

REGULAR MEETING – ATHENS TOWN BOARD – July 17, 2023

The meeting of the Athens Town Board was called to order at the Athens Town Hall, on July 17, 2023, at 7:00 p.m. by Supervisor Michael Pirrone, with the Pledge of Allegiance to the Flag.

The following people were present: Supervisor Michael N. Pirrone; Councilmember Mary H. Brandow; Councilmember Michael Ragaini; Councilmember Anthony Paluch; Councilmember Shannon Spinner and Town Clerk Linda M. Stacey.

These people were also present: Highway Superintendent John J. Farrell; Attorney George McHugh; Finance/ Budget Officer Don Piero; Code Enforcement Officer Albert Gasparini; Theresa Cardinale; Fran McCusker; George Greiner; Russell Nadler; Hailee Dickson; Tami Bone; Karen Dudley; Diane Michener; Patrick Doyle, of Flint Mine Solar; Luigi DiStefano; Cathy ?; Edward Bloomer and Nancy Poylo.

Supervisor Pirrone read the Notice of Public Hearing for Wireless Telecommunications Facilities as it appeared in the Official newspaper: (Copy of notice follows.)

WHEREAS, the Town Board of the Town of Athens has proposed a local law entitled “*TOWN OF ATHENS WIRELESS COMMUNICATION FACILITIES MORATORIUM LAW*”, in an effort to temporarily restrict the development of wireless telecommunication facilities so that the Town Board may consider enactment of land use regulations to encourage appropriate development of wireless telecommunications facilities that is consistent with the Town’s land use development and zoning objectives;

NOW, THEREFORE, BE IT RESOLVED, that a public hearing is hereby scheduled for July 17, 2023, at 7:00 p.m. at the Athens Town Hall, 2 First Street, Athens, NY 12015, to receive comments from the public regarding proposed **Local Law No. 4, of 2023**, a Local Law to institute a six (6) month **moratorium** to temporarily restrict the development of wireless telecommunications facilities so that the Town Board may consider enactment of land use regulations to encourage appropriate development of wireless telecommunications that is consistent with the Town’s land use development and zoning objectives; and be it further

RESOLVED, that the Town Clerk is hereby directed to publish appropriate notice for the public hearing.

Ayes-5 (Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Councilmember Shannon Spinner** made a motion to open the public hearing seconded by Councilmember Mary H. Brandow. Ayes-5 (Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0.

**Supervisor Pirrone opened** the meeting floor for comments:

Resident Karen Dudley asked a question as to the length of time that the moratorium was for. **Attorney McHugh** told her that is for a six (6) month period, with the ability of being renewed for another six (6) months. (Public Hearing left open at this time.)

**Councilmember Shannon Spinner** made a motion seconded by Councilmember Michael Ragaini to approve the following vouchers that were audited by the Board prior to the meeting.

**General Abstract #13**, vouchers #305 through #350 inclusive for **\$26,014.55**.

**Highway Abstract #12**, vouchers #112 through #120 inclusive for **\$87,369.92**.

**Trust & Custodian:**

**ARX** (Cell Tower): Abstract #9, voucher #10 through #11 for **\$4,412.50**.

**RFP (FreePoint Solar) ZBA**: Abstract #6, voucher #6 for **\$7,701.82**.

**DeSchaine**: Abstract #4, vouchers #6 through #8 for **\$983.59**.

**FP Solar**: ZBA: Abstract #7, voucher #9 for **\$2,850.00**.

**Camp Catskill**: Abstract #3, voucher #3 for **\$350.34**.

**9071 Rt 9W**: Abstract #5, vouchers #6 through #8 for **\$504.11**.

Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Councilmember Michael Ragaini** made a motion seconded by Councilmember Shannon Spinner *to approve the minutes of June 20, 2023, as read.* Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Councilmember Michael Ragaini** made a motion seconded by Councilmember Mary Brandow *to approve and accept the Town Clerk's Report.* Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Highway Superintendent John J. Farrell** reported that one truck had been in an accident and is now being repaired, at a cost of \$11,500.00.

He reported that Master Switches have been added to all Town vehicles, mostly the older ones.

The Highway crew is currently doing Oil & Stone, and should be finished, next week.

Mr. Farrell reported that the Town will be doing some milling work for the Village of Athens.

