

Board of Trustees
Village of Black River, New York



Agenda

Regular Meeting

November 1, 2021

- Call to order.
- Pledge of Allegiance.
- Approval of minutes of the 10/2/21 regular meeting.
- Public Comment.
- Code Enforcement Report & review of related correspondence.
- Superintendent's Report.
- Clerk-Treasurer's Report.
- Police Department Report.

Correspondence Received:

- A) Campanelli & Associates P.C. Re: Wireless facilities

Correspondence Sent:

- A) Letter to Town of LeRay Re: Chipper

New Business:

- A) Discuss Rt. 3 Sewer Budget Public Hearing
- B) Approve unpaid tax relievis
- C) Drug & Alcohol Policy

Unfinished Business:

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

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

Present:

Mayor Francis Dishaw
Trustee Mark Wonderly
Trustee Randy Lake
Trustee Bonnie Proven
Trustee Gary McCullouch
Superintendent Les Williams
Clerk-Treasurer Kristin Williams
Police Chief Steve Wood

Police Department Report: Police Chief Wood stated that the coil packs in the police vehicle had been replaced, he went to Utica to get the siren controller repaired and that the Stop DWI program will be giving the police department monies for patrolling again this year.

Public Comments: None

Superintendent's Report: Superintendent Williams stated that Howe St. has been paved and that the Town of LeRay helped fix manholes, they are setting up a truck for plowing with the new sanding controller, the 2013 John Deere 2320 tractor sold for \$20,000. He stated that Jefferson County will allow the Town of LeRay to cover the Village's Street maintenance debt with them in exchange for the Village's chipper. He stated that Joe Paige got his Class B water license and that the Department of Health will waive his apprenticeship due to the years that he has been employed by the village and been involved with the water plant and system. He stated that Hunter Covey has his CDL road test on October 19th. He stated that there were 50 meters that didn't read and that October 15th will be the last brush pick up for the season. Superintendent Williams stated that the new truck will be delivered soon and that he would like to sell the 2010 Ford F350.

A motion was made by Trustee Lake, seconded by Trustee Wonderly to adopt the following resolution:

Resolved, that the 2010 Ford F350 be declared as surplus property and be put for sale in the amount of \$7,000. The motion was put to a vote as follows:

| | |
|--------------------|-----|
| Mayor Dishaw | Yes |
| Trustee Lake | Yes |
| Trustee Wonderly | Yes |
| Trustee Proven | Yes |
| Trustee McCullouch | Yes |

The motion was carried and the resolution duly adopted.

Clerk's Report: Clerk-Treasurer Williams stated that she filed the Annual Financial Report (AUD) with the NY State Comptroller. She presented a list of water/sewer bill adjustments for meters that had been replaced totaling \$1,258.59.

A motion was made by Trustee McCullouch, seconded by Trustee Proven to adopt the following resolution:

Resolved, that the board approve the water/sewer bill adjustments totaling \$1,258.59. The motion was put to a vote as follows:

| | |
|--------------|-----|
| Mayor Dishaw | Yes |
| Trustee Lake | Yes |

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October, 4, 2021
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Trustee Wonderly Yes
Trustee Proven Yes
Trustee McCullough Yes

The motion was carried and the resolution duly adopted.

Correspondence Received: The board reviewed a letter regarding fire department membership.

A motion was made by Trustee McCullough, seconded by Trustee Proven to approve Tyrel Tryon as a member of the Black River Fire Department. The motion was carried.

The board reviewed a letter regarding the Black River Fire Department's annual envelope donation drive.

The board reviewed a request from the Town of Leray to use the meeting room for a comprehensive plan meeting on Thursday, October 21st. if they are unable to use the fire hall. The board agreed.

A motion was made by Trustee Lake, seconded by Trustee Wonderly to adopt the following resolution:

Resolved, that following abstract of audited vouchers be approved; interim abstract dated 9/22/21 in the amount of \$22,397.65 (General Fund: \$12,481.31 Water Fund: \$49.58 Sewer Fund: \$9,866.76) Regular monthly abstract dated 10/4/21 in the amount of \$38,855.37 (General Fund: \$36,099.74 Water Fund: \$2,755.63). The motion was put to a vote as follows:

Mayor Dishaw Yes
Trustee Lake Yes
Trustee Wonderly Yes
Trustee Proven Yes
Trustee McCullough Yes

The motion was carried and the resolution duly adopted.

