconded by Councilor Gibbons, and with no further discussion all the Board members voted in favor.

RESIDENT QUESTION

Village resident Kenneth Greene inquired about the suggested community playground at Bridgeport Elementary School which School Superintendent Mike Eiffe discussed at the last Town Board meeting. Currently, the Town is awaiting receipt of information from Superintendent Eiffe. No action will be taken this evening.

EXECUTIVE SESSION

No Executive Session was held today.

ADJOURNMENT

With no further business and upon the motion made by Councilor Martin and seconded by Councilor Gibbons, the Town Board meeting was adjourned at 9:16 A.M. with all Town Board Members voting in favor.

Respectfully submitted,

Jill A. Doss
Deputy Town Clerk