July 31, they will begin the culvert work. It will take about 1 to 2 weeks; From County Rt49 to Vosenkill Road. (The month of August.)

The last heavy rainstorm, only 3 (three) trees came down, and there were 2 (two) problem areas that always plug up. (One on Church Street in Leeds and McGovern Lane.

**Code Enforcement Officer Albert Gasparini** reported that there were 5 (five) building permits. There were 15 building inspections. **Inquiries:** Included- Garage, Septic System, Multiple inquiries of parcels of land to build home; Residential solar panels. Inquiries about the reopening of the Old Green Lake Resort; Inquiry about a “Barn Do Minium” (Barn with a dwelling in it.)

There were 3 Certificates of Occupancy; There were 3 Certificates of Compliance.

Septic Permits-3.

**Fire/911 calls:**761 Potic Mountain Road- Gas Water heater malfunctioned and caught fire.

Violations: 1540 Leeds Athens Road, violation of Property Maintenance Code of New York State, Chapter 3 General Requirements, 304.7 Roofs and Drainage and 305.3 Interior Surfaces. Roof leaking into home and damaged the interior ceiling and walls of the kitchen and children's bedroom with evidence of a type of black mold.

Tenant claims of health issues from mold for her and children.

**June 1, 2023, and** June 29, 2023, hearings were held at the Athens Town Court, that the homeowner did not attend. Next hearing will be held on July 27, 2023.

**He received a request** to lower the Permit Fee Schedule for a pre-Built Shed from the current price of \$100.00 to \$25.00. (a garage can be 30ft. by 60ft. and 1,800 Sq. Ft. verses a shed-12ft by 13ft and 156 Sq. Ft) Continue with \$100.00 for Garages.

**Luigi DeStefano** still has not gone before the ZBA. He needs to be monitored. He currently cannot do an acre. He needs a survey map.

**Attorney George McHugh** recommended a Site Plan Review. He has already planted trees.

He needs to go before Greene County Soil and water, with a survey map. He also has to go before the Town Planning Board.

**Assessor Dawn DeRose's** written report was received: They processed from February to July 2023: 41 Building Permits; 33 Town Building Permits; 30 deeds resulting with sales in the range of \$10 - \$1,075,000; 62 Town deeds resulting with sales in the range of \$10-\$1,459,196; one Village revision; 29 Town tax map revisions; 0 Village E-911 #; 1 Town E-911 #;

They are continuing to update their files.

The Board of Assessment Review was held and there were no major problems and ran smoothly. The 2023 Final Assessment Roll was filed; The next process forthcoming will be the filing of the Small Claims and Certiorari cases.

They are now collecting data on the Village and Town building permits for evaluation for the 2024 assessment roll.

**Financial/Budget Officer Don Pierro**; An audit for Highway Union Medical Insurance has been completed. One finding was responded to, and we are still awaiting a resolution. Payroll for the June Month end, Quarter end, and quarterly payroll taxes were prepared and filed timely without exceptions.

All bank statements and cash Reconciliations were completed for the month ending June 2023 with no exceptions noted.

The next annual payment of \$65,137.15 including principal and interest will be made in September of 2023 for the single piece of bonded indebtedness.

The quarterly PERMA Gross wage report for the 2<sup>nd</sup> Qtr. Of 2023 which was accepted without exception.

The June Monthly Retirement Report was prepared, filed timely, and accepted as submitted.

The planning and preparation for the 2024 Budget is continuing with weekly meetings and analysis with the Supervisor. On May 1<sup>st</sup> we received the updated “Tentative” Roll totals from the Town Assessor for the Taxable Assessed Valuation numbers. We received a Taxable Valuation update effective July 1st per the Assessor with certain exemptions for Star Program updates and updated the various Tax Calculations accordingly.

**Supervisor Michael N. Pirrone** made the final call on the open Public Hearing for the Town of Athens Wireless Communications Facilities Moratorium law.

**As there were no more questions**, Councilmember Shannon Spinner made a motion to close the Public Hearing, seconded by Councilmember Mary Brandow. Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Supervisor Michael N. Pirrone** reported that the Town received Insurance reimbursement of \$11,449.37 for Auto Physical Damage.