A motion was made by Trustee Proven, seconded by Trustee McCullough to adjourn the meeting at 7:10 p.m. The motion was carried.

Respectfully submitted,

Kristin Williams
Clerk-Treasurer

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Andrew J. Campanelli
Member of NY & CT Bar

COUNSEL
George B. McPhillips
1930-1994

October 8, 2021

Francis Dishaw
Mayor
Village of Black River
107 Jefferson Place
Black River, NY 13612

Re: The 5G Rollout - controlling the siting of wireless facilities
within the Village of Black River

Dear Mr. Dishaw:

Contrary to what most local governments are being told otherwise, when The United States Congress passed the Telecommunications Act of 1996 (the TCA), it explicitly preserved to State and local governments the “General Authority” to regulate the placement of wireless facilities within their respective jurisdictions.²⁶³

To make use of the zoning powers which have been preserved to them by Congress, local governments must: (a) update their local zoning code or zoning ordinance to vest it with the power to control the placement of wireless facilities, inclusive of cell towers, small cells, and distributed antenna (DAS) systems within their jurisdiction, and (b) incorporate procedures and evidentiary standards in their code, to ensure that when their Planning Board and/or ZBA decides an application seeking approval for a new wireless facility, they render their decision in a manner which complies with the procedural requirements imposed upon them by the TCA.

Faced with the current “5G Rollout,” through which site developers are seeking to install wireless facilities as closely as every 300 feet in residential neighborhoods, it is more important than ever that local governments amend their zoning codes to empower them to prevent the irresponsible placement of wireless facilities within their communities.

At Campanelli & Associates, P.C., we currently provide zoning ordinance reviews to local governments across the entire United States.

²⁶³ See 47 U.S.C.A. §332(c)(7)(A).


Our firm is regularly retained to review Village zoning ordinances and codes to analyze, among other things:

- (a) the extent to which the local ordinance maximizes the Village's abilities to exercise the powers which Congress preserved to state and local governments under Section 47 U.S.C.A. §332(c)(7)(A) of the Telecommunications Act of 1996 to regulate the placement, construction, and modification of personal wireless service facilities;
- (b) the extent to which the Village's ordinance encompasses provisions to ensure that the Village's Planning Board or ZBA will not violate the constraints of the Telecommunications Act of 1996, which are set forth within sections §332(c)(7)(B)(i)(I), §332(c)(7)(B)(i)(II), §332(c)(7)(B)(ii), §332(c)(7)(B)(iii) and §332(c)(7)(B)(iv) of the TCA, and which thereby potentially minimize the risks of federal litigation to challenge any decision of the respective Village Board pertaining to an application seeking permission to install a wireless facility;
- (c) the extent to which the local ordinance vests the respective Village Board(s) with essential fact-finding functions, and sets evidentiary standards, which are critical for the Board(s) to make decisions wherein the municipality can actually assert control over the placement of wireless facilities, within the powers vested in it under 47 U.S.C.A. §332(c)(7)(A) of the TCA; and
- (d) the extent to which the local ordinance empowers the Village and its Boards to protect its citizens against illegally excessive levels of radiation emanating from Non-FCC compliant wireless facilities that are not registered with the FCC.

In completing such analyses, we provide a written ordinance review, wherein we advise the Village what revisions and additions must be added to its code to achieve those objectives and enable them to prevent the irresponsible placement of wireless facilities within the Village.

If you are interested in having such an ordinance review performed for the Village of Black River, please feel free to call me directly.

