

Caroline Town Board Agenda Meeting Minutes of June 2, 2020

The Town Board Agenda Meeting was held electronically via Zoom teleconference on June 2, 2020 beginning at 7:03 p.m. hosted by Supervisor Mark Witmer co-hosted by Councilmember John Fracchia

Attendance:

Supervisor Mark Witmer
Councilmember John Fracchia
Councilmember Irene Weiser
Councilmember Tim Murray

Absent:

Councilmember Cal Snow - Absent

Recording Secretary:

Jessica L. Townsend, Town Clerk

Also Present: 24 members of the public

Supervisor Witmer opened by stating that this has been a tough week in the news and nationally and he hopes everyone is well and taking care of one another.

Privilege-of-the-Floor

Barbara Knuth – Resident for 33 years. Spoke in favor of the Moratorium. Social values, Community values and Environmental values are all things that the Planning Board has considered while revising the Comprehensive Plan and they should have the time they need to reflect on these key issues during the final stages of the process and a Moratorium would give them that opportunity.

Elisa Evett – Resident of Caroline for 49 years. Cares deeply about the future of Caroline and it's residents. Spoke in favor of a Moratorium. Reflected on the previous Moratorium on Fracking and the accomplishment of ultimately banning Fracking in Caroline. She believes that a 6-month Moratorium would allow the Planning Board the time they need to see if this current proposal fits our community as they finish revising the Comprehensive Plan.

Pam Gueldner – Resident of Caroline for 27 years. Spoke in favor of the 180-day Moratorium to allow the Planning board to complete the revised Comprehensive Plan.

Katherine Goldberg – Requested a language revision in Section 3 - Purpose of the new Local Law of the use of the word “blessed” in the last line. Realizes that there are other non-religious definitions of the word blessed, but it just struck her as odd.

Tony Reeves – Spoke in favor of a Moratorium on commercial development. Believes that local communities have a right to govern themselves in accordance with their own values so long as those values treat all those concerned equally and fairly. The Comprehensive Plan will be completed within the next few months and finds it reasonable to allow them time to finish after the many years spent on the constructing it.

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Gerald – Works for a Solar Company named Distributed Sun based out of Washington D.C. There solar arrays can be found at Tompkins Regional Airport, Ellis Hollow in Dryden and Daisy Hollow Road in Harford. They are considering a significant investment for solar rays in the Town of Caroline. A 180-day Moratorium is understandable but urges the board to consider finalizing definitive regulations for a variety of businesses by the end of 2020 so they can make the determination on whether to pursue their plans here or to look elsewhere.

Mary Alice Kobler – Agrees with the previous speakers and spoke in favor of the Moratorium. Wondered if it was possible to have language added in the Code to require commercial buildings to be taken down in the event that they close so that empty buildings aren't left standing.

Rita Rosenberg – Resident on Landon Road. Hopes that the Town Board and other residents focus their statements on the Moratorium as it relates to the continued development of the town's Comprehensive Plan and reminded everyone that this is not a referendum on the Dollar Store. All current board members (with the exception of Councilmember Murray) have been involved in the drafting of Moratoriums and have voted in support of its merits. During two of those events, the board was confronted with legal threats and intimidated by large corporations. The Town Board stood strong for its citizens then and should do the same again.

Kira Fritzky-Randolph – Resident of 7 years. Spoke in favor of a Moratorium. An overwhelming number of residents have shown support of a Moratorium and asks the board not to be deterred by outside parties.

Alex Spencer – Commented on Councilmember Cal Snow's comments from the last Business Meeting where he expressed concerns regarding possible legal confrontations. She added that a Moratorium is not a removal of anyone's rights but a pause to allow the town to get things in order. She has observed the past several Planning Board meetings and has heard that a draft of the revised Comprehensive Plan may be available by late June or July. She also expressed that a Moratorium is a tool to use to temporarily allow the time to discuss and decide what we want for the future of our town.

Jonathan Comstock – Spoke in favor of a Moratorium. Many changes happening now and will continue in the future. Updating the Comprehensive Plan is important and that all decisions that are being made should be consistent going forward.