**Warren Hart, Deputy County Administrator and Greene County Economic Development**, Planning & Tourism requested that the Town of Athens approve the following resolution relative to the Cohotate Field Station Renovation.

**On the motion of Councilmember Anthony Paluch** seconded by Councilmember Shannon Spinner the following **RESOLUTION #2023-37** was adopted: EXEMPTION OF GREENE COUNTY FROM TOWN LAND USE LAWS FOR THE COHOTATE PRESERVE FIELD STATION INFRASTRUCTURE IMPROVEMENT AND RENOVATION PROJECT TOWN BOARD OF THE TOWN OF ATHENS.

**WHEREAS**, Greene County is a municipal corporation duly organized under the laws of the State of New York and is the County within which the Town of Athens is located; and

**WHEREAS**, Greene County has determined that the Cohotate Preserve located on NYS Route 385 in the Town of Athens is a unique resource and that the existing environment field station offers unmatched opportunities for incorporation into the Columbia Greene Community College’s environmental programs and curricula, and that in order to increase utilization of the property and field station, upgrades and improvements to the facility and site access are necessary, especially given that the structure was originally built over 30 years ago; and

**WHEREAS**, the County proposes to renovate the environmental field station originally constructed in 1990 by the Greene County Soil & Water Conservation District at the Cohotate Preserve. This environmental education center is used in partnership with the Columbia Greene Community College and supports the college’s environmental programs. Specific project facility includes improving accessibility to the site (upgrades to the existing driveway), completing interior and exterior renovations, providing handicap accessibility, adding an ADA-compliant unisex bathroom, bringing electricity, heat, water, sanitary hookup, and internet utilities to the facility, and improving or replacing the existing Cohotate Preserve signage. The objective of this project is to extend the months of the year in which the facility is accessible and to increase the amount of programming options and opportunities for the college; and

**WHEREAS**, the Town of Athens’ local code incorporates a zoning law and site plan review regulations, and the Cohotate Preserve, the real tax property for which is owned by Greene County, is zoned as Open Space/Conservation (OS) and as being within the Rt 385 Corridor Overlay (Ru-385); and

**WHEREAS**, the County has reviewed and evaluated the Town’s zoning regulations and determined that specific language concerning the Cohotate Preserve is not included in the Town’s zoning law or site plan review regulations; however, *Nature Interpretive Centers*, which is the use in the Town of Athens’ Zoning Permitted Uses Table (180 Attachment 1-Table 1) that most closely resembles the proposed project, are a permitted use with no Planning Board or Zoning Board of Appeals review requirements in both the OS and Ru-385 zones; and

**WHEREAS**, The Town of Athens has been an Involved Agency for the duration of the State Environmental Quality Review Act (SEQRA) process; for which the Greene County Legislature issued a Notice of Intent to Declare Lead Agency Status for the Cohotate Preserve Field Station Improvement project, which met the State Environmental Quality Review Act (SEQRA) classification as a Type I Action, and as such the County was required to prepare a Full Environmental Assessment Form

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(FEAF) to adequately consider potential adverse effects, and conduct a Coordinated Review with Involved and Interested Agencies, including the Town of Athens Town Council, pursuant to Resolution 311-22 adopted on September 19, 2022; and

**WHEREAS**, the County notified Interested and Involved Agencies on April 10, 2023, which included the Town of Athens, with the 30-Day Notification requirement for purposes of Lead Agency Status confirmation and opportunity to notice the County with comments or permitting requirements, ending May 10, 2023; and no objections to the intent of Greene County to serve as the SEQRA Lead Agency were received; and

**WHEREAS**, Greene County has requested that the Town Board of the Town of Athens make a determination confirming that the County is exempt from the applicability of the Town's zoning and local land use laws in relation to its proposal to upgrade and renovate the existing Greene County Environmental Field Station located at the Cohotate Preserve of NYS Route 385 in the Town.

