

Meeting Minutes – Public Hearing Local Law 1-2026

Town Board of Angelica

- **Date:** August 24, 2026
- **Start time:** 7:00 PM Supervisor Girard Kelly called the meeting to order at 7 P.M.
- **Type:** Public hearing for **Proposed Local Law No. 1-2026**, concerning Battery Energy Storage Systems (BESS) in the Town of Angelica.
- **Town Officials Present:** Girard Kelly, Supervisor; William Weaver, Brian Jones, & Jeremy Metatos – Councilmen & Pamela Cockle, Town Clerk
- The meeting opened with the Pledge of Allegiance.
- Supervisor Kelly read an opening statement citing the purpose of tonight's public hearing and the rules of conduct. It was emphasized that the hearing was only about the proposed law, not any specific project or application.
- He said any future applications would still require the normal review process, including referral to the Allegany County Planning Board when required by law.

Main Topics Discussed

1. Purpose and Scope of the Public Hearing

- The supervisor stated the board was there to receive public comment and was there to listen on the proposed local law.
- Residents of the Town of Angelica were to speak first, followed by other members of the public.
- Speakers were instructed to:
 - State their town or municipality for the record
 - Direct remarks to the town board
 - Limit comments to the proposed BESS local law
 - Avoid interruptions, personal attacks, and disruptive behavior
- The board announced a **3-minute limit per speaker** which was published on their website 96 hours in advance of the Public Hearing.
- The supervisor repeatedly reinforced that this was **not a question-and-answer session or debate**, but several speakers still raised questions or requested clarification.

2. Objection to the 3-Minute Rule and Hearing Procedure

- Casey Jones, objected to the hearing procedure under Section 263 of Town Law.
- He argued that:
 - Any rules must be reasonable under case law governing public hearings
 - A 3-minute cap was unreasonable given the length and technical nature of the proposed law
 - With only about 10–12 people signed up, the board could have allowed more time, perhaps about 30 minutes total
- The supervisor declined to change the limit and said the board was sticking with the 3-minute format.

3. Questions About Drafting, Process, and Amendments

- One speaker asked who was on the committee that drafted the law and whether it came from the town attorney.
- The supervisor said the board and attorney worked together and that the law was not simply handed to them by the attorney.
- A speaker noted that residents had posted comments on Facebook asking for additions and asked whether the board had discussed amendments with the attorney.
- The speaker also asked what ability the board would have to modify the law later if adopted, especially since many issues were not addressed.
- Another speaker later argued the law had not been handled properly because it allegedly was not in final official form when referred to the county planning board and had changed afterward.
- He said the board may need to start over if the draft had undergone major changes after referral.

4. Public Concern Over BESS Safety, Fire Response, and Water Protection

- Multiple speakers raised strong concerns about the safety of battery energy storage systems, especially lithium-ion fire risk, toxic runoff, and emergency response capacity.
- One speaker said the proposed law focused too much on who pays after an accident and not enough on how disasters are prevented.
- Specific suggestions and concerns included:
 - Requiring industrial-standard safety certifications and explicit Underwriters Laboratory testing
 - Mandating engineered water containment and runoff capture systems

- Requiring baseline groundwater testing and semiannual monitoring by independent hydrogeologists paid by the developer
- Creating a technical review escrow account for contamination and cleanup issues
- Requiring operators to shut down within 24 hours if systems fail or tests are not passed
- Ensuring the developer pays for water replacement or replenishment if wells are contaminated
- Requiring a technical expert to be available quickly during emergencies, with one speaker suggesting 15-minute dispatch and 2–4 hour on-site response expectations
- Providing mass notification systems and emergency access measures, including snow removal and vegetation maintenance

5. Setbacks, Tier Definitions, and Protective Restrictions

- Several speakers criticized the draft for what they considered vague or missing provisions, particularly around tier classifications and setbacks.
- Specific comments included:
 - **Tier 1** appeared to be exempt from escrow or permit fees, which one speaker believed was too lenient
 - **Tier 3** was referenced in the law but not clearly defined in the document
 - Setbacks of 100 feet were described by one speaker as insufficient, especially near homes, garages, and play areas
 - One speaker recommended wider setbacks such as 800 feet from residential lines and 1,000 feet from schools
 - One speaker suggested prohibiting certain tiers in historic districts, high-density residential zones, school zones, and floodplains
- Another speaker said the board should use stronger mandatory language like “**must**” instead of “**may**” where appropriate.

6. County Referral, SEQR, and Legal Process Questions

- A speaker asked about the SEQR process, including the lead agency, stage of review, and whether an environmental impact study had been prepared.
- The speaker also asked whether the town or county had properly met the legal requirements involved in SEQR and permit application review.

- Another speaker questioned whether the county planning referral and local-law process had been handled correctly, suggesting that changes after referral could require the process to restart.
- Concerns were also raised about whether the proposed local law could be legally sustained if the town had altered drafts too significantly after initial review.

