

REGULAR MEETING-ATHENS TOWN BOARD

OCTOBER 7, 2019

The regular meeting of the Athens Town Board was called to order by Supervisor Robert F. Butler, Jr. on Monday, October 7, 2019 at 7:00 p.m. with the Pledge of Allegiance.

The following people were present: Supervisor Robert F. Butler, Jr.; Councilwoman Mary H. Brandow; Councilman Anthony Paluch; Councilman Richard M. Surrano, Jr.; Councilman Michael Ragaini; Superintendent John J. Farrell; Deputy Town Clerk Gail M. Stacey.

The following people were also present: Gene Paluch; Janet Paluch; Allison Vota; Mark Vota; Laura Banyea, Young/Sommer; Barbara Trembacz; Shannon Spinner; Theresa Cardinale; Fran McCusker; Dana Fisk; Stephanie Fisk; Patrick Doyle, Flint Mine Solar.

The following bills were audited by the Board and ordered paid:

General Abstract #19, vouchers #367 through #386 inclusive for **\$16,808.12**.

Highway Abstract #18, vouchers #170 through #193 inclusive for **\$16,740.66**.

Bookkeeper/Budget Officer Donald Pierro presented the Supervisors report to the Board for review and discussion. All funds are still running excess of revenue over expenditures but are tightening as the year is getting closer to the end. Cash summary was explained, cash position is dwindling. Mr. Pierro has been working with Nicole from Pattison Kosky in regards to the conversion of the Quickbooks platform. Five companies will go into one account. New payroll calendar was also discussed. The only gross salaries changing are Highway Superintendent and Town Clerk, 27 weeks instead of 26. Two Trust and Agency accounts are in place for Flint Mine Solar and Zoning applications. Budget Workshops are set for October 9, 16, and 23, 2019. The Tentative Budget was handed in to the Town Clerk. October 21, 2019 is the next deadline for the Preliminary Budget and November 18, 2019 is the deadline for the Adopted Budget. A Local Law needs to be adopted by November 18, 2019 in case an override of the tax cap is needed. Decision needs to be made by November 7, 2019 and a public hearing would have to be scheduled with at least five days notice in the newspaper.

Councilman Richard M. Surrano, Jr. made a motion to accept the Supervisors Report, seconded by Councilman Michael Ragaini.

Ayes-5(Butler;Ragaini;Brandow;Paluch;Surrano) Noes-0 Absent-0 Abstentions-0

Highway Superintendent John J. Farrell presented his report to the Board for review and discussion. Mowing is finished for the season, grad all Leeds Athens and Vosenkill Rds., blacktop patched culverts on Flats and Valley Rds., and cut trees/brush on Church and Gypsy Point Rds. as prep work for next year's road projects. Superintendent Farrell asked for a resolution approving Pave NY funds to go towards paving South Mud Lane. Available funding from the State ends at the end of the year which is about \$16,000 and have it rolled over to 2020 to do paving on South Mud Lane and Flats Rds. Paving on Mud Lane will be done this year to use up existing Pave NY State funds. Equipment Inventory Sheet was reviewed and discussed. Recommendation for the future was to put in a cost to replace the loader which has a cost of \$140,000 to \$170,000 depending on make and model and to keep putting money aside for possible budgeting for replacing blacktop roller and F150. Superintendent Farrell would like the Board to have an open discussion in regards to utilizing \$70,000 in State funding towards the purchase of a new loader so that the reserve money would not be depleted. If not, then the money will be combined with the funding in 2020 to pave all of Flats Rd. Supervisor Butler wanted to know what was more important, new road or loader. Superintendent Farrell stated that the road project could be held off for a year and just keep doing them as they have been; would like the

Board to get back to him at next month's meeting with a decision. The salt allotment in the budget will cover this winter season since the bid was about the same as last year. Superintendent Farrell also asked of the Board that if there were to be any drastic changes made to his department that they come to him instead of hearing it from someone else as a courtesy.