Additions or Deletions to Agenda

Councilmember John Fracchia requested to enter into Executive Session at the end of tonight's meeting to discuss possible property acquisition.

Introduction of Moratorium Local Law, Version 2

(ATTACHMENT #1)

Discussion: Supervisor Witmer introduced the new version of the Local Law. The new draft had substantial enough changes that will require having another Public Hearing to allow further public input and then at the end of said meeting so long as there are no other modifications made, they will vote. Supervisor Witmer proposed that the new Public Hearing be set for the beginning of next week's Business Meeting on June 10th at 7:00 p.m. Councilmember Tim Murray requested an editorial change on the Local Law on Section 3 - Purpose and strike the word "blessed". Supervisor Witmer also requested an editorial change to Section 3 – Purpose the first sentence in the second paragraph to insert after approval of "residential and commercial development projects subject to subdivision or site plan review..." just to add specificity. He had one other addition under Section 7 - Waiver (5.) the first sentence. "the impact and

harm to the applicant in denying a waiver will be outweighed by the benefit to the community... should it read “will NOT be outweighed...” After further discussion it was agreed to add the word NOT.

Resolution 88 of 2020

A LOCAL LAW PROVIDING FOR A MORATORIUM ON ACTIONS SUBJECT TO SITE PLAN OR SUBDIVISION REVIEW FOR A PERIOD OF ONE-HUNDRED EIGHTY DAYS

A Motion made by Mark Witmer and Seconded by Tim Murray to introduce the second version of the Local Law providing for a Moratorium on Actions Subject to Site Plan or Subdivision Review for a Period of One-Hundred Eighty Days.

Adopted: Witmer: Aye; Fracchia: Aye; Weiser: Aye; Snow: Absent; Murray: Aye

Resolution 89 of 2020

Notice of Public Hearing

A Motion made by Mark Witmer and Seconded by John Fracchia to set a new Public Hearing to be held on Wednesday, June 10, 2020 at 7:00 p.m.

Adopted: Witmer: Aye; Fracchia: Aye; Weiser: Aye; Snow: Absent; Murray: Aye

Committee Reports

John Fracchia, Councilmember – Councilmember Fracchia opened with the following statement:

Statement of Support for People of Color and the LGBTQ Community

On Sunday, May 31, 2020, I participated in a peaceful demonstration at Caroline Town Hall in support, defense, and celebration of people of color. People socially distanced from community members who were not in their family and most wore masks. Approximately 35 people attended with signs and received many honks and hand signals of support from passing motorists. There were a small number of hand signals of non-support and one resident who lives in the vicinity expressed his disagreement with the demonstration. I am sharing this because at this moment in time it is particularly important for public officials to speak out loudly about equity and to do so on the record. Further, as a public official who recognizes that because of his race, gender identity, and sexual orientation, implicitly enjoys privileges that others do not I want to say this clearly, no one is equal until everyone is equal and I want all people to hear this message clearly: Black Lives Matter.

I would also be remiss if I did not send a message of greeting, support, and solidarity to people of Caroline, and everywhere, who identify as part of the LGBTQ community. As requested by my wife, Nancy Kane, the pride flag will be flown outside of town hall for all of June in honor of Pride month.

Building and Grounds

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- Members of the Highway Task Force met with representatives from the LaBerge Group about conducting a feasibility study of 3 potential sites. LaBerge has provided a proposal, which we need to discuss in Executive Session due to the fact that one property would need to be acquired and disclosing it publicly could negatively impact the Town's negotiating position. Proposal will be distributed to board members separately and are confidential.

Joint Youth Commission

- Attended the May 12, 2020 meeting of the Joint Youth Commission (JYC) along with Caroline JYC Board representatives Nancy Kane and Karen Scott. Much of the meeting focused on discussing possible impacts of COVID-19 on the 2020 and 2021 budget both for the JYC and for organizations it funds. It is unclear at this time if organizations that the JYC funds (example: Camp Coddington) will be able to maintain summer operations, or what form summer operations might take.
- The 2021 funding application is available with a return date of June 30, 2020. An extension can be requested for extenuating circumstances.

