

**TOWN OF GALLATIN
COLUMBIA COUNTY, NEW YORK**

RESOLUTION NO. 2022-13

At a regular meeting of the Town of Gallatin, Town Board, Columbia County, New York, duly held on the 15th day of March, 2022 at the Town Hall, 667 County Route 7, Ancram, New York 12502, the following Resolution was proposed and seconded:

Resolution by: Supervisor Reilly

Seconded by: Councilmember Martini

WHEREAS, the County of Columbia operates a County-Wide public safety radio system (hereinafter Columbia County 911) for the County's emergency response needs, that is imperative for the health, safety and welfare of the communities within the County; and

WHEREAS, there is a serious and immediate need to improve public safety radio coverage in the Town of Gallatin and surrounding areas. The lack of coverage affects the **Community Rescue Squad, Northern Dutchess Paramedics, Ancram, Taghkanic, and Livingston Fire Districts, Columbia County Sheriff's Office, New York State Police** and all other public safety agencies who respond into Gallatin to provide mutual aid; and

WHEREAS, Columbia County 911 currently needs to create a new communication tower site in the Town of Gallatin to provide service, and a proposed site for a new replacement tower has been identified. The site was chosen based on its

elevation and location, which will provide effective radio communications to the first responders in the Town of Gallatin and surrounding areas; and

WHEREAS, the new site would include a 100' x 100' fenced area with a 190' self-support lattice tower, equipment shelter, generator and fuel tank. The proposed tower is the minimum height necessary to provide adequate space for the antennas and would not require caution lighting; and

WHEREAS, pursuant to the zoning laws of the Town of Gallatin such a use is allowable, however certain setbacks and site plan location items within the Town's Zoning law would impact the tower and possibly prevent the tower from being located in the most beneficial site for use; and

WHEREAS, the Town Board herein undertakes a review of the County's potential immunity from the zoning laws of the Town of Gallatin to the proposed Columbia County 911 communication tower pursuant to the New York Court of Appeals case of Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (1988); and

WHEREAS, to ensure public comment and participation in the decision the Town Board conducted a public hearing on the 15th day of March, 2022 and accepted comment from the public regarding the use of the proposed site as County 911 Communications Tower; and

NOW, THEREFORE, BE IT RESOLVED that the Board considers the factors set forth in Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (1988), setting forth the test of immunity using a "balancing of public interests" as follows:

1. The nature & scope of the instrumentality (agency) seeking immunity.

The Town Board of the Town of Gallatin is the governing body of the Town, and has the power to adopt, rescind or amend zoning laws in the best interest of Town residents. Further New York Town Law section 261 provides that a Town Board may “[f]or the purpose of promoting the health, safety, morals, or the general welfare of the community, the town board is hereby empowered by local law or ordinance to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes” Columbia County 911 is seeking to construct an emergency communications tower and associated facilities as part of a regional project whose sole purpose is to provide vital radio communications enabling and supporting the provision of emergency services for its citizens.

2. The encroaching government’s legislative authority.

The power to zone, amend or rescind zoning is granted to Towns under Section 264 of the Town Law. In New York State 9-1-1 service is provided by the New York State Police only in the event that a County does not elect to construct its own 9-1-1 System. Columbia County has operated its 9-1-1 system since 1995. In order to expeditiously dispatch emergency services personnel in response to a 9-1-1 caller’s needs, an Emergency radio communication system is

required. Columbia County's 9-1-1 Center currently dispatches emergency services for the New York State Police, Columbia County Sheriff's deputies, local law enforcement in its cities and towns, 31 different fire services, 5 different EMS agencies, Columbia County HAZMAT and Cause and Origin Teams and 25 different municipal highway departments. By accepting 9-1-1 calls, Columbia County assumes the responsibility for promptly delivering emergency Services from all these agencies.

3. The kind of function or land use involved.

The proposed use is as a County 911 communication tower will provide essential services. Columbia County 911 will be installing an emergency communications tower and associated facilities (driveways, propane tanks, backup generators, equipment shelter buildings, utility connections, fencing, and associated facilities).

4. The effect local land use regulation would have on the enterprise concerned

The concerned enterprise involved is the Town of Gallatin, and to impose zoning restrictions upon the County 911 communication tower would impede emergency communication services in area. Columbia County's 9-1-1 center maintains contact to dispatched agencies while on route and on the scene of emergencies to coordinate between agencies, call in additional emergency service agencies as the situation dictates, connect 9-1-1 callers to enroute emergency responders as deemed appropriate, and provide on air technical assistance (for

example, all dispatchers are trained EMD's). Columbia County's 911 emergency radio communication system is designed to provide adequate in-street coverage to a portable radio throughout the County's service area, in compliance with generally accepted public safety standards. If local zoning standards prevented construction of telecommunication facilities where needed to meet this standard, it would compromise the performance of the system and the County's ability to deliver emergency services.

5. Alternative locations for the facility in less restrictive zoning areas.

As stated above, the current Town zoning does not provide for, and would impeded the location for a telecommunication tower, Columbia County 911 will only construct new communication towers and associated facilities where existing facilities cannot be modified, co-location on existing facilities is not feasible, and where the communication facilities are required to provide public safety coverage in the County's service area.

6. The impact upon legitimate local interests.

It is to the benefit of all residents to have a 911 Communication tower in the area. All County communication towers will be galvanized steel intended to be visible from the minimum distance practical, and will not be lighted. The height of towers will be the minimum necessary to provide radio coverage complying with the public safety standard and reliable microwave linkage with

other communication towers that are part of the proposed expanded county emergency communication system.

7. Alternative methods of providing the improvements

Private communication networks providing coverage and capacity meeting minimum public safety standards are not available and are not fortified against failure as the proposed expanded Columbia County 911 emergency radio system will be. Columbia County 911 is committed to using its existing tower sites as part of its new expanded system, and to co-locate on other sites to the maximum extent practical. After a thorough review of the service area, there does not appear to be any practical alternatives to providing secure, dependable emergency communications in the Town of Gallatin and surrounding service areas.

8. The extent of public interest to be served by the improvements

As set forth above, a 911 communication tower is an essential service. Columbia County 911's main goal in constructing a new expanded emergency radio communication system is to provide public safety standard communications to be used by those first responders and other parties who are delivering emergency services throughout the county's service area.

9. Intergovernmental participation in the project development process and an opportunity to be heard

The Town is the only involved governmental participant in the County project and has solicited public comment. Through the environmental review process, the County will distribute the SEQRA for comment to all interested municipalities and will hold a public hearing. This will afford both municipal government officials and the public an opportunity to comment on the project.

BASED UPON THE FORGOING BE IT RESOLVED, that the Town Board determines that pursuant to Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (1988) and the associated analysis and public comment that the proposed installation of the County's communication tower is to be granted immunity from the Zoning laws of the Town of Gallatin.

Upon question of the foregoing Resolution, the following Board members voted "Aye" in favor of the Resolution:


Supervisor Reilly;
Councilmember Martini;
Councilmember Odell;
Councilmember Moran; and
Councilmember Quinn.

The following Board members voted "No" in opposition thereto:

_____ ; and
_____.

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

Dated: March 15, 2022



Lisa DeLeeuw, Town Clerk
Town of Gallatin