

**MINUTES OF THE SPECIAL MEETING
BOARD OF TRUSTEES
HELD VIA ZOOM VIDEOCONFERENCE
(due to COVID-19 public assembly restrictions)
STENOGRAPHICALLY RECORDED
THURS., JUNE 4, 2020
6:00 PM**

PRESENT:

Mayor Daniel F. DeVita	Howard D. Avrutine, Village Attorney
Trustee Kevin Jusko	Elizabeth Kaye, Clerk/Treasurer
Trustee Jeffrey Miritello	
Trustee Jeffrey Nemshin	Michael F. McNerney, Supt. of Building Dept.
Trustee Richard Nicklas	Nancy Popper, Deputy Clerk/Court Clerk
Trustee Martin Novick	Jim Antonelli, Village Engineer
Trustee Nicholas Tsafos	Joseph Macy, Esq. (Executive Session)

EXCUSED:

Mayor DeVita called the meeting to order at 6:00 p.m. with the Pledge of Allegiance.

120-DAY EXTENSION OF BUILDING PERMITS

Mayor DeVita discussed NYS legislation allowing local governments to extend the expiration date of building permits, since all construction ceased in March due to the pandemic. Deputy Mayor Nemshin moved to extend all building permits that were in effect on March 1st, 2020 for an additional 120 days from the date of permit expiration, seconded by Trustee Miritello and approved upon the following poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

APPROVE GOVERNOR'S EXECUTIVE ORDER TO GRANT ADDITIONAL 21 DAYS TO PAY VILLAGE TAXES

Mayor DeVita reported that various Villages, including Laurel Hollow, were authorized by the Governor to extend the due date for payment of Village taxes without penalty for an additional 21-days past the current due date. Mayor DeVita moved to grant owners of property in the Village an additional 21 days to pay Village taxes, without penalty, seconded by Trustee Nicklas and approved upon the following poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye

Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

APPROVE CROWN CASTLE RESOLUTIONS AS PER SETTLEMENT AGREEMENT

Village Attorney Avrutine reviewed the Crown Castle Stipulation of Settlement & Order to resolve federal litigation between Crown Castle and the Village.

Mayor DeVita moved to adopt the following negative declaration under SEQRA and to authorize the Mayor to sign Part 3 (three) of the Environmental Assessment Form, seconded by Trustee Miritello and approved upon a poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

BOARD OF TRUSTEES—INC. VILLAGE OF LAUREL HOLLOW
APPLICATION OF CROWN CASTLE NG EAST LLC
FOR A SPECIAL USE PERMIT PURSUANT TO ARTICLE XII
OF CHAPTER 145 OF THE VILLAGE CODE
TO INSTALL TWENTY-FIVE (25) NEW WIRELESS TELECOMMUNICATIONS
NODES AS PART OF A NEW DISTRIBUTED ANTENNA SYSTEM (DAS)
TO BE INSTALLED ON UTILITY POLES WITHIN PUBLIC RIGHTS-OF-WAY
LOCATED WITHIN THE INC. VILLAGE OF LAUREL HOLLOW

RESOLUTION-DETERMINATION OF SIGNIFICANCE PURSUANT TO
THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, Crown Castle NG East LLC (hereinafter “Crown Castle”) submitted an application to the Board of Trustees of the Inc. Village of Laurel Hollow (hereinafter “Board of Trustees”) for a Special Use Permit to install and maintain Distributed Antenna System (“DAS”) node facilities within public rights-of-way located within the Inc. Village of Laurel Hollow (“Village”) pursuant to Article XII of Chapter 145 of the Village Code; and

WHEREAS, the Village properly and in compliance with all applicable laws processed said application in full compliance with the provisions of Article XII of Chapter 145 of the Village Code; and

WHEREAS, notwithstanding the aforesaid compliance, Crown Castle commenced an action in the United States District Court for the Eastern District of New York alleging that the Village unreasonably delayed Crown Castle's request to install the aforesaid DAS system along with other claims alleging violations of Federal Law; and

WHEREAS, the Village maintains that it has acted legally and in compliance with all Federal, State and Local Laws and regulations throughout the application process; and

WHEREAS, the Village claims that Crown Castle is not entitled to any of the relief sought in the aforesaid lawsuit; and

WHEREAS, the Village and Crown Castle have agreed to settle the aforesaid lawsuit pursuant to a Stipulation of Settlement and Order; and,