7. Concerns About Municipal Liability, Fees, Enforcement, and Process Controls

- Concerns included:
 - Undefined **Tier 3** language
 - Possible unintended impact on hospitals and off-grid users with battery systems
 - Potentially unlimited reimbursable consultant costs under the draft's fee language
 - The need for itemized invoices, annual notice, and a formal dispute process
 - Missing enforcement detail, such as inspection authority, notice, hearing periods, penalty schedules, appeal rights, emergency procedures, and lien/cost collection provisions
 - The need to clarify who owns and administers the process
- He also warned that duplicate or overlapping sections in the law could create legal interpretation problems.

8. Local Opposition and Personal Testimony from Residents and Visitors

- Many speakers gave emotional or strongly worded statements opposing the siting of battery storage facilities in or near the town.
- Common themes included:
 - Fear that the project would damage water, air, land, and viewsheds
 - Concern over impacts on wildlife, home values, and quality of life
 - Desire to protect children, grandchildren, and future generations
- One speaker asked for a show of hands among people who supported siting a BESS facility and implied the room was overwhelmingly opposed.
- Another speaker said the town should be as restrictive as possible to prevent future industrial energy development.
- A resident from Belmont near the proposed site said the project would directly affect her property, private well, gardening, animals, evacuation planning, and home value.

9. Broader Environmental and Emergency Questions

- Speakers raised broader environmental concerns, including:
 - Potential contamination of groundwater and surface water
 - Firefighting runoff and chemical exposure
 - Evacuation challenges in the event of an incident
 - Possible need for containment systems and plume response planning
- One speaker asked whether the law could be used to support a data center application, or whether such a proposal would require a separate application.
- Another asked about bond letters and whether there were any NDAs signed between the town and CTEC Solar.

Public Comment Highlights by Speaker

- **Casey Jones:** Objected to the 3-minute limit and questioned the legality and reasonableness of the hearing rules.
- **Karen Ash:** Delivered a anti-BESS statement, arguing the board was opposing the will of the people and serving developers instead of residents.
- **Terri Ross:** Recommended amendments, especially around tiers, setbacks, escrow, and mandatory reporting language.
- **Michelle Rupert:** Said she saw significant due diligence and appreciated the effort, while noting concerns about how Tier 1 could affect off-grid residents.
- **Casey Jones:** Criticized the legal process, draft handling, and prior moratorium issues, saying the town should restart the process lawfully and transparently.
- **Jennifer Presutti:** Spoke about family memories, land, wildlife, and possible environmental harm.
- **Sebastian Dunne:** Warned against environmental damage and urged resistance to the project.
- **Emily Zimmer:** Offered a detailed technical critique and proposed specific safety, monitoring, containment, and emergency-response requirements.
- **Mary Hayton:** Spoke as a nearby property owner and homeowner concerned about value, well water, animals, and evacuation safety.
- **Linda Cash:** A member of the audience asked whether her statement could be entered into the public record but Ms. Cash failed to provide a copy that evening and later raised SEQR, containment, plume, and bond questions.

- **Crystal Witruke:** Raised process, liability, enforcement, and duplicate-section concerns.

Meeting Tone and Board Response

- The hearing was highly engaged and often tense, with many residents expressing concern or opposition.
- The supervisor repeatedly redirected speakers back to the topic and enforced the time limit.
- Several times the chair thanked speakers as their time expired.
- One attendee urged the board to allow additional time so speakers with technical points could finish, but the board declined.
- The board did not engage in substantive back-and-forth on the merits of the comments during the hearing.

Action Items

- The town board will review public comments before making any final decision on the proposed BESS local law.
- Speakers who requested copies of remarks or answers were told they could email the town clerk or supervisor.
- The supervisor indicated the board may vote on the law potentially in September or October.
- Questions raised about the draft's legal process, amendments, county referral, SEQR, and tier definitions appear to remain unresolved and likely require follow-up by the board and counsel.

Follow-Up / Next Steps

- **Potential board vote:** September or October 2026
- **Ongoing public-law process:** Further legal review and possible amendments to the BESS local law
- **Public-record requests and follow-ups:** Speakers were directed to contact the town by email for copies of remarks or additional questions
- The hearing concluded with a motion to adjourn by W. Weaver and seconded B. Jones. Meeting adjourned at 7:38 PM.