Irene Weiser, Councilmember – Gave a presentation on Community Choice Aggregation at the TCCOG meeting. CCA is a very cool idea that a Municipality can pass a Local Law to procure energy on behalf of its residents and potentially procure at a cost competitive price for green energy.

Cal Snow, Councilmember – Absent

Tim Murray, Councilmember – Planning Board is meeting tomorrow night (June 3rd) at 6:00 p.m. via Zoom Conference.

Review of Minutes of May 13, 2020

The town board accepted and approved the minutes of the May 13 Business Meeting as submitted by Town Clerk, Jessica Townsend

Agenda items for June 10 Business Meeting

Meeting will start with the Public Hearing

Vote on Moratorium Law

Kris West may present regarding the Thomas Road project. Waiting for her reply.

Highway Taskforce may be asking for approval for consulting for the new highway building.

RFP for the second phase of the Town Hall project.

Wil Lawrence with an Age-Friendly Community update

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Executive Session was called by a motion made by Supervisor Mark Witmer and seconded by Councilmember Irene Weiser to discuss the possible acquisition of property and was carried unanimously at 8:18 p.m. and ended at 9:52 p.m.

---Adjourn ---

Respectfully Submitted,

Jessica L. Townsend, Town Clerk

DRAFT

(ATTACHMENT #1)

TOWN OF CAROLINE
LOCAL LAW No. ___ of the year 2020

A LOCAL LAW PROVIDING FOR A MORATORIUM ON ACTIONS

**SUBJECT TO SITE PLAN OR SUBDIVISION REVIEW
FOR A PERIOD OF ONE-HUNDRED EIGHTY DAYS**

Be it enacted by the Town Board of the Town of Caroline as follows:

Section 1 TITLE

This local law shall be known as “Moratorium on Actions Subject to Site Plan or Subdivision Review”, or herein variably as just the “local law” or the “moratorium”, each as the context thereof so admits or requires.

Section 2 AUTHORITY AND INTENT

This local law is a police power and land use regulation. It is intended and is hereby declared to address matters of local concern. This local law is intended to be consistent with and adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to Town Law §§ 130 and 261, *et seq.*, the New York State Constitution Article IX, Municipal Home Rule Law § 10, and the Statute of Local Governments §10.

Section 3 PURPOSE

The Town Board wishes to place a moratorium on consideration and approval of residential and commercial projects subject to Subdivision or Site Plan Review pending the completion and adoption of its Comprehensive Plan, which Comprehensive Plan does and will have further recommendations from the Town Planning Board pertaining to land use and development within the Town. The Town Board duly finds and declares that after years of comprehensive planning and public input and meetings related to the same, it is crucial to maintain the status quo relative to land use developments and subdivisions during the “home stretch” of finalizing and adopting the final updated sections of the Comprehensive Plan, particularly for the resource and land use planning that is central and vital to public health, safety, land values, and rural character of a largely residentially-oriented, small town in the Finger Lakes Area of upstate New York.

The Town desires to consider any recommended land use regulations that guide future residential and commercial land use developments in order to ensure that all projects are allowed, sited, and reviewed in congruence with Town’s vision of the community, and to ensure that impacts are managed by appropriate land use regulations and resource protection laws and requirements. These may include measures that guide not only development within a single parcel, but also shape the nature and distribution of development within the boundaries of the Town in order to promote the goals and aspirations of the community, as identified in Section 4C (Findings) of the existing Comprehensive Plan and in updated sections of proposed revised Comprehensive Plan.

In particular, the November 2019 section drafts of the Updated Comprehensive Plan call attention to the unique vulnerability of Caroline to loss of rural character by unplanned growth without land use regulations. Having in place a 6-month window to finalize that Comprehensive Plan and to consider zoning or site planning and subdivision updates, for the purposes of enhancing and implementing the vision of the Comprehensive Plan, including regulating where certain land uses may be sited, is therefore deemed to be vital to the public health, safety, and interests of the Town of Caroline and its citizens, visitors, and surrounding communities and natural resources, whether the Finger Lakes proper or the remarkable inventories of scenic views this rural part of New York preserves and seeks to protect.