WHEREAS, one of the provisions of the aforesaid Stipulation of Settlement and Order sets forth that the Village will issue to Crown Castle a special use permit authorizing installation of twenty-five (25) DAS nodes. Those nodes will be installed on twenty one (21) new utility poles, one (1) replacement utility pole, and three (3) existing utility poles within the area immediately adjoining various roadways located within the Village; and

WHEREAS, the Village has also agreed to enter into a Public Right-Of-Way Use Agreement whereby installation of the DAS nodes described above along with required utility poles will be allowed to be installed within various public rights-of-way within the Village; and

WHEREAS, in compliance with Article XII of Chapter 145 of the Village Code, the Board of Trustees held public hearings in connection with the aforesaid application submitted by Crown Castle on April 15, 2019, May 7, 2019, May 23, 2019, and June 4, 2019; and

WHEREAS, legal notices were published in the North Shore Leader regarding each of said public hearings and said notice was posted on the bulletin board of the main entrance to the office of the Village Clerk as required by applicable provisions of the Village Code; and

WHEREAS, affidavits of mailing to the persons listed in the files were filed by Crown Castle in connection with each such hearing; and

WHEREAS, the Nassau County Planning Commission indicated no objection or modification to the application as submitted; and

WHEREAS, the Board Trustees was integrally involved in selecting locations for installation of utility poles and DAS nodes which minimize to the maximum extent practicable impacts upon the residents of the Village and such locations have been deemed acceptable by the Board of Trustees having considered all applicable provisions of Article XII of Chapter 145 of the Village Code; and

WHEREAS, the Board of Trustees, as lead agency in connection with the aforesaid application pursuant to the New York State Environmental Quality Review Act (“SEQRA”) deemed the application to qualify as an unlisted action under SEQRA; and

WHEREAS, the Village extensively reviewed the Environmental Assessment Form submitted by Crown Castle pursuant to SEQRA and the entire record of proceedings before the Village in connection with the aforesaid application; and

WHEREAS, pursuant to the aforesaid review and analysis, the Village completed Part 2 and Part 3 of the Environmental Assessment Form in evaluating environmental impacts as required by SEQRA.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby determines that after a complete review of the application and all evidence submitted, the proposed action will result in no significant adverse impacts to the environment, that all potential adverse environmental impacts have been reduced to the maximum extent practicable, and that a negative declaration be issued pursuant to SEQRA.

Mayor DeVita moved to adopt the following Resolution granting a Special Use Permit to Crown Castle, covering plans to install and maintain 25 DAS nodes, seconded by Trustee Nicklas and approved upon the following poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

BOARD OF TRUSTEES—INC. VILLAGE OF LAUREL HOLLOW
APPLICATION OF CROWN CASTLE NG EAST LLC
FOR A SPECIAL USE PERMIT PURSUANT TO ARTICLE XII

OF CHAPTER 145 OF THE VILLAGE CODE
TO INSTALL TWENTY-FIVE (25) NEW WIRELESS TELECOMMUNICATIONS
NODES AS PART OF A NEW DISTRIBUTED ANTENNA SYSTEM (DAS)
TO BE INSTALLED ON UTILITY POLES WITHIN PUBLIC RIGHTS-OF-WAY
LOCATED WITHIN THE INC. VILLAGE OF LAUREL HOLLOW

RESOLUTION GRANTING SPECIAL USE PERMIT

WHEREAS, Crown Castle NG East LLC (hereinafter “Crown Castle”) submitted an application to the Board of Trustees of the Inc. Village of Laurel Hollow (hereinafter “Board of Trustees”) for a Special Use Permit to install and maintain Distributed Antenna System (“DAS”) node facilities within public rights-of-way located within the Inc. Village of Laurel Hollow (“Village”) pursuant to Article XII of Chapter 145 of the Village Code; and

WHEREAS, the Village properly and in compliance with all applicable laws processed said application in full compliance with the provisions of Article XII of Chapter 145 of the Village Code; and

WHEREAS, notwithstanding the aforesaid compliance, Crown Castle commenced an action in the United States District Court for the Eastern District of New York alleging that the Village unreasonably delayed Crown Castle’s request to install the aforesaid DAS system along with other claims alleging violations of Federal Law; and

WHEREAS, the Village maintains that it has acted legally and in compliance with all Federal, State and Local Laws and regulations throughout the application process; and

WHEREAS, the Village claims that Crown Castle is not entitled to any of the relief sought in the aforesaid lawsuit; and

