

VILLAGE OF BLACK RIVER
ANNUAL MEETING AGENDA
DECEMBER 3, 2018

Administration of oath to elected officials.

Gary McCullouch, Trustee, two-year term expiring November 30, 2020.

Corey Decillis, Trustee, two-year term expiring November 30, 2020.

Mayoral Appointments:
(Not Subject to Board Approval)
None.

Board Appointments:

Mayoral Appointments Subject to Board Approval

William Reichard, Historian, one-year term.

John Cook, Planning Board Chair, three-year term expiring December 31, 2021.

Charles Stafford, Planning Board Member, three-year term expiring December 31, 2021.

Michael Hayes, Planning Board Member, three-year term expiring December 31, 2021.

Mark Wonderly, Zoning Board of Appeals, five-year term expiring December 31, 2023.

Standing Committee Appointments:

Disaster Management Coordinator: Mayor Carpenter and Trustee Dishaw

Personnel Officer: Mayor Carpenter and Trustee McCullouch.

Planning/Zoning Board of Appeals Liaison: Trustee Caldwell with Trustee Dishaw as an alternate.

Police Department Liaison: Mayor Carpenter and Trustee McCullouch.

Recreation Committee: Trustee Decillis.

Sidewalks/Decorations: Trustee Dishaw.

The Watertown Daily Times will be designated at the official newspaper of the Village.

Community Bank, N.A., Black River branch, will be designated as the official depository for Village funds.

Regular Village Board Meetings: Meetings will be held at 6:00 p.m. on the first Monday of each month, unless a holiday falls on the first Monday, in which case the meeting will be held on Tuesday.

Special meetings are scheduled as necessary and will be advertised in compliance with the New York Open Meetings Law and in compliance with requirements as set forth in the Americans With Disabilities Act.

Page -2-

The Annual Meeting will be the first regular meeting in December.

Meeting will be conducted according to the Village of Black River Board of Trustees Rules of Procedure with regard to matters involving points of order and other accepted procedures to conduct Board meetings.

The Treasurer is authorized to pay any utility bills which come due prior to the monthly meeting as well as any other bills may carry an allowable discount at his or her discretion.

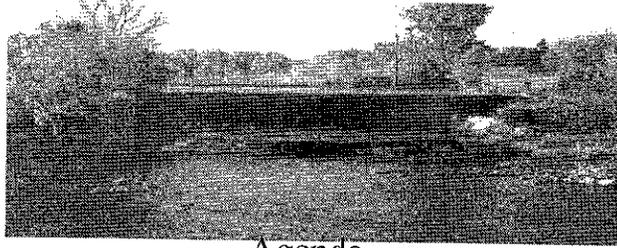
Authorization for employees to attend schools, conferences, seminars, etc. conducted for the benefit of local government as provided for in General Municipal Law Section 77-b shall be obtained prior to registration.

Other business.

Regular agenda.

Adoption of the above listed appointments and directives.

Board of Trustees
Village of Black River, New York



Agenda

Regular Meeting

December 3, 2018

- Call to order.
 - Pledge of Allegiance.
 - Approval of minutes of the 11/5/18 regular meeting.
 - Public Comment.
 - Code Enforcement Report & review of related correspondence.
 - Superintendent's Report.
 - Clerk-Treasurer's Report.
 - Police Department Report.
- Correspondence Received:

Correspondence Sent:

A) Gerald Gerrard

Re: Asbestos and porch removal

New Business:

Unfinished Business:

- Reports from Standing Committees.
- Reports from Special Meetings.
- Authorize payment of bills; adjournment.

Mayor Carpenter called the meeting to order and led the Pledge of Allegiance at 6:00 p.m.