Respectfully Submitted;

Pamela L Cockle, Town Clerk

DRAFT Minutes - Amended 9/5/2026 plc

APPROVED SEPTEMBER 14, 2026 BY ANGELICA TOWN BOARD

Pamela L Cockle 9/14/26

TOWN OF ANGELICA PUBLIC HEARING

Monday, August 24, 2026 – 7:00 P.M.
Grange Building Meeting Room
55 Park Circle, Angelica, New York

PROPOSED LOCAL LAW 1-2026 “A Local Law Creating Regulations for Battery Energy Storage Systems”

PRINTED NAME	ADDRESS:
Linda Warner	
Emily Zimmer	Hess Rd Friendship NY
Rob Chamberlain	Old State Rd, Belfast
Linda Cass	Hess Rd
Jennifer Presutti	Hess Rd.
Trish Brown	Rt 19 - Hess Rd
Titus Brown	Rt 19 - Hess Rd
Susan Rosenberger	Rt 19. Belmont NY
Kylea Pasquale	Rt 19 Belmont, NY
Mary E. Hayton	5797 Lyons Rd Belmont NY
Amber Christensen	133 Center St. Angelica
Margaret Horton	82 Greenwich St Belmont
Craig Miller	29 South St. Angelica
Tim + Pam Allshouse	132 Brooklyn, Angelica
Bruce + Jane Shilland	6129 Hess Road Belmont NY
Cystal the Vetres	Lucky Dr.
Josh Entwistle	Lucky Dr.
[Signature]	TOM BARBER BELFAST, N.Y.

Sharon Presutti
Hess Rd
Lisa Clark Stoy

Angelica NY
Angelica NY

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PRINTED NAME	ADDRESS:
HAROLD R. Bredinger Sr	ANGELICA
GREG PASINSKI	ANGELICA
JOHN DiDOMENICO	ANGELICA
DON ASH	ANGELICA
Michelle Rupert	Angelica
Amanda Preston	Belfast
Michelle Calanni	Belfast
JAMES BLOUVET	FRIENDSHIP
Karen Ash	Angelica
Sebastian Dunne	Wellsville
Erin Dunne	Alfred
Victoria Dunne	Alfred
Sue Weigman	Angelica
RICK FONTAINE	ANGELICA
Barb Canizer	Sci
Jim Ruschak	Angelica
D.J. Hagstrom	Angelica
Sandy Chan	Angelica

TOWN OF ANGELICA PUBLIC HEARING

★ SPEAKER SIGN-IN SHEET ★

Monday, August 24, 2026 – 7:00 P.M.
Grange Building Meeting Room
55 Park Circle, Angelica, New York

PROPOSED LOCAL LAW 1-2026 “A Local Law Creating Regulations for Battery Energy Storage Systems”

If you wish to address the Town Board during the Public Hearing, please clearly print your name below. Each speaker will be allowed up to 3 minutes. Time can NOT be deferred to another speaker.

ALL COMMENTS AND QUESTIONS MUST PERTAIN DIRECTLY TO PROPOSED LOCAL LAW 1-2026 ONLY.

✓ Michelle Rupert	Angelica
~~Karen Ash~~	~~Angelica~~
✓ Sebastian Dunne	Wellsville
✓ Linda Cash	Belmont
✓ Jennifer Presutti	Belmont
✓ Cesar Jina	Belmont
✓ Emily Zimmer	Friendship
✓ Mary Haydon	Belmont
✓ Crystal Witnke	Houghton
✓ Karen Ash	Angelica
✓ Leah Houghton	Angelica
✓ Terry Ross	Angelica

TOWN OF ANGELICA - PUBLIC HEARING RULES OF CONDUCT

PROPOSED LOCAL LAW 1-2026

To ensure that everyone has a fair opportunity to be heard and that the Public Hearing is conducted in an orderly and respectful manner, the following rules will apply:

1. PURPOSE OF THE HEARING

This Public Hearing is being held specifically to receive public comments regarding **Proposed Local Law 1-2026**.

All comments and questions must pertain to Proposed Local Law 1-2026.

Comments or questions concerning unrelated Town business will be deferred to an appropriate time outside of this Public Hearing.

2. THREE-MINUTE SPEAKING LIMIT

Each speaker will be allowed **three (3) minutes** to address the Town Board.

The time limit is intended to provide everyone who wishes to speak with a fair opportunity to be heard.

3. SPEAKING TIME MAY NOT BE TRANSFERRED

A speaker may **not give, transfer, or defer any portion of their allotted time to another speaker.**

Each individual speaker is limited to three (3) minutes.

4. ONE SPEAKER AT A TIME

Please wait until you are recognized before speaking.

There will be **no interruptions, shouting, talking over another speaker, or loud outbursts.**

5. RESPECTFUL CONDUCT IS REQUIRED

All speakers, Town officials, employees, and members of the public are expected to conduct themselves respectfully.

Disagreement is permitted. **Disruptive behavior is not.**

Risk an Gap Analysis BESS Law Hearing

From Crystal

Date Tue 8/25/2026 10:15 AM

To angelicatownclerk@outlook.com <angelicatownclerk@outlook.com>

 1 attachment (180 KB)

BESS Law Hearing Risk and Gap Analysis .pdf;

Hey Pam,

Thank you again for the opportunity to provide input on the proposed Battery Energy Storage System Local Law.

Attached is my initial review of the draft law, including the key gaps, questions, and recommendations I raised or identified during my review. I organized this first version to support a manageable initial discussion with the Board rather than overwhelm the process with every governance and implementation issue at once.