Section 4 FINDINGS

The Caroline Town Board finds, determines and makes the following declarations:

- Actions of the types subject to discretionary review in and under the Town of Caroline’s Site Plan Review or Subdivision Local Laws and procedures, (hereinafter “Actions”) may affect the overall nature and patterns of development within the Town.
- Unchecked and non-regulated Actions create unreasonable risks pertaining to the loss of important local resources of value, as well as create potential conflicts between residences and other uses, and these potential losses and conflicts require consideration and mitigation to preserve desired characteristics, resources, and harmonies between adjacent uses in a rural environment.
- The Town of Caroline’s Planning Committee has been actively working on updating the Town’s 2006 Comprehensive Plan for the past 6 years to achieve those goals and to identify the types of land use and resource regulations may best implement the shared community vision of the Town as will be guided and implemented through the updated Comprehensive Plan.
- The Town of Caroline’s 2006 Comprehensive Plan identifies the following goals concerning Small Businesses in Caroline (p. 15):
 - * “Increased town pride, civic engagement, and support of local businesses.”
 - i. “Opportunities for new small and home-based businesses, central to continued viability of the town.”
 - * “Economic development in hamlets compatible with other long-term goals.”
 - ii. “Encouraging locally-owned businesses that integrate with the rural residential and agricultural nature of the town, and discouraging commercial development that would negatively affect local agriculture, business, and residential communities.”

- iii. “Encouraging businesses to protect air and water quality, reduce impact on traffic density and road quality, use clean and renewable sources of energy, and embrace sustainable business practices.”
- It is anticipated that the Town’s Planning Committee will complete an update of the Town’s 2006 Comprehensive Plan within one hundred eighty (180) days of the effective date of this local law. This will allow the Town Board to assess whether existing land use regulations are sufficient to support the vision of the Town as reflected in such completed Comprehensive Plan with respect to Actions, including residential and non-residential subdivisions and projects as proposed to develop and change the characteristics of, intensity of use of, and primary uses of both small and large parcels of land throughout the Town.
- The Town Board is concerned that protection of the Town’s interests, and the public health and welfare interests so implicated, could or would be damaged or subverted if Actions (as defined in Section 5A hereunder) were to be entertained or approved before the Comprehensive Plan is adopted and the Town Board is able to consider modifications of or additions to current regulatory measures reasonably necessary or desirable to address land use and public health and welfare issues. Accordingly, to address these issues, and to protect the public health, safety and welfare, it is the intention of the Town Board to stay the review or approval of Actions during the limited time the Town needs to complete the update to the 2006 Comprehensive Plan, including in order to assess whether the Town’s existing land use regulations support the community vision expressed in such Comprehensive Plan.

Section 5 PROHIBITED ACTIONS

For a period of one hundred eighty (180) days from the effective date of this local law, the Town Board hereby declares a moratorium prohibiting each of the following “Actions” in the Town, regardless of the submittal or receipt of any application prior to the effective date of this local law, unless such Action is exempt under Section 6 hereunder:

- A. The consideration by the Review Board of any Site Plan or Special Use Permit, or the review thereof, for or in relation to any Action (whether a new land use proposal, or a modification that triggers review and is therefore an “Action”), including any waivers, appeals, or variance reviews by such board.
- B. The consideration by the Review Board of any Preliminary or Final Plat for any land subdivision or the review thereof, for or in relation to any Action, including any waivers, appeals, or variance reviews by such board.

- C. Acceptance, consideration, preliminary approval or final approval by the Town of Caroline Review Board of any Action or any application for a waiver or variance in connection with any Actions prohibited herein (such authority being exclusively delegated to the Town Board under § 7, below).
- D. The issuance of any permit by the Town of Caroline for highway utility work in connection with any Actions prohibited in or by this local law, and the issuance of ground disturbance permits, SWPPP reviews or approvals, or building permits or approvals in relation to any Actions prohibited in or by this local law.