Assessor Carol McBride presented her report to the Board. There were two small claims cases that were held in Coxsackie in September; no interest in settlements between the parties in the Sleepy Hollow vs. Village of Athens article 7 case, waiting for court motion; Agricultural Renewals have been mailed to property owners, may need to meet with soil and water due to one acre changes; Greene county Director of Real Property will be recommending to the legislature for a \$500 increase to the sliding scale for seniors and aged exemptions on limited incomes. Assessor McBride asked the Board if she could be allowed to contact Joe Scalzo from Brick Row Computers to come in and install Google Earth Pro. Supervisor Butler did not like the idea of having an outside party coming in, so Assessor McBride suggested contacting our IT company to see what could be done to have it installed. She also asked permission to contact Kate Konopka from the St. Mary's Youth Task Force to partner students from Coxsackie-Athens CS with the Assessor's office to help out. Greene County Assessor's association will be having a meeting October 22, 2019 to discuss county wide data collector and county sales tax for Air BNB'S, a brief discussion followed. Assessor McBride also requested that her office hours on Wednesday be changed to 8:15 a.m. through 4:45 p.m.

Councilwoman Mary H. Brandow made a motion to accept the Assessor's change of office hours for Wednesday from 8:15 a.m. through 4:45 p.m., seconded by Councilman Michael Ragaini; the new hours to take effect in two weeks.

Ayes-4(Butler;Ragaini;Brandow;Paluch) Noes-1(Surrano) Absent-0 Abstentions-0

Attorney Virginia Benedict presented to the Board, a packet, which included a SEQR Lead Agency Consent Form, a Full Environmental Assessment Form parts 2&3, which was read and its questions were answered with either a yes or no answer from the Board, a SEQR Public Notice Form, and a Resolution. **Resolution #27-2019** was read in full by Attorney Benedict.

Town Board

Town of Athens

Greene County, New York

Resolution No. 27-2019

WHEREAS, Flint Mine Solar LLC ("Flint Mine Solar") submitted a petition to the Town Board of the Town of Athens (the "Town") dated February 4, 2019 proposing a modification to the Town of Athens Zoning Code to rezone approximately 375± acres currently zoned Agricultural ("AG") and Rural Residential ("RU") to Mixed-Use Commercial ("MUC") or Light Industrial 1 ("LI-1"); and

WHEREAS, Flint Mine Solar's proposal to construct a 100 megawatt Flint Mine Solar Project in the Towns of Athens and Coxsackie is currently undergoing Article 10 review pursuant to the Public Service Law; and

WHEREAS, the Town's Zoning Code permits large scale solar facilities in the MUC, LI-1 and Light Industrial 2 ("LI-2") zones only; and

WHEREAS, the area proposed to be rezoned is generally bounded by the Town of Coxsackie line to the north; the Schoharie Turnpike and a mix of RU, MUC, LI-1 and LI-2 properties to the south; the CSX railroad corridor and AG properties to the east; RU and Open Space (“OS”) properties to the west; and it is bisected by Route 9W and the existing high-voltage transmission corridor with a mix of AG, RU, and MUC properties; and

WHEREAS, a proposed form of Local Law No. 2 of 2019 entitled “A Local Law to Amend the Town of Athens Zoning Map” (the “proposed local law”) along with the proposed amended zoning map entitled “Amended Zoning Map of the Town of Athens Adopted by Local Law No. 2 of 2019 on _____” (the “proposed amended zoning map”) have been presented to the Town Board; and

WHEREAS, the proposed local law amends the Zoning District Map to bring the majority of the Flint Mine Solar facility site, along with some adjacent properties, within the MUC zone, except for a 560 foot deep portion on the south of parcel 104.11-2-28.2 (Quaker Ridge) and additional area on the west of the parcel which will preserve a buffer of residentially zoned land along the Schoharie Turnpike; and

WHEREAS, adoption of the proposed local law will not require permits or approval from any other local, regional, or state agency; and

WHEREAS, as the proposed action changes the allowable uses for more than 25 acres of land, the Town Board classified the action as a Type I action under the New York State Environmental Quality Review Act (“SEQR”), requiring a full Environmental Assessment Form (“full EAF”); and

WHEREAS, Part 1 of the full EAF dated February 4, 2019 was prepared on behalf of Flint Mine Solar by Young/Sommer LLC and submitted to the Town Board; and

WHEREAS, by letter dated September 9, 2019 to the Athens Planning Board and Greene County Planning Board, the Town Board indicated its intent to assume the role of lead agency for the proposed action; and

WHEREAS, the Greene County Planning Board and Athens Planning Board consented to the Town Board serving as lead agency with Greene County Planning Board noting that it wanted the Town Board to address the following:

Change of zoning and it’s [sic.] consistency with the Town’s Comprehensive Plan.