The main items I hope the Board will consider in this first round include:

- Clarifying the undefined “Tier 3” reference and establishing consistent tier definitions.
- Confirming the intended policy direction for small onsite systems versus larger utility-scale or grid-serving facilities.
- Clarifying the special-use permit process, decision-making authority, eligibility criteria, and approval standards.
- Strengthening enforcement procedures, including inspection authority, notice and cure periods, hearings, suspension/revocation standards, and cost recovery.
- Adding more objective environmental-review and emergency-response requirements.
- Strengthening financial assurance, insurance, ownership-transfer, decommissioning, and taxpayer-liability protections.
- Ensuring that the Town’s review and enforcement requirements can be administered consistently over the full operating life of a facility.

I recognize that some of the broader governance questions—such as process ownership, long-term inspection and enforcement capacity, planning structure, and how the Town will operationally manage future applications—may be better addressed in a later working session. I believe those discussions will be important once the Board has established its core policy direction and completed an initial review of the draft language.

My intention is to support a clear, practical, and enforceable law that protects Angelica residents, volunteer emergency responders, environmental resources, rural character, and taxpayers while giving the Board a workable process for decision-making.

Please feel free to share this document with the Town Board, Town Attorney, Code Enforcement Officer, Allegany County Planning Board, and any technical or emergency-response reviewers the Town believes should participate.

Thank you for your time and consideration.

Sincerely,

Crystal Witruke

Before we debate individual clauses, I think the Board should agree on the policy choices this law is meant to implement. Once we know what Angelica wants to allow, restrict, or prohibit, the attorney and technical experts can draft clear, enforceable language that carries out that policy fairly and protects the Town from liability.

My earlier concern that the text lacked an enforcement section is resolved by Section 19. However, Section 19 is only one sentence and does not establish procedural protections or administrative standards before a permit may be suspended or revoked.

Gaps Noted

Provision	Concern	Recommended revision
Section 17(A): "Tier 3" fee	The law has no Tier 3 definition anywhere. It otherwise regulates Tier 1 and Tier 2 only.	Replace "Tier 3" with "Tier 2," if that is intended; otherwise add a complete Tier 3 definition and substantive standards. Define Tier 1 standards 80kw
Section 17(F): \$5,000 or actual cost, "whichever is greater"	This creates a minimum annual charge even if the actual inspection cost is substantially less. The extra language also permits unlimited reimbursable consultant costs without a budget, scope, notice, or bill-review process.	Charge the reasonable actual, documented cost, subject to a stated minimum only if the Town can support it as its reasonable administrative cost. Provide annual notice, itemized invoices, and an objection/dispute process.
Section 17(H): "Under no circumstances" taxpayer cost	This is a policy statement, not a funding mechanism. It may also be impossible to guarantee under every circumstance—for example, if a bankrupt operator abandons a	State that the owner/operator is responsible "to the fullest extent permitted by law," backed by financial security, insurance

site or a cost is not legally recoverable.

requirements, indemnification, and cost-recovery authority.

Section 18(A):
notice 60 days
before sale

The seller may not control the timing of a sale, and a pending buyer may not yet have final qualifications 60 days in advance.

Require notice promptly after execution of a purchase agreement and before closing; require the buyer's assumption documents and proof of financial security before transfer approval or closing.

Section 18(B):
permit
automatically
"void"

Automatic voiding for late paperwork, even when the site remains safe and compliant, can be disproportionate and invites disputes. It also does not address notice or an opportunity to cure.

Allow suspension after written notice and a defined cure period, with immediate emergency authority where public safety requires it. Require a hearing before revocation.

Section 19:
enforcement

It names remedies but lacks a process: no inspection authority, notice, cure period, hearing, penalty schedule, appeal, emergency procedure, or lien/cost-collection provisions.

Add a standalone enforcement section with these elements and specify the official/board authorized to act.

Section 20(B):
amendment
language

The sentence says the Town "may amend this Local Law by resolution and adoption of a local law." A resolution alone does not amend a local law.

State: "This Local Law may be amended only by adoption of a subsequent local law in accordance with applicable New York law."

Section 21:
duplicated
applicability

Sections 5 and 21 cover substantially the same ground. Section 21(C) also repeats core code-compliance language from Section 6.

Delete Section 21 or consolidate it with Sections 5 and 6 to avoid conflicting interpretations if one section is later amended.

Section 23:
immediate
effectiveness

"Immediately upon filing" is a sound drafting choice, but it should be checked against permissive-referendum and filing requirements applicable to the particular enactment. dos.ny+1

Consider: "This Local Law shall take effect immediately upon filing with the New York Secretary of State, subject to any applicable referendum requirements."

Special-use permit standard

For a special-use permit to work properly, BESS must be listed as a permitted special use in the Town's zoning framework or this local law must clearly create that authorization. Under Town Law §274-b, a special-use permit authorizes a use permitted in the zoning ordinance/local law, subject to standards ensuring it is harmonious with zoning and does not adversely affect the neighborhood.video.dos.ny+1

The draft calls for a special-use permit but does not clearly state:

- The zoning districts in which Tier 2 BESS is allowed.
- Whether it is a principal use, accessory use, or use allowed only by special permit.
- Which body makes the final decision—the Town Board, Planning Board, or another designated authority.
- The detailed findings required for approval, denial, conditions, renewal, suspension, and revocation.