Present:

Mayor Leland Carpenter
Trustee Francis Dishaw
Trustee Gary McCullough
Trustee Corey Decillis
Trustee Michael Caldwell
Superintendent Steven Lillie
Assistant Superintendent Les Williams
Code Enforcement Officer James Holland
Police Chief Steve Wood
Clerk-Treasurer Kristin Williams

A motion was made by Trustee Dishaw, seconded by Trustee Decillis to approve the minutes of the 10/1/18 regular meeting and the 10/9/18 special meeting. The motion was carried.

Code Enforcement Report: Police Chief Wood stated that he had sent a letter to Bill Walck regarding an unlicensed vehicle and that he had gotten no response. He stated that he has sent another letter with a thirty-day deadline after which time Mr. Walck will be cited.

James Holland stated that he has spent time reviewing the village code and that it is behind the state code. He stated that he would like the village to develop priorities to focus on and that instead of a complaint-based system, he will be walking each street of the village to find violations. Mr. Holland stated that he will be doing fire inspections over the winter. Mayor Carpenter stated that a letter has been sent regarding a door that is partially pried open at 102 West Remington St. He stated that Jefferson County Real Property still shows IBC Holdings LLC as the owner.

Superintendent Lillie stated that the asbestos abatement has been scheduled for November 19th or 20th for 119 N. Main St.

Superintendent's Report: Superintendent Lillie stated that plows and snowblowers have been set up. He stated that the Town of LeRay has delivered sand in exchange for plowing out Maple St. and that NY State DOT has delivered about 100 tons of salt. Superintendent Lillie stated that posted signs have been put up at the watershed and that Halloween was uneventful.

Clerk-Treasurer's Report: Clerk-Treasurer Williams stated that the annual audit will begin on November 13th and that water bills had been collected.

Police Department Report: Police Chief Wood stated that Officer Dennis O'Brien made two arrests for disorderly conduct at a fight in Evans Mills, he stated that he taught at the academy and that beginning November 1st the on-street parking ban is in effect and that offenders will be issued a warning first and then at ticket.

A motion was made by Trustee Decillis, seconded by Trustee McCullough to approve Police Chief Wood to attend that annual Shop with a Cop event. The motion was carried.

Correspondence Received: A motion was made by Trustee Decillis, seconded by Trustee McCullough to approve the facilities use application submitted by the Sally Ploof Hunter Memorial Library for their annual Cool Yule event on Saturday December 8th. The motion was carried. The board reviewed a letter from Joseph Plummer at Jefferson County Emergency Management that stated that the discount price for the new radios has been extended until June

30, 2019. The board agreed to wait until then to purchase them so that they can be included in the budget. The board agreed to review the solar energy information submitted by the planning board.

New Business: Mayor Carpenter stated that he would like to order four led snowflake Christmas decorations to place on the bridge. He stated that there is \$1,000 budgeted. Clerk-Treasurer Williams stated that the total cost would be \$1,650.

A motion was made by Trustee Dishaw, seconded by Trustee McCullough to purchase the decorations. The motion was carried.

A motion was made by Trustee Caldwell, seconded by Trustee Decillis to adopt the following resolution:

Resolved, that the unpaid taxes for the Town of Rutland in the amount of \$10,195.54 and the Town of LeRay in the amount of \$6,442.47 be relieved to the Jefferson County Treasurer. The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee Decillis	Yes
Trustee Dishaw	Yes
Trustee Caldwell	Yes
Trustee McCullough	Yes

The motion was carried and the resolution duly adopted.

A motion was made by Trustee Caldwell, seconded by Trustee Dishaw to close the public hearing regarding the sewer rate increase at 7:38 p.m. The motion was carried.

A motion was made by Trustee Caldwell, seconded by Trustee McCullough to adopt the following resolution:

Resolved, that the sewer use variable rate increase from \$57.50 per quarter to \$60.25 per quarter and the capital charge fixed rate increase from \$275 per EDU to \$276 per EDU be approved contingent upon a revote by the Rt. 3 Sewer Board. The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee Caldwell	Yes
Trustee McCullough	Yes
Trustee Dishaw	Yes
Trustee Decillis	No

The motion was carried and the resolution duly adopted.

