

**Village Board Meeting Minutes
March 9, 2018**

The Village of Caledonia Board of Trustees held a special meeting on Friday, March 9, 2018 at 3:30 p.m. at the Village Office.

Members Present: Deputy-Mayor Scott DiLiberto, Trustee Dorothy Grant-Fletcher and Trustee Polly Nothnagle.

The following Resolution was offered by Trustee DiLiberto with Trustee Nothnagle moving for adoption:

WHEREAS, the Village of Caledonia (the “Village”) owns a Water Tower (the “Water Tower”) located at 2943 Main Street, Village of Caledonia, Town of Caledonia, County of Livingston, State of New York (the “Property”), which is currently used as a cell tower by providing for the collection of antennas operated by wireless public utility telecommunications service providers; and

WHEREAS, the Village was informed by the State of New York (the “State”) that the Village needed to either replace or refurbish the Water Tower, as the Village could not continue using the Water Tower for water storage use; and

WHEREAS, the Village does not currently need the Water Tower for water storage, as other facilities are available; and

WHEREAS, the Village has consulted with Village employees on the costs associated with the removal of the Water Tower and has been informed that such costs would be extremely high; and

WHEREAS, the Village is desirous of not raising the tax burden on Village taxpayers in relation to the removal of the Water Tower, and, additionally, not losing wireless service due to the removal of the Water Tower; and

WHEREAS, the Village contracted with Blue Sky Towers, LLC (“Blue Sky”) to lease the Property for use as a cell tower (the “Agreement”), which lease payments will help offset the costs associated with the Village’s removal of the Water Tower; and

WHEREAS, the Agreement is for fair market value and is in the best interest of the Village and its residents, as the Property, currently zoned R-1, would not be viable property for redevelopment as a single family home due to the costs associated with the removal of the Water Tower; and

WHEREAS, the Blue Sky has agreed to construct a cell tower (the “Cell Tower”) at the Property;

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WHEREAS, it is recognized under State Law that the Village is accorded certain “immunity” from local zoning regulations in consideration of the balancing of the following interests:

1. the nature and scope of the instrumentality seeking immunity;
2. the encroaching government’s legislative grant of authority;
3. the kind of function or land use involved;
4. the effect local land use regulation would have upon the enterprise concerned;
5. alternative locations for the Cell Tower in less restrictive zoning areas;
6. the impact upon legitimate local interests;
7. alternative methods of providing the proposed improvement;
8. the extent of the public interest to be served by the improvements; and
9. intergovernmental participation in the project development process and an opportunity to be heard.

WHEREAS, notice of said special meeting was posted in the Village and notification was given to the Livingston County Newspaper, the official newspaper of said Village, and

NOW, THEREFORE, it is hereby found and determined that based upon the review of the foregoing considerations, the Board of the Village has adopted the following findings of fact:

FIRST: The Village is a municipal corporation of the State, and, therefore the Village is purely public in nature and is a governmental entity that provides essential public service.

SECOND: The Cell Tower will be wholly located within the municipal borders of the Village, and therefore there is no encroaching entity. The Village has the authority under State Village Law to remove the Water Tower and lease the Property.

THIRD: The Property, although zoned as R-1, has been used for decades as a Water Tower and cell tower. The new Cell Tower would continue the current use of the property by providing wireless service, and, based upon Blue Sky’s application to the Planning Board, the height of the Cell Tower would be substantially similar to the height of the Water Tower.

FOURTH: Imposing local land use regulations on the proposed Cell Tower would have the effect of unreasonably delaying the removal of the Water Tower and continued wireless service. Additionally, the current use of the Property providing wireless service shall continue and the replacement of the Water Tower with a Cell Tower will not substantially alter the character or nature of the Property.

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FIFTH: There are no alternative locations for the Cell Tower in less restrictive zoning areas as such facilities in all the Village zoning districts would require a special use permit. Moreover, the proposed location of the Cell Tower at the Property is ideal in order to minimize aesthetic impacts to the greatest extent feasible based upon the current Water Tower located at the Property. Additionally, by the Village controlling the location of the Cell Tower and entering into the Agreement, the current wireless coverage will continue for residents, as a new location could result in gaps to wireless coverage;

SIXTH: Based upon the application made to the Village's Planning Board, the Cell Tower will not have an adverse environmental or other impact on the public because the Cell Tower will be sited on a parcel that has for decades had a Water Tower with wireless antennas attached. The Cell Tower will benefit the public interest by providing essential services and by producing revenue for the Village, by providing critical infrastructure for municipal emergency wireless communications and public utility commercial wireless services and will be sited to minimize any potential adverse environmental impacts. The Cell Tower will comply with all structural standards and will not adversely affect the public health, safety or the general welfare. The Cell Tower will not cause any harmful interference with the frequencies of any radio, television, telephone or other uses. The Cell Tower will have no impact on pedestrian or vehicular traffic, since the proposed use is unmanned requiring infrequent maintenance visits of approximately once per month. The Cell Tower will not produce any smoke, gas, odor, heat, dust, noise above ambient levels, fumes, or vibrations; the Cell Tower will not generate solid waste, waste water or sewage, will not require water supply or waste disposal, and will not attract insects, vermin or other vectors. Any human exposure to electromagnetic energy from the Cell Tower even under "worst case" conditions, will be several orders of magnitude below the exposure limits established by the FCC, the American National Standards Institute, the Institute of Electronic and Electrical Engineers, the National Council on Radiation Protection and Measurements, and the New York State Department of Health. The Cell Tower will not impact any wetlands and will not be located within any wetland buffers.

SEVENTH: Due to the topography of the Village, the proposed height is necessary to provide reliable wireless communication services, and, given the current height of the Water Tower and the proposed height of the Cell Tower, the Cell Tower shall not significantly alter the aesthetics of the Property.

EIGHTH: The public interest is served by the Agreement, as the lease payments will allow the Village to offset the cost of the removal of the Water Tower with no cost to taxpayers. Additionally, the Cell Tower provides infrastructure necessary to provide residents with wireless telecommunication services.

NINTH: The Property is wholly located within the Village and no intergovernmental participation is required.

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RESOLVED, that based upon the foregoing balancing of the interests, it is not in the public interest to subject the Facility to local zoning and land use regulations; and

RESOLVED, that the Village Clerk is hereby directed to enter said Resolution in the minutes of this meeting.

A YE: Deputy-Mayor DiLiberto, Trustee Grant-Fletcher and Trustee Nothnagle

NAY: None

There being no further business, the meeting adjourned at 3:40 p.m.

Ann Marie Grattan
Village Clerk-Treasurer