

**Adopting And Issuing A Negative Declaration Under 6 NYCRR Part 617 State Environmental Quality Review Act (SEQRA) By The Ulster County Legislature For The Construction Of A Public Safety Radio Tower And Appurtenances To Be Located At Pitcairn Estates/Mt. Rd. (SBL 37.1-5-12.412) Town Of Olive New York – Department Of Emergency Services**

Referred to: The Energy, Environment and Sustainability Committee (Chairman Hewitt and Legislators Donaldson, Greene, Litts, Nolan, Stewart, and Walls), The Law Enforcement and Public Safety Committee (Chairwoman Hansut and Legislators Hewitt, Maloney, McCollough and Walls), and The Public Works, Capital Projects and Transportation Committee (Chair Nolan and Legislators Donaldson, Kovacs, Litts, and McCollough)

Chairwoman of the Law Enforcement and Public Safety Committee, Gina Hansut, and Deputy Chair Chris Hewitt offer the following:

WHEREAS, this resolution has been submitted at the request of the County Executive on behalf of the Department of Emergency Services; and

WHEREAS, Pursuant to Resolution No. 377 of August 2016 Capital Project 482 was established for the development of a Countywide Radio System and funding was provided for Professional Engineering Services; and

WHEREAS, utilizing the services of its radio consultants, the County has analyzed the needed improvements to the radio communication system in terms of gaps in service due to lack of coverage from existing radio towers, and

WHEREAS, this analysis determined that a coverage gap and tower deficiency exists in the area of Town of Olive and Woodstock, and after studying improvement to its existing tower located at Pitcairn Estates/Mt. Rd on a parcel identified as Tax Map Section Block and Lot (SBL) 37.1-5-12.412) Town of Olive New York (Tonche Mountain Site) concluded that the existing tower could not structurally accommodate the needed emergency services equipment; and

WHEREAS, the County identified an alternative site within 250 feet of the existing tower located on the same parcel that could accommodate a new guyed tower with a minimum height of 135 feet; and

WHEREAS, pursuant to Resolution No. 466 of September 2022 Ulster County, declared its intent to act as lead agency for the construction of a Public Safety Radio Tower to be located at the Tonche Mountain Site; and

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WHEREAS, in accordance with Resolution No 466 of September 2022 Ulster County conducted a coordinated review for this unlisted action and circulated its Notice of Intent to serve as Lead Agency, together with a Short Environmental Form (SEAF) and accompanying documentation to all interested and involved agencies pursuant to 6 NYCRR Part 617.6(b) (2) (i) and 6 NYCRR Part 617.6(b) (3); and

WHEREAS, as part of the Project approval process, the County, in addition to the SEAF, conducted additional studies of the potential environmental impacts that included impacts to historic and archeological sites, viewshed, wetlands and water bodies, threatened or endangered species, traffic, cumulative growth, and other environmental considerations as required under 6 NYCRR Part 617 of the Regulations of Article 8 of the Environmental Conservation Law of New York State ("SEQRA"); and

WHEREAS, the County in considering the Tonche Mountain site noted that while commercial telecommunication facilities were a permitted use in the zoning district a governmental Public Safety Radio Tower did not appear to be permitted use under the Town of Olive Zoning Statute and that relief from this prohibition would be necessary; and

WHEREAS, the County in cooperation with the Town of Olive Town Board requested a determination as provided for under the Matter of Monroe v. City of Rochester”, 72 N.Y. 2d 338, in which the Court established a “balancing of interests” test to allow local municipalities to determine whether a specific project qualified for immunity from local zoning requirements; and

WHEREAS, the Olive Town Board. after following the necessary procedural steps and in considering the County’s application in accordance with the nine (9) factors identified by the Monroe Court, has granted the County’s request for immunity from the provisions of the Olive Zoning Statute and will not require the County to seek a use variance or site plan and special permit approval subject to specific requirements; and

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WHEREAS, pursuant to SEQRA, the County Legislature has considered the significance of the potential environmental impacts of the Project by (a) using the criteria specified in Section 617.7 of the Regulations, and (b) examining the SEAF for the Project, including the facts and conclusions in Parts 1, and 2 of the EAF, together with other available supporting information and studies, to identify the relevant areas of environmental concern, and (c) thoroughly analyzing the areas of relevant environmental concern; and

WHEREAS, such evaluation of impacts and accompanying Negative Declaration has been filed with the Clerk of the Legislature and made available to members of the Legislature; and

WHEREAS, Ulster County has addressed all SEQRA issues as identified, considered and examined by the Involved and Interested Agencies and members of the public in conducting the environmental review; now, therefore, be it

RESOLVED, that pursuant to 6 NYCRR Part 617 et seq. of the Regulations of Article 8 of the Environmental Conservation Law of New York State (SEQRA), the Ulster County Legislature hereby determines that the Project will not have a significant adverse environmental impact, will not require the preparation of a Draft Environmental Impact Statement with respect to the Project, and hereby adopts and issues the Negative Declaration under SEQRA for the Public Safety Radio Tower to be constructed at Tonche Mountain site in the Town of Olive upon the vote thereupon and the signature of the Ulster County Legislature Chairman herewith, a copy of which is annexed to this Resolution and made a part hereof; and, be it further

RESOLVED, that Clerk of the Legislature shall file this Resolution and accompanying Negative Declaration with the Involved and Interested Agencies as enumerated in the Negative Declaration; and, be it further

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RESOLVED, that the adoption of the Negative Declaration shall constitute the SEQRA Decision of approval for the construction and all of the actions associated with the Public Safety Radio Tower located at Tonche Mountain, including site enclosure, equipment shelter, access road, and electric and data lines together with plans and documents associated with the project and in accordance with the conditions imposed by the Olive Town Board in issuing their determination of immunity from the zoning statute under the Monroe Balancing of Public Interest test,

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 21                      NOES: 1  
(Noes: Legislator Maloney)  
(Absent: Legislator Kitchen)

Passed Committee: Energy, Environment and Sustainability on June 4, 2024

Passed Committee: Law Enforcement and Public Safety on June 5, 2024

Passed Committee: Public Works, Capital Projects and Transportation on June 10, 2024

FINANCIAL IMPACT:  
NONE

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STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 18<sup>th</sup> Day of June in the year Two Thousand Twenty-Four, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 21<sup>st</sup> Day of June in the year Two Thousand Twenty-Four.

[s] Victoria A. Fabella  
Victoria A. Fabella, Clerk  
Ulster County Legislature

Submitted to the County Executive this  
21<sup>st</sup> Day of June 2024.

Approved by the County Executive this  
26<sup>th</sup> Day of June 2024.

[s] Victoria A. Fabella  
Victoria A. Fabella, Clerk  
Ulster County Legislature

[s] Jen Metzger  
Jen Metzger, County Executive