That should be clarified before adoption. "Allowed anywhere subject to a special-use permit" and "allowed only in certain districts" are very different land-use policies.

Suggested replacement: enforcement

A more workable Section 19 could read:

19. Enforcement and Remedies. The Code Enforcement Officer is authorized to inspect Battery Energy Storage Systems and associated records at reasonable times to determine compliance with this Local Law, approved plans, permit conditions, and applicable codes. Except where an imminent threat to public health, safety, or the environment exists, the Town shall provide written notice of a violation and allow not fewer than 30 days to cure, or such longer period as reasonably necessary where the owner is diligently pursuing correction.

Upon failure to cure, the Town Board may, after notice and an opportunity to be heard, suspend or revoke any approval or permit, issue a stop-work order, assess

penalties authorized by law, seek injunctive relief, draw upon required financial security, and recover reasonable response, inspection, remediation, and enforcement costs. Nothing in this section limits the Town's authority to take immediate action necessary to address an imminent public-safety or environmental hazard.

Town counsel should tailor the monetary-penalty language to the enforcement authority the Town actually has under its zoning, building-code, and local-law provisions-Of which there may not be zoning, codes or additional laws so keep that in mind while drafting the language needed to apply governance here.

Adoption checklist

Before a public hearing or vote, the Town should:

1. Correct the Tier 3 reference and all capacity terminology.
2. Consolidate duplicated sections on applicability, permits, and code compliance.
3. Add objective thresholds and written findings for professional costs, monitoring wells, host agreements, emergency equipment, and other discretionary conditions.
4. Complete the enforcement, cure, hearing, appeal, inspection, and cost-collection procedures.
5. Identify the permitted zoning districts and the final special-use permit approving authority.
6. Confirm that the fee schedule, escrow, annual inspection charge, decommissioning security, and fire-cost recovery are legally authorized, proportionate, and administratively supportable.
7. Confirm filing and any referendum requirements before relying on the stated immediate effective date.

Comparable New York approaches-Analysis

Municipality	Status reflected in source	What is allowed	How it impacts large BESS	Key takeaway for Angelica
Town of Amsterdam	Adopted Local Law No. 2 of 2024 on September 18, 2024. <u>townofamsterdam</u>	Small-scale systems at or below 600 kWh, subject to permits and code requirements.	Defines utility-scale BESS as over 600 kWh, mixed technology, or co-located with off-site generation; then expressly classifies utility-scale BESS as a prohibited use in the zoning law. <u>townofamsterdam</u>	This is the closest structural model if Angelica wants to preserve ordinary home/business backup storage but bar commercial or utility-scale facilities.
Town of Mount Pleasant	The Town's code/sources state BESS may not be sited; the law treats existing systems as nonconforming. zoneomics+1	No new BESS under the stated prohibition; existing systems remain lawful nonconforming uses but cannot expand or increase capacity. <u>mtpleasantny</u>	Prohibits all BESS from being sited and removes BESS from its public-utility-facility definition. It adds safety, emergency-plan, access, decommissioning, and enforcement obligations for existing facilities. <u>mtpleasantny</u>	This is a full-ban model, but it also affects businesses, institutions, and potentially residents seeking larger backup systems.
Town of Veteran	The source is a 2025 public-hearing notice/proposed local law, so I would verify final filing before treating it as adopted. <u>townofveteranny</u>	Tier 1 only, capped at 80 kWh.	Defines every non-Tier 1 system as Tier 2 and expressly prohibits it. <u>townofveteranny</u>	This is a very restrictive "allow only small onsite systems" model; its 80 kWh threshold is far more limiting than

Angelica's 600 kWh threshold.

Town of Wilton	Proposed 12-month moratorium, not a permanent ban. townofwilton.ny	Limited onsite solar, UPS/back-up, and EV-associated storage at or below 600 kWh are exempt. townofwilton.ny	Stops applications, permits, approvals, construction, and operation while the Town studies and drafts permanent rules; pending applications are stayed. townofwilton.ny	This is the better immediate option if Angelica needs time to strengthen the record and choose a long-term policy.
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Amsterdam uses the first three approaches: capacity, multiple technologies, and co-location with generation intended primarily for off-site consumption.townofamsterdam

Amsterdam's ordinance accomplishes this by revising the definition of "prohibited use" to expressly include utility-scale BESS. Mount Pleasant uses the even broader formulation: "Battery Energy Storage Systems shall be prohibited from being sited in the Town."townofamsterdam+1

1. Protect against project segmentation

Add an anti-circumvention clause so a developer cannot divide one project into multiple 600 kWh applications or parcels:

Aggregation. For purposes of this Local Law, the capacity of all BESS equipment located on contiguous or adjacent parcels, or under common ownership, control, management, interconnection, lease arrangement, or operational purpose, shall be aggregated. No applicant shall divide, phase, segment, or separately title a project to evade the requirements or prohibition of this Local Law.