**WHEREAS**, the Town Board recognizes that there is significant case law on point, with regard to the exemption of such a project including In the Matter of the County of Monroe, 72NY2d 338 (1988), which held that a balancing test must be performed to determine whether a project of a municipality or agency thereof, is exempt from the local land use regulation weighing the following factors: 1) legislative intent; 2) nature and scope of the instrumentality seeking immunity; 3) the kind of function or land use involved; 4) the extent of the public interest to be served; 5) the effect local land use regulation would have on the enterprise; 6) impact on legitimate local interests; 7) alternative locations for the facility in less restrictive zoning areas; 8) alternative methods of providing the needed improvement; 9) intergovernmental participation in the project development process; and 10) opportunity of the public and others to be heard; and

**WHEREAS**, on June 21, 2023, the County officially declared its status as Lead Agency and completed the SEQRA review for the project, during which additional items were considered and determined to not result in significant adverse environmental impacts, resulting in the issuance of a Negative Declaration for the proposed action, pursuant to Resolution Number 199-23; and

**WHEREAS**, the County consulted with the State Historic Preservation Office (SHPO) for their opinion on the project, which resulted in a determination that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project; and

**WHEREAS**, environmental permit needs have been identified by the New York State Department of Environmental Conservation and the New York State Department of State due to the field station's location adjacent to the Hudson River, and such permit requests will be submitted to the requisite agencies as a procedural formality, as no sensitive natural resources or protected areas are proposed to be adversely impacted as a result of the project and no concerns exist related to the ultimate issuance of the requested permits/approvals; and

**WHEREAS**, the project area is located within the 100-year floodplain of the Hudson River, as mapped by the Federal Emergency Management Agency (FEMA), and that the Town has enforcement of floodplain regulations through their Flood Prevention and Flood Damage Prevention Codes; however, no disturbance related to the site upgrades and field station renovations at the Cohotate Preserve are proposed within the mapped 100-year floodplain; and

**WHEREAS**, Greene County is subject to compliance with the NYS Uniform Fire Prevention and Building Code and Energy Conservation Code and as such state permits for construction are received by the County directly from the New York State Department of State; and all state permits, reviews and referral associated with the construction are received by the County directly from New York State; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board finds that the nature and scope of Greene County, an instrumentality seeking immunity from the Town of Athens local code with respect to land use, is a municipal corporation with geographic jurisdiction, powers and fiscal capacity to provide a wide range of services to the residents and property owners within the County, including the requirements for providing open space areas and educational opportunities; and be it further

**RESOLVED**, that the Town Board finds that Greene County, as a unit of government, has a compelling government interest and ownership of the noted property, and is empowered to maintain and upgrade the existing field station building and site access, the funding for which is provided by Greene County, Greene County Soil and Water Conservation District, and via grant funding from the State and Municipal (SAM) Facilities Program administered through the Dormitory Association of the State of New York (DANSY); and be it further

**RESOLVED**, that the Town Board finds that the renovation and continued operation of the Cohotate Preserve Field Station continues to be compatible with the surrounding land uses and the County's vision for use of the Cohotate Preserve providing open space and recreational opportunities for the residents of Greene County; and be it further

**RESOLVED**, that the Town board finds that the project will be beneficial to the residents and property owners of Greene County, and that the Town Board finds that the public interest is served in the renovation of the field station and completion of other site improvements and access at the Cohotate Preserve, and that public and interested stakeholder participation has been afforded by the County during the SEQRA process; and be it further

**RESOLVED**, that the Town Board hereby finds that upon the balancing of all factors in relation to land use and zoning, the County is exempt from the applicability of the Town of Athens, land use laws and zoning Code; and thus, approval by the Town Board, Town Planning Board or Town Board of Appeals is not required; and be it further

**RESOLVED**, that the Town Clerk is directed to file this Resolution in the appropriate index within five (5) business days. This Resolution shall take effect immediately.

**Ayes-5 (Pirrone; Brandow; Ragani; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0**

**The Town Board received a copy of the Zoning Board of Appeals minutes that showed they denied FreePoint Solar's application for site on Potic Mountain Road.**

**The Zoning Board of Appeals has not made a decision on the wireless cell tower at this time.**

**On the motion of Councilmember Michael Ragaini** seconded by Councilmember Mary H. Brandow the following **RESOLUTION #2023-38**, to adopt proposed local law No. 4 for 2023, Town of Athens Wireless Communication Facilities Moratorium Law, as Local Law No. 4.

**SECTION 1. TITLE:**

This Law shall be known as Local Law No. 4 of the year 2023 entitled “TOWN OF ATHENS WIRELESS COMMUNICATION FACILITIES MORATORIUM LAW”.