A motion was made by Trustee McCullough, seconded by Trustee Decillis to adopt the following resolution:

Resolved, that Clerk-Treasurer Williams contact the NYS Office of the State Comptroller regarding the Rt 3 Sewer Board procedures. The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee McCullough	Yes
Trustee Decillis	Yes
Trustee Dishaw	Yes
Trustee Caldwell	No

The motion was carried and the resolution duly adopted.

A motion was made by Trustee Dishaw, seconded by Trustee Caldwell to adopt the following resolution:

Resolved, that the following abstracts of audited vouchers be approved: interim abstract dated 10/23/18 in the amount of \$14,745.87 (General Fund: \$11,042.41 Water Fund: \$1,633.52 Sewer Fund: \$2,069.94) and regular monthly abstract dated 11/5/18 in the amount of \$15,410.95 (General Fund: \$5,956.17 Water Fund: \$5,504.78 Sewer Fund: \$3,950.00). The motion was put to a vote as follows:

Mayor Carpenter	Yes
Trustee Dishaw	Yes
Trustee Caldwell	Yes
Trustee McCullough	Yes
Trustee Decillis	Yes

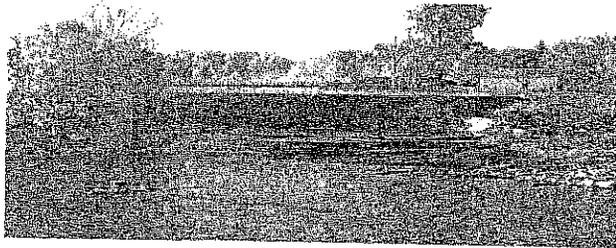
The motion was carried and the resolution duly adopted.

A motion was made by Trustee Dishaw, seconded by Mayor Carpenter to adjourn the meeting at 8:39 p.m. The motion was carried.

Respectfully submitted,

Kristin Williams

Board of Trustees
Village of Black River, New York



November 9, 2018

Mr. Gerald Gerrard
119 North Main Street
Black River, New York 13612

Mrs. Marian Gerrard
24428 US Rt 11
Lot 57 Box D-11
Calcium, NY 13616

RE: 117-119 North Main Street, Black River parcel number 75.56-2-8.64 & 75.56-2-8.7

Dear Mr. & Mrs. Gerrard:

This letter is in reference to the above address, parcel and a violation that still exists at the property.

Pursuant to Judge James P. McClusky's order on September 25, 2017, the Village of Black River has hired NRC Environmental Services (NRC) to remove the dangerous and unsafe porch located at 119 North Main Street in the Village of Black River, New York. The removal will commence on November 19, 2018 and will be completed on or before November 31, 2018.

An analysis of the building materials used in the construction of the porch by GYMO Architecture, Engineering, & Land Surveying D.P.C. (GYMO), was conducted on August 15, 2018. This analysis indicated that there is asbestos present in the flashing cement used on the porch. The asbestos will be abated during the removal of the porch. While NRC is removing the porch, a representative from GYMO will be present to ensure that the asbestos is contained and that the prescribed abatement procedures are followed.

All costs associated with the porch removal are your responsibility. The Village will bill you for all costs it assumes to remediate this violation. If you fail to pay the bill, all costs will be added to your 2019 Village property taxes.

Please be advised, you may remove the porch yourself prior to November 19, 2018. If you choose to do so, you must obtain a building permit prior to commencing any work.

If you should have any questions or concerns regarding this matter, please feel free to contact me at the Village Office.

Sincerely,

James R. Holland
Code Enforcement Officer

CC: Mayor and Village Board of Trustees

107 Jefferson Place
Black River, NY 13612
www.blackriverny.org
(315) 773-5721 Phone
(315) 773-5726 Fax

Open Meetings

The Open Meetings Law, often known as the “Sunshine Law”, went into effect in 1977. Amendments that clarify and reaffirm your right to hear the deliberations of public bodies became effective in 1979.