This is particularly important if Angelica retains a 600 kWh threshold. A recommended Tier 1 should likely be reduced to 80kwh-to support individual off grid locations. -Would need to find the average off grid home usage-Needs more research and development to define actual Kwh.

2. Preserve small-scale exemptions

State exactly what remains allowed, so the law does not unintentionally affect common resilience uses:

- Residential and farm backup batteries within the Tier 1 threshold.
- Batteries serving an onsite solar system and onsite load only.
- Uninterruptible-power systems for healthcare, communications, public safety, agricultural operations, and businesses.
- EVs and battery systems integrated into EVs.
- Portable consumer devices and standalone 12-volt vehicle batteries.

Wilton's moratorium provides a useful distinction: it exempts smaller systems serving only the onsite use, as well as certain UPS, backup-generator, and EV-charging storage systems.

- Why the selected threshold is rationally related to land-use, emergency-response, and environmental conditions.

The Town should ensure all factual claims—particularly about incident frequency, emissions, fire duration, property values, and water contamination—are documented in the legislative record rather than stated as unsupported conclusions.

Process

State permitting may also affect local authority for certain major energy projects.[dps.ny](https://www.dps.ny.gov)

A prudent sequence would be:

1. Adopt a time-limited moratorium if an application is imminent or the Town needs time for technical/legal analysis.
2. Conduct SEQRA review of the moratorium or permanent local-law action as applicable.
3. Obtain a municipal-attorney review of the complete zoning code, comprehensive plan, local-law procedure, and state-siting implications.
4. Adopt either a clear utility-scale prohibition or a revised conditional-permit pathway—not both.
5. File the final adopted local law with the Secretary of State and observe any applicable referendum procedure.[dos.ny](https://www.dos.ny.gov)+1

If Angelica's intent is to **ban utility-scale BESS but preserve household/farm/business backup systems**, the Amsterdam-style model is the most directly applicable comparison. If its intent is to prohibit every new stationary BESS, the Mount Pleasant structure is closer, but it is much broader and should receive especially careful legal review.

Policy versus law

Policy is the Town Board's decision about what Angelica wants to achieve.

Law is the enforceable mechanism used to carry that policy out.

Before debating individual clauses, the Board should agree on the policy choices the law is intended to implement. Once those choices are made, Town counsel and technical experts can write clear, enforceable provisions.

Policy questions for the Board

1. Does Angelica want to allow small residential, farm, business, municipal, and emergency-backup battery systems?

2. Does Angelica want to allow medium-sized systems serving only onsite load, and if so, under what conditions?
3. Does Angelica want to allow, limit to specific areas, temporarily pause, or prohibit utility-scale/grid-serving BESS?
4. What risks, costs, and long-term liability will the Town not transfer to residents, volunteer responders, or taxpayers?
5. What evidence must an applicant provide before the Town considers a facility safe enough to permit?
6. Does the Town have the current capacity to review, inspect, and enforce a long-term BESS facility Strategy.

Environmental gaps to raise

The proposed law mentions environmental resources and allows the Town to request studies, but most protections are discretionary. It does not establish clear, measurable environmental performance standards or automatic permit-denial triggers.

Ask the Board to add requirements for:

- A site-specific **environmental baseline assessment** before approval: groundwater, private wells, soils, streams, wetlands, drainage patterns, and existing conditions.
- Mandatory—not optional—groundwater monitoring where site conditions create a credible pathway to wells, wetlands, streams, or aquifers.
- A containment and sampling plan for fire-suppression runoff, including who samples, what is tested, reporting deadlines, cleanup triggers, and who pays.
- A hazardous-air-monitoring plan for an incident, with clear authority for evacuation, notification, and post-incident testing.
- A site-specific hydrogeologic assessment by an **independent New York-licensed hydrogeologist**, paid for by the applicant but selected or approved by the Town.
- Clear wetland, stream, private-well, floodplain, and sensitive-resource setbacks.
- Written soil, surface-water, groundwater, and air-monitoring requirements following any fire, thermal runaway, explosion, release, or abnormal event.
- A waste-management plan for damaged batteries, contaminated debris, firefighting water, and removal/disposal documentation.
- Annual public compliance reporting: inspections, incidents, emergency drills, material changes, complaints, noise results, and financial-security status.
- Permit suspension authority where monitoring, insurance, emergency-response training, or financial security lapses.