WHEREAS, the Village and Crown Castle have agreed to settle the aforesaid lawsuit pursuant to a Stipulation of Settlement and Order; and,

WHEREAS, one of the provisions of the aforesaid Stipulation of Settlement and Order sets forth that the Village will issue to Crown Castle a special use permit authorizing installation of twenty-five (25) DAS nodes. Those nodes will be installed on twenty one (21) new utility poles, one (1) replacement utility pole, and three (3) existing utility poles within the area immediately adjoining various roadways located within the Village; and

WHEREAS, the Village has also agreed to enter into a Public Right-Of-Way Use Agreement whereby installation of the DAS nodes described above along with required utility poles will be allowed to be installed within various public rights-of-way within the Village; and

WHEREAS, in compliance with Article XII of Chapter 145 of the Village Code, the Board of Trustees held public hearings in connection with the aforesaid application submitted by Crown Castle on April 15, 2019, May 7, 2019, May 23, 2019, and June 4, 2019; and

WHEREAS, legal notices were published in the North Shore Leader regarding each of said public hearings and said notice was posted on the bulletin board of the main entrance to the office of the Village Clerk as required by applicable provisions of the Village Code; and

WHEREAS, affidavits of mailing to the persons listed in the files were filed by Crown Castle in connection with each such hearing; and

WHEREAS, the Nassau County Planning Commission indicated no objection or modification to the application as submitted; and

WHEREAS, the Board of Trustees was integrally involved in selecting locations for installation of utility poles and DAS nodes which minimize to the maximum extent practicable impacts upon the residents of the Village and such locations have been deemed acceptable by the Board of Trustees having considered all applicable provisions of Article XII of Chapter 145 of the Village Code; and

WHEREAS, the Board of Trustees, as lead agency in connection with the aforesaid application pursuant to the New York State Environmental Quality Review Act (“SEQRA”) deemed the application to qualify as an unlisted action under SEQRA and hereby issues a negative declaration with respect thereto, having determined that the granting of the application as set forth herein will not have an adverse impact upon the environment and will mitigate potential environmental impacts to the maximum extent practicable; and

WHEREAS, all who wished to be heard were heard.

NOW, THEREFORE, BE IT RESOLVED that the Board voted unanimously to approve the application as currently constituted and hereby issues a Special Use Permit to Crown Castle pursuant to Article XII of Chapter 145 of the Village Code subject to imposition of the following conditions:

1. The twenty-five (25) DAS nodes will be installed on twenty one (21) new utility poles, one (1) replacement utility pole, and three (3) existing utility poles and shall be in strict compliance with the 3 page site plans and photo simulations for each node with new utility pole or mounted on a replacement utility pole or an existing utility pole attached hereto as Exhibit “1” (copy appended to these minutes) .
2. The total height of DAS node 684 as shown on Exhibit “1” including any utility pole and antenna canister shall not exceed 40 feet;
3. Within ninety (90) days of the initial operation of the DAS nodes, Crown Castle shall perform a radio frequency (“RF”) exposure test at each of the twenty-five (25) DAS nodes to establish that the DAS nodes are operating within Federal Communication Commission (“FCC”) guidelines for RF exposure. DAS nodes shall at all times conform with applicable FCC RF exposure guidelines. A copy of the results of same shall be filed with the Village Clerk.

Further, Crown Castle shall strictly comply with the provisions of Section 145-36.22 of the Village Code with respect to future and ongoing periodic confirmation of RF exposure levels. In compliance with that Section, Crown Castle shall, no less frequently than once each year from the date of this approval, perform all calculations necessary to certify that each Crown Castle node installed, operating or maintained the right-of-way is operating in compliance with all applicable regulations, standards and rules established by the FCC with respect to RF applicable to the Crown Castle facilities. Crown Castle shall provide to and file with the Village Clerk a copy of a report bearing the certification of a licensed engineer attesting to the Crown Castle facilities’ compliance with the RF standards. In the event that any Crown Castle facility is determined to be functioning in a manner which violates any of the FCC’s regulations, standards and rules governing RF, Crown Castle shall forthwith cease all operation and use of the noncompliant facility until such time as it has repaired the facility and provided to the Village a report from a licensed engineer certifying that the Crown Castle facility has been tested and determined to be operating in accordance with all applicable FCC regulations, standards and rules. No fee will be assessed to Crown Castle for Village review of the reports filed pursuant to this paragraph;