In brief, the law gives the public the right to attend meetings of public bodies, listen to the debates and watch the decision making process in action. It requires public bodies to provide notice of the times and places of meetings, and keep minutes of all action taken.

As stated in the legislative declaration in the Open Meetings Law (§100): “It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy.”

What is a meeting?

“Meeting” is defined to mean “the official convening of a public body for the purpose of conducting public business” (§102(1)), and has been expansively interpreted by the courts. Any time a quorum of a public body gathers for the purpose of discussing public business, the meeting must be convened open to the public, whether or not there is intent to take action, and regardless of the manner in which the gathering may be characterized. The definition also authorizes members of public bodies to conduct meetings by videoconference. A meeting cannot validly be held by telephone or through the use of email.

Since the law applies to “official” meetings, chance meetings or social gatherings are not covered; however, should a quorum be present without having provided proper notice, the discussion should not pertain to public business. Also, the law is silent with respect to public participation. Therefore, a public body may permit the public to speak at open meetings, but is not required to do so.

What is covered by the law?

The law applies to all public bodies. “Public body” is defined to cover entities consisting of two or more people that conduct public business and perform a governmental function for the state, for an agency of the state, or for public corporations, including cities, counties, towns, villages and school districts (§102(2)). In addition, committees and subcommittees consisting solely of members of a governing body are specifically included within the definition. Consequently, city councils, town boards, village boards of trustees, school boards, commissions, legislative bodies and sub/committees of those groups all fall within the framework of the law. Citizens advisory bodies and similar advisory groups that are not created by law are not required to comply with the Open Meetings Law.

Notice of Meetings

The law requires that notice of the time and place of all meetings be given prior to every meeting (§104). If a meeting is scheduled at least a week in advance, notice must be given to the public and the news media not less than 72 hours prior to the meeting. Notice to the public must be accomplished by posting in one or more designated public locations and, when possible, online.

When a meeting is scheduled less than a week in advance, notice must be given to the public and the news media “to the extent practicable” at a reasonable time prior to the meeting. Again, notice to the public must be given by means of posting in designated locations and online.

If videoconferencing is used to conduct a meeting, the public notice for the meeting must inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

Records to be discussed

If records that are scheduled to be discussed during an open meeting are available under FOIL or consist of a proposed resolution, law, rule, regulation, policy or any amendment thereto, the record is required to be made available “to the extent practicable” online and in response to a request to inspect or copy prior to or during the meeting.

When can a meeting be closed?

The law provides for closed or “executive” sessions under circumstances prescribed in the law. It is important to emphasize that an executive session is not separate from an open meeting, but rather is defined as a portion of an open meeting during which the public may be excluded (§105).

To hold an executive session, the law requires that a public body take several procedural steps. First, a motion must be made during an open meeting to enter into executive session; second, the motion must identify “the general area or areas of the subject or subjects to be considered;” and third, the motion must be carried by a majority vote of the total membership of a public body.

A public body cannot close its doors to the public to discuss the subject of its choice, for the law specifies and limits the subject matter that may appropriately be discussed in executive session. The eight areas that may be discussed behind closed doors include:

- (a) matters which will imperil the public safety if disclosed;
- (b) any matter which may disclose the identity of a law enforcement agency or informer;
- (c) information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;

- (d) discussions regarding proposed, pending or current litigation;
- (e) collective negotiations pursuant to Article 14 of the Civil Service Law (the Taylor Law);
- (f) the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
- (g) the preparation, grading or administration of examinations; and
- (h) the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

These are the only subjects that may be discussed behind closed doors; all other deliberations must be conducted during open meetings.

It is important to point out that a public body can never vote to appropriate public monies during a closed session. Therefore, although most public bodies may vote during a properly convened executive session, any vote to appropriate public monies must be taken in public.

The law also states that an executive session can be attended by members of the public body and any other persons authorized by the public body.