New York's updated 2025 Fire Code took effect January 1, 2026, following the state Fire Safety Working Group's recommendations. New York also requires independent peer review of project designs for code compliance in specified circumstances. The law should make this type of independent, project-specific review mandatory for Tier 2 facilities—not simply something the Town may request. [nysed.gov](https://www.nysed.gov/energy/energy-services/energy-services-division/energy-services-division-projects/energy-services-division-projects-2025-fire-code)

Liability-focused questions

Use questions that require a direct answer and a commitment to action:

1. "Will the Town require a project-specific, independent environmental and fire-protection peer review before any Tier 2 BESS permit can be approved?"
2. "Who bears **strict financial responsibility** for all fire response, mutual-aid costs, air and water sampling, contamination assessment, remediation, property damage, and long-term monitoring—not merely the initial response cost?"
3. "What financial-security amount will cover a worst-case incident, and will it remain continuously available if the owner sells the project, files bankruptcy, dissolves, or lacks adequate insurance?"
4. "Will the Town require pollution legal liability insurance, environmental impairment liability coverage, general liability coverage, and evidence that Angelica is an additional insured?"
5. "Why are monitoring wells only required 'should' the Town or another agency require them, rather than triggered automatically by site-specific hydrogeologic conditions?"
6. "What written standard will determine whether the Town has sufficient volunteer personnel, equipment, water supply, and mutual-aid capacity before issuing a permit?"
7. "What is the Town's plan to prevent taxpayers from becoming responsible for cleanup or enforcement costs if an operator is insolvent, abandons the site, or disputes charges?"
8. "Will the Town add a clearly enforceable indemnification provision requiring the owner and operator to defend, indemnify, and hold harmless the Town, its officers, employees, volunteers, and mutual-aid responders?"
7. SS approval—or should it build that capacity before accepting applications?

STATEMENT OF MARY HAYTON

Public Hearing on Proposed Battery Energy Storage System Regulations

Town of Angelica - Monday, August 24, 2026 - 7:00 p.m.

PLEASE ENTER THIS STATEMENT IN ITS ENTIRETY INTO THE OFFICIAL RECORD OF THE AUGUST 24, 2026 PUBLIC HEARING.

To: Town Supervisor and Members of the Angelica Town Board

Re: Proposed BESS Local Law and the proposed battery energy storage facility at 5863 Hess Road

Dear Supervisor Kelly and Members of the Town Board:

My name is Mary Hayton. I am a property owner and homeowner whose private property lies directly across from the proposed Hess Road battery energy storage system site, with Interstate 86 between my home and the Hess Road property. I am therefore not commenting as a distant observer. Decisions concerning this site will directly affect the place where I live, the use and enjoyment of my property, and my sense of security in my home.

I bought my property in December 2019. It is more than just the home I truly enjoy: it is also an investment, with an upstairs apartment, and something I hope one day to leave as an inheritance to my children. I am concerned that placing a utility-scale battery facility directly across from my property could reduce its value and marketability. I rely on a private well and enjoy gardening on the property. I also have a dog, a cat, chickens and ducks. If an emergency ever required evacuation, I need to know how I would safely evacuate or protect those animals as well as myself. For these reasons, I sincerely hope the Town will pursue a more suitable location away from residences and farm animals whenever a safer, more compatible site is available.

I understand that the August 24 hearing concerns the Town's proposed local law regulating battery energy storage systems. I also understand that the law will have direct consequences for the pending Hess Road proposal. I respectfully ask the Board to use this opportunity to adopt regulations that protect neighboring residents first, and to avoid allowing the Hess Road project to advance until the Town has a complete, independently reviewed record addressing the concerns outlined below.

1. The Hess Road location should be evaluated as a site-specific land-use decision, not simply as a question of whether BESS technology can be permitted somewhere in the Town.

Battery storage can provide a legitimate grid function. That does not mean every parcel is appropriate for a utility-scale battery installation. The proposed Hess Road location is close to homes, farms, private wells and rural properties, and it places an industrial electrical facility within the daily environment of people who did not agree to host it. Interstate 86 is not, by itself, a meaningful safety buffer. Smoke, airborne emissions, emergency closures, runoff, noise, visual impacts and property-market concerns do not necessarily stop at a highway right-of-way.

Before this site is approved, the Town should require the applicant to demonstrate why this location is preferable to existing industrial, brownfield or utility-adjacent properties where similar infrastructure could be placed farther from homes and productive agricultural land. The burden should be on the developer to show that a greenfield or rural-residential-adjacent site is necessary, rather than on neighboring property owners to prove that a safer or more compatible site exists.

2. Fire, emergency-response and evacuation planning must be site-specific and independently reviewed.

Lithium-ion battery systems are subject to extensive modern fire-code requirements for good reason. New York's current BESS guidance emphasizes permitting, inspection, emergency planning, firefighter coordination and public safety. I ask the Town to require an independent fire-protection and emergency-response review, paid for by the applicant but selected or approved by the Town, before any permit is issued.

That review should address the credible worst-case event for the actual equipment proposed at Hess Road; the response capability and training of local and mutual-aid fire departments; access for emergency vehicles; water and other suppression or cooling needs; smoke and gas monitoring; shelter-in-place and evacuation thresholds; potential I-86 traffic impacts or closure; notification procedures for nearby residents; and responsibility for cleanup and post-incident environmental testing. Neighboring property owners should receive the emergency plan before the facility begins operation, not after an incident occurs.