4. At no time shall Crown Castle, in connection with the installation, repair and/or maintenance of the aforesaid DAS nodes or utility poles, take any action which would disturb or modify existing roadway pavement located within Village rights-of-way. All such installation, repair and/or maintenance shall be accomplished, if

necessary, through missile borings below existing roadways and in no manner result in modification of and/or disturbance to paved surfaces;

5. Fans required for cooling of equipment installed as part of this application shall operate at a speed intended to result in producing decibel levels represented by Crown Castle on the administrative record. Specifically, the maximum fan speed shall be set at 75 percent of maximum flow for ambient temperatures below 101 degrees Fahrenheit (38 degrees Celsius) and shall operate at 100 percent speed if ambient temperature is 101 degrees Fahrenheit (38 degrees Celsius) or greater.
6. The height of the nodes and the size and design of the poles and equipment shrouds as set forth on the plans attached hereto as Exhibit “1” are express conditions of this special permit approval and any modifications to said heights, designs and size limits would be considered defeating the stealth design of the nodes. Any proposed modifications to said heights, designs and size limits cannot be implemented unless approved by the Village pursuant to Article XII of Chapter 145 of the Village Code.
7. It is understood that all rules and regulations of the Village and strict compliance with all provisions of Article XII of Chapter 145 of the Village Code as well as any rules and regulations of any other applicable jurisdiction shall continue to apply, and all installations must be performed in strict accordance with the plans submitted to the Village and approved in connection with this application. Other than this special permit, no additional approvals are required from the Village other than issuance of a building permit for each individual installation (a building permit will be required for each node installation whether on a new utility pole, a replacement utility pole or on an existing utility pole), issuance of certificates of compliance pursuant to each building permit and road opening permits. As per resolution of the Village Board of Trustees, current building permit fees are \$250 for projects with a cost of construction of up to \$3,000. For projects with a cost of construction exceeding \$3,000, the base fee of \$250 is increased by \$17.50 for each \$1,000 or part thereof that the cost of construction exceeds \$3,000. In addition, in connection with each building permit application there will be a plan review fee of \$250 and a certificate of compliance fee of \$150. As per the Village Code, street opening permit fees are \$500 plus a \$500 deposit for professional review fees and a restoration bond deposit of \$3,000 for each such permit;
8. Failure to comply with any of the conditions of this approval may result in a Stop Work Order, suspension and/or revocation of building permits, withholding of Certificates of Completion, suspension and/or revocation of this Special Use Permit and/or any other remedy the Village may require.

Trustee Novick moved to authorize Mayor DeVita to sign the Public Right-of-Way Agreement with Crown Castle, seconded by Trustee Jusko, approved upon a poll of the Board (copy appended to these minutes):

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

RENEW MAXIMUM ENVIRONMENTAL CONTRACT FOR WATER TESTING AT VILLAGE HALL AND BEACH

Mayor DeVita moved to approve the renewal agreement with Maximum Environmental for water testing, conditioned upon the Clerk negotiating lower rates more in line with last year's contract rates, seconded by Trustee Miritello and approved upon the following poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

EXECUTIVE SESSION

Mayor DeVita moved to adjourn to Executive Session at 6:45 pm to discuss litigation matters, seconded by Trustee Miritello, approved by all present.

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

The Board returned to public session at 7:38 pm.

Deputy Mayor Nemshin moved to authorize the retention of a surveyor pursuant to specifications prepared by Village Engineer Jim Antonelli for Cherry Lane and other roads at a cost not to exceed \$12,000, and approved by all upon the following poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

Mayor DeVita moved to waive, for the next pay period, the provision of the Code requiring that accumulated sick days be paid so that the Clerk/Treasurer can receive clarification on how to account for sick time and quarantine time taken as a result of the COVID-19 pandemic, seconded by Trustee Tsafos, approved upon a poll of the Board:

Mayor DeVita	Aye
Deputy Mayor Nemshin	Aye
Trustee Jusko	Aye
Trustee Nicklas	Aye
Trustee Novick	Aye
Trustee Miritello	Aye
Trustee Tsafos	Aye

There being no further business to come before the Board, Trustee Tsafos moved to adjourn the meeting at 7:39 [is the time correct?—discussion and votes on two matters in one minute?] PM, seconded by Mayor DeVita, approved by all present.

Elizabeth Kaye

Elizabeth Kaye
Clerk/Treasurer

THE NEXT REGULAR MEETING OF THE BOARD OF TRUSTEES WILL BE HELD AT 7:00 PM ON WEDNESDAY, JUNE 17, 2020.