Note that item (f) is often referenced as "personnel," even though that term does not appear in the grounds for holding executive sessions. Only when the discussion focuses on "a particular person or corporation" in relation to one or more of the topics listed in that provision is an executive session permitted.

After the meeting — minutes

If you cannot attend a meeting, you can still find out what actions were taken, because the Open Meetings Law requires that minutes of both open meetings and executive sessions must be compiled and made available (§106).

Minutes of an open meeting must consist of "a record or summary of all motions, proposals, resolutions and any matter formally voted upon and the vote thereon." Minutes of executive sessions must consist of "a record or summary of the final determination" of action that was taken, "and the date and vote thereon." Therefore, if, for example, a public body merely discusses a matter during executive session, but takes no action, minutes of an executive session need not be compiled; however, if action is taken, minutes of the action taken must be compiled and made available.

It is also important to point out that the Freedom of Information Law requires that a voting record must be compiled that identifies how individual members voted in every instance in which a vote is taken. Consequently, minutes that refer to a four to three vote must also indicate who voted in favor, and who voted against. The law does not require the approval of minutes, but directs that minutes of open meetings be prepared and disclosed within two weeks.

Enforcement of the law

What can be done if a public body holds a secret meeting? What if a public body makes a decision in private that should have been made in public?

Any "aggrieved" person can bring a lawsuit. Since the law says that meetings are open to the general public, a person may be aggrieved if improperly excluded from a meeting or if an executive session was improperly held.

Upon a judicial challenge, a court has the power to declare either that the public body violated the Open Meetings Law and/or declare the action taken void (§107). If the court determines that a public body has violated the law, it has the authority to require the members of the public body to receive training given by staff of the Committee. A court also has the authority to award reasonable attorney fees to the successful party. This means that if you go to court and you win, a court may (but need not) reimburse you for your expenditure of legal fees. If, on the other hand, the court found that a public body voted in private "in material violation" of the law "or that substantial deliberations occurred in private" that should have occurred in public, the court would be required to award costs and attorney's fees to the successful party. A mandatory award of attorney's fees would apply only when secrecy is the issue.

It is noted that an unintentional failure to fully comply with the notice requirements "shall not alone be grounds for invalidating action taken at a meeting of a public body."

The site of meetings

As specified earlier, all meetings of a public body are open to the general public. The law requires that public bodies make reasonable efforts to ensure that meetings are held in facilities that permit "barrier-free physical access" to physically handicapped persons, and that meetings are held in rooms that can "adequately accommodate" the volume of members of the public who wish to attend (§103).

Exemptions from the law

The Open Meetings Law does not apply to:

- (1) judicial or quasi-judicial proceedings, except proceedings of zoning boards of appeals;
- (2) deliberations of political committees, conferences and caucuses; or
- (3) matters made confidential by federal or state law (§108).

Stated differently, the law does not apply to proceedings before a court or before a public body that acts in the capacity of a court, to political caucuses, or to discussions concerning matters that might be made confidential under other provisions of law. For example, federal law requires that records identifying students be kept confidential. As such, a discussion of records by a school board identifiable to a particular student would constitute a matter made confidential by federal law that would be exempt from the Open Meetings Law.

Public participation and recording meetings

The Open Meetings Law provides the public with the right to attend meetings of public bodies, but it is silent concerning the ability of members of the public to speak or otherwise participate. Although public bodies are not required to permit the public to speak at their meetings, many have chosen to do so. In those instances, it has been advised that a public body should do so by adopting reasonable rules that treat members of the public equally.

Public bodies are required to allow meetings to be photographed, broadcast, webcast or otherwise recorded as long as the equipment used to do so is not disruptive or obtrusive. If the public body adopts rules regarding such activities, they must be reasonable and conspicuously posted, and provided to those in attendance upon request (§103(d)).



Committee on Open Government

NEW YORK DEPARTMENT OF STATE

Andrew M. Cuomo
Governor

Rossana Rosado
Secretary of State

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