**SECTION 2. LEGISLATIVE AUTHORIZATION:**

This local law is authorized by the Municipal Home Rule Law Section 10.

**SECTION 3. PURPOSE:**

The Town Board recognizes that wireless telecommunications facilities (or “cell towers”) offer benefits for wireless communications and, as such, the development of wireless telecommunications facilities continues to grow. However, the installation of large-scale wireless telecommunications facilities equipment and accessories may have adverse impacts on neighboring land uses while the Town of Athens Land Use Law currently does not provide any regulation of these facilities. This Moratorium is necessary in order to temporarily restrict the development of wireless telecommunications facilities so that the Town Board may consider enactment of land use regulations to encourage appropriate development of wireless telecommunications facilities that are consistent with the Town’s land use development and zoning objectives. The Town Board has determined that this would best enhance and protect the health, safety and welfare of the citizens of the Town of Athens. This moratorium is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services and shall not be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

**SECTION 4. DEFINITIONS:**

“Wireless Telecommunications Facility” means any ground-mounted pole taller than 35 feet in height, including supporting lines, cables, wires, braces and masts, built for the purpose of mounting wireless telecommunications equipment, including telephone service, which is capable of receiving and/or transmitting signals.

**SECTION 5. MORATORIUM:**

The Town of Athens hereby imposes a six-month Moratorium on the construction establishment, installation, review or approval of any new Wireless Telecommunications Facilities from July 17, 2023, until January 17, 2024. The provisions of this Local Law shall be applicable to any construction, establishment, installation, review, or approval of any new Wireless Telecommunications Facilities, for which applications for all necessary Town approvals have not been made by July 17, 2023.

**SECTION 6. EXTENTIONS:**

This Moratorium may be extended for such additional periods as the Town Board may determine to be necessary to protect the public health, safety and welfare of the citizens of the Town of Athens and accomplish the stated purposes and intent of this Local Law.

**SECTION 7. VARIANCE PROCEDURE:**

The Town Board shall have the power, after a Public Hearing, to vary or modify the application of any provision of this Local Law upon its determination that strict application of this Local Law would impose extraordinary hardship upon an applicant and that the variance granted would not adversely affect the health, safety or welfare of the citizens of the Town or significantly conflict with the general purposes and intent of this Local Law. Any request for a variance shall be in writing and filed with the Town Clerk. The Town Board shall conduct a Public Hearing on the application on not less than five (5) days’ public notice and shall make its decision within thirty (30) days after the close of the Public Hearing. Any project which is granted a variance from this Local Law shall be subject to all requirements under the Town Code which would have been applicable to the project if the moratorium had not been adopted.

**SECTION 8. SEVERABILITY:**

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

**SECTION 9. EFFECTIVE DATE:**

This Local Law shall become effective immediately upon filing with the NYS Secretary of State in conformity with NYS Municipal Home Rule Law.

Adopted: Ayes-5 (Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions -0

**Supervisor Michael N. Pirrone informed** the Board that Champlain Hudson Power Express, Pre-Construction meeting for Overland Segment 11, will be held at the Catskill Elks Club, July 20, 2023, at 10:00 am.

Mr. Pirrone spoke about Monty Jordan’s property issue with the Village and Town.

**Councilmember Anthony Paluch made** a motion seconded by Councilmember Shannon Spinner *to appoint M. Kris Garvey to the Solar Moratorium Committee.* Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

**Patrick Doyle of Flint Mine Solar** stated that there is a web site for the Army Corp of Engineers.

The Advisory Committee to start a meeting soon.

**Resident Russell Nadler** suggested that someone could rewrite the Zoning so that we can get it right the first time.

**Attorney George McHugh informed** all present that he has been doing this for twenty-six (26) years. If he feels he needs help, he will ask for it.

**Supervisor Pirrone** stated that he has spoken with the Village Mayor.

**Resident Robert Brunner** said he thinks that Monty Jordan's road is within the Village boundary.

As there was no further business to come before the meeting, **a motion to adjourn was made by Councilmember Anthony Paluch** seconded by Councilmember Shannon Spinner.  
Ayes- 5(Pirrone; Brandow; Ragaini; Paluch; Spinner) Noes-0 Absent-0 Abstentions-0

The meeting was adjourned at 8:05 pm.