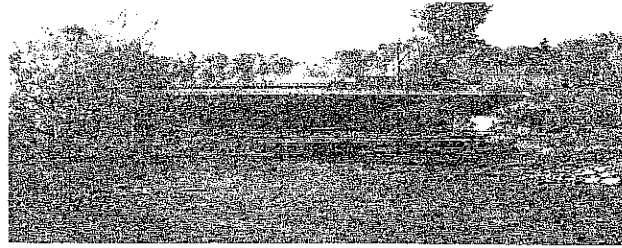
Very truly yours,



Andrew J. Campanelli

Board of Trustees
Village of Black River, New York

COPY



October 21, 2021

Town of LeRay Board
8650 LeRay St.
Evans Mills, NY 13637

Dear Town Supervisor and Councilmembers;

The Village of Black River Board of Trustees at their October 4, 2021 deemed a 1998 Bandit Chipper serial #012325 as surplus property. The board agreed to transfer ownership of the chipper to the Town of LeRay in exchange for labor and equipment charges for the paving of Howe St.; as well as past shared services debt owed to Jefferson County by the village.

Sincerely,

A handwritten signature in cursive script, appearing to read "Francis Dishaw".

Francis Dishaw
Mayor

DRUG AND ALCOHOL POLICY

In order to preserve employee and public safety, health, welfare and property in the village of Black River, it is necessary to provide certain standards. This policy applies to all village of Black River employees.

Standards of Conduct

Employees are expected and required to be in suitable mental and physical condition and behave appropriately while at work. The use/abuse of drugs and/or alcohol during work hours, prevents employees from meeting these requirements and disciplinary action up to and including termination may result.

Employees should report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. This policy does not prohibit employees from the lawful use and possession of prescribed medications taken as prescribed and that does not compromise workplace safety. Employees must however, consult with their doctors about the medication's effect on their fitness for duty and ability to work safely and notify the supervisor of any concerns or restrictions. The village of Black River reserves the right to conduct employee testing as it chooses, including random testing.

The follow prohibitions are in effect at all times when an employee is at work, on village of Black River premises, operating a village vehicle or attending an Official Village Function at which the employee performs services or functions on behalf of the village.

-no employee shall consume or use alcohol, marijuana, illegal drugs or medication or controlled substances used in a manner other than prescribed or as directed; including testing positive for substances prohibited by this policy, even if the use occurred outside of work.

-no employee shall possess alcohol, illegal drugs or other non-prescribed substances while on village property.

-no employee shall work or be at work under the influence of alcohol or illegal drugs; nor medications/controlled substances used in a manner other than as prescribed.

-no employee shall sell, purchase, transfer or traffic illegal/illicit drugs, controlled substance, prescribed medications or drug paraphernalia on village property.

Condition of Employment

Compliance with the Village of Black River Drug and Alcohol Policy is one of the conditions of employment. Failure or refusal to an employee to cooperate fully, sign any required document or submit to any inspection or test, the employee will be sent home and suspended immediately without pay, pending an investigation. Disciplinary action will be taken, up to and including termination.

Nothing in this policy is meant to prohibit your appropriate use of over-the-counter medication or medication that can legally be prescribed under both federal and state law, if it does not impair performance, safety or the safety of others. If you take over the counter medication or other medications prescribed under both federal and state law to treat a medical condition, you will need to inform your supervisor if you believe the medication may impair your job performance, safety or the safety of others. If you or your physician believe you need a reasonable accommodation before reporting work while on a medication, you must report this to your supervisor.

Pre-Employment Testing

The village requires a pre-employment drug test as a condition of employment. Applicants are offered a position with the village contingent on undergoing a pre-employment drug test and the result of the test being negative. An applicant may refuse to undergo the pre-employment drug test, however, if they do so, the job offer will be withdrawn.

Random Selection Testing

-all employees of the Village who, as part of their job duties, are required to have a Commercial Driver License (CDL) shall be subject to drug and alcohol testing pursuant to a program adopted by the Village. Village employees covered by this policy shall be randomly tested for drugs and for alcohol by certified operator of breath alcohol testing device using an evidential breath testing device. Persons conducting such testing shall be independently retained at the discretion of the Village.

-Individuals and agencies retained to conduct such testing shall make provisions for testing to occur either on site or at a secure location to ensure the integrity of specimens collected. Individuals and agencies shall be in compliance and follow Federal Regulations with regard to sampling, calibration, certification and training of any and all equipment and testing operations.