Section 6 EXEMPTIONS

The following Actions are exempt from this moratorium and the terms and requirements of this local law:

- A. Any Action that has received final approval or conditional final approval from the Town Board, the Site Plan Review Board, or the Subdivision Review Board, prior to the effective date of this local law.
- B. Any traditional Agricultural Action that is protected under Article 25-AA of the Agriculture and Markets Law by being exempt under the Town of Caroline’s subdivision or site plan review procedures and laws.
- C. Traditional single-family residences and accessory buildings that are to be constructed and emplaced upon an existing lot that are of a size, character, and design as to not trigger review under the Town of Caroline’s subdivision or site plan review procedures and laws.
- D. Any other ministerial building permit or other permit action that does not trigger review under Town of Caroline’s subdivision or site plan review procedures and laws.
- E. Any appeal or review seeking a variance or waiver in relation to an Action that has already been approved and which meets the requirements of Sections 6(A), 6(B), 6(C) and 6(D), as applicable, above.
- F. Any Action or matter for which a waiver is granted under Section 7, hereunder.

Section 7 WAIVERS

Should any applicant or owner of property affected by this moratorium suffer an extraordinary hardship as a result of the temporary requirements or limitations set forth in this local law, then said applicant or owner may apply to the Town Board in writing for relief from strict compliance with this moratorium(a “Waiver”) upon submission of proof of such extraordinary hardship and the meeting of the standards and requirements set forth in this local law. For the purpose of this

moratorium, an extraordinary hardship shall not be the mere delay in being able to apply for some determination or approval related to an Action during the period of the moratorium.

Any applicant and any property owner may apply to the Town Board for a Waiver of or from any one or more of the requirements or restrictions set forth in this local law and, upon good cause shown, the Town Board may grant such relief, or so much relief as said Board may determine to be necessary and appropriate in accordance with the application and review criteria set forth in this local law.

- A. Substantive requirements: No Waiver seeking relief or partial relief from the requirements and restrictions of this moratorium shall be granted unless the Town Board shall specifically find and determine, and set forth in its resolution granting such Waiver in whole or in part, that:
1. The failure to grant a Waiver will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public welfare resulting from the Waiver (if granted in whole or in part). In considering this factor, the Town Board may consider the unique nature of the land in question, including whether the site of the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Waiver.
 2. The granting of a Waiver will have no clear, adverse effect upon the goals or objectives being now undertaken by Comprehensive Planning and community-wide efforts to protect and preserve the essential character and important resources of the Town, including potentially deleterious or irreversible impacts to open spaces, agricultural resources and farming, and wildlife corridors and other significant ecological resources.
 3. The Waiver is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be, harmonious with neighboring uses and the community planning efforts currently underway.
 4. The extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in interest, and that such alleged hardship has not been self-created. In considering this factor, the Town Board may consider whether the need for a Waiver is based in whole or in part upon a lack of maintenance or repair of the property or improvements thereupon, including consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.

5. The impact and harm to applicant in denying a Waiver will not be outweighed by the benefit to the community in preserving the status quo pending completion of its Comprehensive Plan, and in considering this factor the Town Board may consider the applicant's or land owner's vested rights and monetary investment "in the ground", but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken by the Town Board in consideration of this finding and factor. The costs and expenses of a Waiver application shall not be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships.
6. The application for a Waiver is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the Town Board had a full and fair opportunity to consider the facts, bases, and arguments upon which the Waiver application and any Waiver approval was based. In evaluating this factor, the Town Board may consider whether the applicant advanced new theories, facts, or arguments not set forth in the application as may have unduly and adversely impacted the Town Board's ability to conduct a full and fair hearing, as well as the rights of participants and witnesses to prepare evidence and address the application and Waiver request as submitted.
7. No relief granted in respect of the Waiver is greater than the relief requested by the applicant in the petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.