The potential impact to neighboring communities and their concerns regarding the rezoning. We urge the Town to work with neighboring towns to consider intermunicipal impacts; and

WHEREAS, a duly noticed public hearing was held on September 23, 2019 to hear all interested parties on the proposed local law. Notice was sent to the Town of Coxsackie, Village of Athens, Greene County Legislature, Athens Planning Board, Greene County Planning Board, and adjacent property owners. The public hearing was kept open; and

WHEREAS, no officials from neighboring municipalities publicly commented on the rezoning although they were provided with notice of the public hearing; and

WHEREAS, the Town Board declared itself lead agency and conducted a coordinated review with the other interested and involved agencies; and

WHEREAS, the Town Board has found that the proposed action is consistent with the Town and Village of Athens Comprehensive Plan (the “Comprehensive Plan”) based on the fact that it has the potential to increase economic development, expand the local tax base and create job opportunities. Additionally, setback requirements and effective buffers reasonably protect adjacent agricultural and residential properties. As large scale solar facilities are a permitted use within MUC, rezoning of these parcels, many of which are adjacent to or bisected by high voltage transmission lines or the CSX Railroad line, or are hilly and rocky and a barrier to agricultural use or traditional development, such as residential housing, will allow viable use of these properties with limited impacts to surrounding properties or community character. Furthermore, rezoning of the parcels along Route 9W is consistent with the longstanding character of this portion of the Town, which was zoned Highway Commercial prior to 2013. Landowners of the parcels proposed to be rezoned have submitted letters in support of the proposed change and/or have attended Town Board meetings to share their experiences. Among other things, they have noted difficulty farming the land due to a variety of reasons, including topography and access. Some owners indicated that allowing large scale solar facilities on these parcels would create an additional revenue stream for the owners, enabling them to sustain more productive farmland elsewhere in Athens or Greene County. Allowing large scale solar facilities (and potentially other MUC-uses) on these parcels will encourage growth near existing MUC and industrial parcels and away from other viable farm land in other areas of the Town; and

WHEREAS, in accordance with SEQR, the Town Board:

1. Thoroughly reviewed Part 1 of the full EAF, Flint Mine Solar’s petition, and the following documents, among others, submitted with respect to this proposed action to aid the Town Board in determining whether the proposed action may have a significant impact on the environment:
 - a. Town and Village of Athens Comprehensive Plan, adopted September 2007;
 - b. Greene County Open Space Plan and Greene County Farmland Protection Plan, adopted 2002;
 - c. A map showing the existing zoning and Flint Mine Solar facility site;
 - d. Maps showing the proposed zoning designations for parcels as either MUC or LI-1;
 - e. A topographic map showing the topography of parcels on the western side of Route 9W;
 - f. Visual simulation projecting visibility of solar panels;

- g. Related to the Article 10 application: all documents of record available to parties on the Department of Public Service's website for matter no. 18-00390, including the Scoping Statement (along with all revisions and appendices), open house presentation, and correspondence, in addition to stipulations documents review by the Town's legal and engineering consultants;
 - h. Correspondence from Young/Sommer LLC dated December 17, 2018;
 - i. Correspondence from Sharon Paluch dated July 6, 2019; and
 - j. Public comments made prior to and during the public hearing held on September 23, 2019
2. Thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse environmental impact, including the criteria identified in 6 NYCRR § 617.7(c); and
 3. Completed Part 2 of the full EAF; and

WHEREAS, in accordance with SEQR, the Town Board desires to determine the significance of the proposed action and set forth its determination and reasoning therefore in this written resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board adopts the following findings and determinations with regard to the environmental significance of the proposed action:

1. While the Town Board is cognizant of the fact that Flint Mine Solar's proposed 100MW solar electric generating facility is currently undergoing an environmental and impact review process through Article 10, which is exempt from local SEQR review, in accordance with 6 NYCRR §§ 617.2(b) and 617.3(g), the Town Board has considered the entire set of activities proposed by Flint Mine Solar, including the rezoning of properties from RU and AG to MUC in light of its plans to ultimately develop a portion of the 100MW solar electric generating facility on these rezoned parcels. With that said, adoption of a local law is the only approval which must be granted to enable the proposed action to proceed.
2. In completing Part 2 of the full EAF, the Town Board reviewed Part 1 of the full EAF and any and all other documents prepared and submitted with respect to this proposed action and its environmental review thereof.
3. The Town Board thoroughly reviewed and considered each category set forth on Part 2 of the full EAF and the criteria identified in 6 NYCRR § 617.7(c) to identify potential environmental impacts, and its reasoned elaboration for its answers provided on Part 2 of the full EAF is as follows:
 - a. As adoption of a local law is the only approval which must be granted for the proposed action to proceed, the proposed action will not:
 - i. involve construction on, or physical alteration of, the land surface of the proposed site;
 - ii. result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site;
 - iii. affect wetlands or other surface water bodies;
 - iv. result in development on lands subject to flooding;

- v. impact a state regulated air emission source;
- vi. result in a loss of flora or fauna;
- vii. impact aesthetic resources;
- viii. impact historic and archaeological resources;
- ix. impact open space and recreation;
- x. impact critical environmental areas;
- xi. impact existing transportation systems;
- xii. result in an increase in the use of any form of energy;
- xiii. result in an increase in noise, odors, or outdoor lighting; and
- xiv. impact human health as a result of exposure to new or existing sources of contaminants. Any potential impacts on any of the above resulting from Flint Mine's proposed solar electric generating facility will be reviewed through the Article 10 certification process.

b. While the proposed action may result indirectly in increased development potential or pressure on farmland, a small impact or no impact may occur. As mentioned above, landowners of the AG-zoned parcels proposed to be rezoned (including Zimmerman, Multari, and Hodor) have submitted letters in support of the proposed change and/or have attended Town Board meetings to share their experiences. Among other things, they have noted difficulty farming the land in this area due to a variety of reasons, including topography and limited access as a result of the transmission and railroad corridors. Some owners indicated that allowing large scale solar facilities on these parcels would create an additional revenue stream for the owners, enabling them to sustain more productive farmland elsewhere in Athens or Greene County.

c. Similarly, while the proposed action rezones AG and RU-zoned parcels to MUC, for the reasons provided earlier, the proposed action is consistent with adopted land use plans and community character; and

BE IT FURTHER RESOLVED, that based on the foregoing, and pursuant to SEQR requirements for determination the significance of the proposed action, 6 NYCRR § 617.7, available information is sufficient to determine that the proposed action will not have a significant adverse environmental impact and therefore, an environmental impact statement is not required for the proposed action; and

BE IT FURTHER RESOLVED, that based on the foregoing and pursuant to SEQR, the Town Board makes a negative determination of environmental significance and hereby issues a Negative Declaration with regard to the proposed action; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and sign as required the determination of significance (Part 3 of the full EAF), confirming the foregoing Negative Declaration, which fully completed and signed full EAF (including Parts 1, 2, and 3) are incorporated by reference in this Resolution; and

BE IT FURTHER RESOLVED, by the Town Board as follows:

1. Pursuant to Section 180-75(A) of the Zoning Law, the attorneys for the Town are hereby authorized and directed to forward one copy of the proposed local law, the proposed amended zoning map, and the full EAF to the Town Planning Board for a report thereon due prior to the public hearing as provided below.
2. Pursuant to Section 239-m of the General Municipal Law, the attorneys for the Town are hereby authorized and directed to forward a complete 239-m referral application, including one copy of the proposed local law, the proposed amended zoning map, the full EAF and any other requested documents to the Greene County Planning Board for a report and recommendation thereon.
3. A public hearing shall be held on December 2, 2019 at 7:00 p.m. at the Athens Village Fire Department Hall, 39 Third Street, Athens, New York 12015 to hear all interested parties on the subject of said proposed local law, as a continuation of the September 23, 2019 public hearing.
4. The Town Clerk is hereby authorized and directed to publish notice of said public hearing in the official newspaper of said Town not less than ten days prior to the date of said public hearing, and to provide notice of the public hearing to the clerks of all adjacent cities, villages, towns and counties and to any other agency required to receive notice pursuant to Section 265 of the Town Law and Section 180-75 of the Town Zoning Code.
5. Pursuant to 6 NYCRR § 617.12, the attorneys for the Town are hereby authorized and directed to publish notice of the Negative Declaration on the ENB SEQR Notice Publication Form, which is attached hereto and made a part hereof, in the Environmental Notice Bulletin and file the Negative Declaration with the lead agency in the office of the Town Clerk, the Town Supervisor, with any person who has requested a copy, and with Young/Sommer LLC (o/b/o Flint Mine Solar as applicant).
6. Copies of the following documents shall be deposited in the office of the Town Clerk for public review prior to the public hearing: (a) the proposed local law; (b) the full EAF, including the Negative Declaration; and (c) the proposed amended zoning map.

Introduced by Councilman Richard M. Surrano, Jr.

Seconded by Councilman Michael Ragaini

Upon the question of the adoption of this Resolution, the Town Board members voted as follows during a roll call:

Robert F. Butler, Jr.	Yes
Richard M. Surrano, Jr.	Yes
Mary Brandow	Yes
Anthony Paluch	Abstain

Michael Ragaini

Yes

The proposed Resolution having been approved by a majority of the Board, the same was declared duly adopted by the Athens Town Board.

Gail Stacey

Deputy Town Clerk

Athens Town Board

Councilman Richard M. Surrano, Jr. made a motion seconded by Councilman Michael Ragaini to accept, with revisions, the September 3, 2019 minutes.

Ayes-5(Butler;Ragaini;Brandow;Paluch;Surrano) Noes-0 Absent-0 Abstentions-0

Councilman Richrad M. Surrano, Jr. made a motion seconded by Councilman Michael Ragaini to accept the September 16, 2019 minutes as presented.

Ayes-5(Butler;Ragaini;Brandow;Paluch;Surrano) Noes-0 Absent-0 Abstentions-0

Councilman Anthony Paluch made a motion seconded by Councilman Michael Ragaini to accept the Town Clerks Report as presented.

Ayes-5(Butler;Ragaini;Brandow;Paluch;Surrano) Noes-0 Absent-0 Abstentions-0

The Greene EMS Contracts that were previously made a motion on were signed by Supervisor Butler. The amounts were about the same as last year.

The Court submitted a letter and application which was signed by Supervisor Butler in regards to the JCAP grant. On the motion of Councilman Richard M. Surrano, Jr. seconded by Councilwoman Mary H. Brandow the following Resolution #28-2019 authorizing the court to apply for 2019-2020 JCAP Grant to purchase two Brother Monochrome Laser Copiers, one for the courtroom and the other for the court office was adopted.

Ayes-5(Butler;Ragaini;Brandow;Paluch;Surrano) Noes-0 Absent-0 Abstentions-0

Court office will be closing at 12:30 p.m. for Bail Reform Training on Friday, October 11, 2019.

A letter from Jones Hacker Murphy was briefly discussed; Sleepy Hollow vs. Towns of Athens and Cocksackie, may be finished on November 15, 2019.

Planning and Zoning Board Minutes were reviewed.

A letter from the Greene County Agricultural Board was reviewed. They will be holding a public informational meeting on Thursday, October 10, 2019 at 7:00 p.m. at the CCEARC in Acra, NY.

Patrick Doyle from Flint Mine Solar came before the Board to discuss a few items. Once the scope is done, they would like to move on to finishing the application. About 8 people will be on proposed sites doing archaeological digs for approximately 6 weeks. Historians will also be contacted. A water well survey will also be done as part of Article 7. Would also like to meet up soon in regards to a host community agreement. In addition, engineers have also met with state, county, local highway superintendents and Central Hudson in regards to having access to roads when construction of solar sites begins. A bond or written agreement may need to be in place.

With no further business to come before the Board, Councilman Michael Ragaini made a motion to adjourn seconded by Councilwoman Mary H. Brandow.

Meeting Adjourned 8:20 p.m.