-A Medical Review Officer shall be appointed to receive and review labs and testing results. The Medical Review Officer's appointment shall be in conjunction with a retainer of a testing agency or facility.

Post-Accident Screening

-in the event a Village employee is involved in a property damage or bodily injury related accident while performing job duties for the Village, such employee may be immediately required to submit to an alcohol and/or drug test.

-a chemical test for alcohol and controlled substances administered by appropriately trained individuals: -to each surviving driver at the scene of the accident in which there is fatality;

-after an accident in which the driver is issued a citation for a moving violation and someone is injured or,

-after an accident in which the vehicle is required to be towed away and the driver is issued a citation.

Return to Duty Screening

-any employee who has received a positive drug and/or alcohol test for any reason prior to returning to duty shall be required to submit to a new drug or alcohol test.

-unannounced chemical testing for alcohol and controlled substances administered at intervals to ensure that an employee in a safety-sensitive function with the employer in positions covered by federal regulations to ensure employees are free of illegal drugs.

Reasonable Suspicion Testing

-reasonable suspicion occurs whenever Village management has grounds to believe that an employee maybe under the influence of alcohol and/or drugs.

This reason must be based on specific observations concerning the appearance, behavior, speech or body odors of the employee. Such observations may include indications of regular use/abuse of, or the withdrawal effects of alcohol and /or drugs.

-the supervisor or member of management should refer an employee for an alcohol and/or drug test if:

--there is a reasonable suspicion that the employee has used or is under the influence of alcohol and/or drugs during scheduled work hours; or

--the employee has caused a work-related accident, or was operating or helping to operate machinery, equipment or vehicles involved in a work-related accident. This includes accidents involving Village vehicles, whether on Village time or not.

-Whenever possible, both the supervisor and other management representative should be involved in observing the employee, and in deciding to conduct an alcohol and/or drug test.

-these observations should be documented in a Supervisor's Report of Reasonable Suspicion Form as soon as possible, but no later than the end of the next business day following the observations, or before any test results are released.

-every effort will be made to conduct a reasonable suspicion test for alcohol and/or drug use as soon as possible after reasonable suspicion determination is made, but should never be longer than thirty (30) minutes from time of determination.

-if an individual's conduct so warrant, they may be referred to a substance abuse professional for assessment.

-when reasonable suspicion testing is warranted, the Village shall provide the employee transportation to an appropriate facility. The Village will arrange for a taxi or other suitable means of transportation to transport the employee home from the testing facility. If an employee who is under suspicion for alcohol and/or drug use refuses to comply with any of these procedures and attempts to operate their personal vehicle or a Village vehicle, the Village representative should discourage the employee from doing so, up to and including contacting local law enforcement officials. An employee failing to cooperate with any procedure contained herein is subject to disciplinary action up to and including termination.

-all time spent in connection with providing a reasonable suspicion sample for testing, including travel time to and from a collection site, shall be considered "on duty" time. Such on duty time shall be compensable as time worked, including any overtime premium.

-follow up tests are given following a determination by the Substance Abuse Professional (SAP) that an employee is in need of assistance in resolving problems associated with the misuse of alcohol and/or controlled substance. This is an unannounced test, given at least six (6) times within twelve (12) months following the employee's return to duty with the actual frequency and number of tests determined by the SAP.

Consequences of Refusal to Submit

-the decision to go for an alcohol and/or drug test is voluntary; however, if the test is refused, the employee will be sent home and suspended immediately without pay, pending an investigation. Disciplinary action will be taken up to and including termination.

Consequences of Violation of This Policy

-any employee who violates this policy will be subject to disciplinary action up to and including termination of employment.

-an employee who refuses a drug or alcohol test required by the Village, or tests positive for the presence of alcohol or drugs, will be subject to disciplinary action up to and including termination of employment. An employee who attempts to manipulate the results of a test through adulteration, dilution of a sample, or substitution of a sample will be subject to disciplinary action up to and including termination. An employee who has been terminated as a result of a positive drug test may be re-employed only if the Village determines the individual to be drug free and employee consents to an announced testing program over a time period management considers reasonable.

-any employee who violates the policy on a second occasion will be subject to disciplinary action up to and including termination of employment.