3. Water, soil and runoff protections should be established before construction.

Because nearby residents and farms depend on the quality of local water and soil, the Town should require baseline sampling of groundwater, private wells where owners consent, surface water and soil before construction. The site plan should demonstrate how contaminated firefighting water or other incident runoff would be contained and prevented from reaching neighboring property, drainage channels or groundwater. The law should also require prompt post-incident testing, public disclosure of results, and financial responsibility by the facility owner for investigation, remediation, temporary water supplies and other reasonable costs if contamination attributable to the facility occurs.

4. The public deserves a single, accurate and complete project record.

Recent public reporting based on records obtained through the Freedom of Information Law identifies CTEC Solar as the applicant at 5863 Hess Road, while earlier Town discussions referred to SeaTac Solar. The same reporting states that an initial project narrative described approximately 2.5 MW AC, while technical documents described five Tesla Megapack 2XL units totaling approximately 4.895 MW, and that the utility's interconnection review identified transformer-overload and

overvoltage issues requiring mitigation. These matters may have reasonable explanations, but they should be explained in writing and placed in the public record before residents are asked to accept the project.

At a minimum, the Town should make available the final project size in both MW and MWh; the identity and ownership structure of the applicant and operating entity; the complete site plan; the utility interconnection study and required mitigation; equipment safety documentation; environmental and drainage studies; noise analysis; emergency-response plan; decommissioning plan; insurance coverage; financial security; and all applicable SEQRA documents and determinations.

5. The local law should protect nonparticipating neighbors over the full life of the facility.

I respectfully recommend that the law include meaningful setbacks from nonparticipating residences and property lines; enforceable noise limits measured at nonparticipating property; screening and lighting standards; annual first-responder training; periodic inspection and reporting; prompt notice of fires, releases or significant malfunctions; decommissioning security that is independently calculated and periodically updated; proof of adequate liability and environmental coverage; clear transfer-of-ownership obligations; and a requirement that the owner bear reasonable public emergency-response, investigation and cleanup costs attributable to the facility.

6. No final decision should be rushed while material questions remain unresolved.

My request is not that the Town reject every form of energy storage. My request is that the Town distinguish between the possible public value of battery storage and the suitability of this particular location. A project that may be useful to the electrical grid should still be placed where foreseeable consequences to neighboring residents are minimized.

For that reason, I respectfully ask the Town Board to strengthen the proposed BESS law before adoption and to refrain from granting any discretionary local approval for the Hess Road proposal until the Town has received and publicly reviewed independent engineering, fire-safety, environmental, water-protection and emergency-response information sufficient to answer the concerns of the people who live closest to the site. If those reviews show that another industrial or utility-adjacent location can accomplish the same purpose with materially less impact on homes, farms and natural resources, the Town should encourage or require that alternative to be considered.

I have a reasonable expectation that local government will carefully protect the health, safety, property rights and quality of life of residents when a new industrial use is proposed nearby. Once a facility is built, many effects cannot simply be undone. Careful siting, complete information and strong safeguards are therefore not obstacles to responsible development; they are essential parts of it.

Thank you for accepting this statement into the public record and for considering the concerns of those of us who would live closest to the proposed Hess Road facility.

Respectfully submitted,

Signature:

Mary E. Hayton

Date:

August 24, 2026

Property owner and homeowner directly across from the proposed Hess Road site

Selected public sources consulted: WKBW reporting of July 23, 2026 concerning the Hess Road proposal and FOIL-obtained project/interconnection documents; New York State Energy Research and Development Authority, New York State Battery Energy Storage System Guidebook (2026); New York State Department of State, 2025 Uniform Code effective December 31, 2025.

1. Has the SEQR process started. If so, who is the lead agency and what stage is it in?
2. If the SEQR process **has been** delegated to the town or county, what administrative and technical expertise do the Town or County govt's have to properly and legally fulfill the requirements of SEQR and Permit Application?
3. Has an Environmental Impact Statement been prepared and submitted. If so, positive or negative declaration.
4. What containment systems are proposed to mitigate contaminated surface water runoff and groundwater infiltration due to firefighting procedures and/or chemicals used in such firefighting methodology?
5. In the event of a fire, what procedures are proposed to notify and evacuate the public affected within the plume?
6. Has the issue of community environmental hardship been addressed, as required by SEQR, given that Angelica already has two landfills, one of which is active and growing?
7. The Town Law only refers to BESS. Will the applicant be able to amend or segment their application to include a Data Center under the BESS Permit or will that be an entirely new permit application?
8. Where is the bond letter to protect those affected by this incident/event and what % will it increase every year?
9. Describe the location/placement of the water treatment plant near BESS.
10. Who on the town board including the town clerk signed an NDA?

* Submitted via email from Linda Cost
on Weds 9/2/26.
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