B. Procedure:

1. Upon submission of a written application to the Town Clerk by any person seeking a Waiver, the Town Board shall schedule a public hearing within 45 days, upon 10-days published and posted notice, with due and similar notice to such applicant by personal service or by mailing notice thereof to the address of the applicant, which shall be set forth in such application.
2. An application shall consist of all general materials required for a general sketch plan meeting or, if desirable or beneficial in the opinion of the applicant, such materials as would be necessary to allow for a preliminary site plan or subdivision plat review, together with a description of the proposed land subdivision or proposed land uses. The applicant shall also include a delineation of the issues, facts, conditions, and features, or mitigation of impact features, as will be proposed in such Action as address the proofs and evidence needed to support the required findings supporting a full or partial Waiver. The applicant shall be solely responsible to determine the extent to which factual and evidentiary matters are alleged and relevantly explained in the application seeking a Waiver. All applications shall contain a subscribed certification of the applicant stating that the foregoing application and its exhibits constitute the

applicant's full and complete application and set forth all bases upon which applicant relies upon for a Waiver.

3. At said public hearing, applicant and all other persons shall be entitled to submit evidence and have an opportunity to be heard, and the Town Board shall hear and accept all evidence regardless of formal rules of evidence, instead giving weight to such testimony and evidence as it deems worthy of relevance and reliability.
4. Within 30 days of the close of the public hearing, or 45 days of the date of the first public hearing, whichever shall first arrive, the Town Board shall issue its written findings and decision and grant the Waiver in whole or in part, with or without conditions, or deny the same. Denial without prejudice to re-applying is proper where the basis for denial is based upon an incomplete application, or applicant advancing arguments and facts in support of the finding of a substantial hardship that were not summarily described in the application, which shall also be deemed an incomplete application. The fact that a hearing was conducted or concluded is not relevant to, or an acknowledgement that, any application was substantially complete at any time.
5. All determinations as to the criteria and findings set forth for Waivers shall be and be deemed discretionary actions in respect of a legislative determination by the Town Board, and all determinations shall be subject only to review in accord with Article 78 of the New York Civil Practice Law and Rules.
6. Approving a Waiver in whole or in part is not an approval of the Action, which must still undergo formal review, including environmental reviews as required under Article 8 of the New York Environmental Conservation Law (including its implementing regulations).
7. All applicants and other persons proceeding with and submitting applications, documents, surveys, site development designs, or other documents in support of applications, or evidence or testimony provided or planned to be submitted at any hearing(s), shall be incurred and undertaken at such applicant's or person's sole cost and expense, including all surveying, engineering, planning, and legal expenses, and other professional fees and expenses, together with all costs and other expenses generally. The results of any Waiver application entitle neither the Town nor any other applicant, party, or participant to recover any portion of such fees, costs, or expenses.

Section 8 VALIDITY AND SAVINGS

If any provision of this local law, whether as written or applied, shall be adjudged by any court or tribunal of competent jurisdiction to be invalid or unenforceable, such judgment or determination shall not affect, impair or invalidate the remainder of this local law and shall be confined in its operation and interpretation only to the circumstances, persons, and provisions of this local law

directly involved in the controversy in which such judgment or determination shall have been rendered, and such invalidity or unenforceability shall not be applied to other persons or circumstances. If such provision may not be so saved then it shall be deemed severed from this local law and the balance hereof shall survive.

Section 9 LIMITATION UPON TOWN LIABILITY

The Town, and its officers, employees, and agents shall not be liable or responsible for any injuries to persons or damages to property due to the Town's actions, or failures to act under or pursuant to this local law unless it is proven to a reasonable degree of certainty that such alleged act of, or failure to act by, the Town was a primary cause of such injury, loss, or damage and was principally caused by a willful or intentional act of the Town, its officers and agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where none exists at law or in equity.

Section 10 ARTICLE 78

Any person aggrieved by any decision or determination of the Town Board in respect of the application of this local law or the issuance or denial of a Waiver hereunder, may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said Article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

Section 11 EFFECTIVE DATE

This local law shall take effect immediately.