

## November 4<sup>th</sup>, 2021 LaFayette Town Board Meeting Minutes

Minutes of the Regular Town Board Meeting held by the LaFayette Town Board on November 4 2021 at 5:00 p.m. at LaFayette Town Hall and live on Facebook.

Present: William McConnell, Supervisor  
Steve Zajac, Councilor  
Melanie Palmer, Councilor  
Carole Dwyer, Councilor  
Jerry Marzo, Councilor

Recording Secretary: Jackie Bush Roorda, Town Clerk

Attorney: Jeff Brown

Budget Officer: Tom Chartrand

Others Present: Jeff Palin & Matt Walker, C & S, Companies, Town Engineers, Sue Marzo, Information Officer, Mark Distler, LACC, Sean Doolittle, Fire Department and several residents

1. The Town Clerk, Jackie Roorda took the Roll, all present.
2. The Pledge of Allegiance was led by Councilor Palmer.

Supervisor McConnell took a brief moment to read aloud a letter received from Town resident Jesse Abbott of Clark Hollow Road with regard to the recent flooding in our town and say thank you to our Highway department for all of their hard work in getting and keeping our roads safe.

3. Town Board minutes of the October 12<sup>th</sup>, 2021 Regular Town Board meeting.

**R-201-21 Councilor Palmer moved and Dwyer seconded the motion to accept the October 12<sup>th</sup>, 2021 Regular Town Board Meeting minutes, as submitted by Town Clerk Jackie Bush Roorda. Motion carried 5-0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

#### 4. PUBLIC HEARING-

A. Adopt Preliminary Budget as Official 2022 Town Budget -

Supervisor McConnell advised a motion is needed to open the public hearing with regard to the 2022 Town Budget.

**R-202-21 Councilor Marzo moved and Councilor Palmer seconded the motion to open the public hearing with regard to the 2022 budget. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

Budget Officer Tom Chartrand advised that our General Fund budget increased by \$0.17/\$1k, Library Fund increased by \$0.02/\$1k and Highway Funds decreased by \$0.06/\$1k totaling \$0.13 per \$1k increase in the main portion of our Town budget; The reason for the Highway Department decrease is the large surplus from this year and the large amount of CHIPS funding we received for snow removal.

The LaFayette Fire Dept. budget is without any increase, Jamesville Fire Department increased by \$0.01/\$1k and LaFayette Ambulance budget increased by \$0.07/\$1k totaling \$0.08/\$1k increase. It was also noted that the increase in the Jamesville Fire budget is a onetime increase due to the purchase of a water craft to aid in rescue at the reservoir. The NYS tax cap is 2% this year and we currently remain under that by approximately \$35,600 currently.

Supervisor McConnell asked if there is any questions or comments regarding the 2022 preliminary budget

**R-203-21 Councilor Dwyer moved and Councilor Palmer seconded the motion to close the public hearing on the 2022 budget. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

**R-204-21 Councilor Marzo moved and Councilor Zajac seconded the motion to adopt the 2022 Preliminary Budget as the final General Town Budget; Highway and Library Budgets with the Retirement and Health insurance changes as discussed by the Town Board for the Year 2022. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

	<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>R-205-21</b>	<b>Councilor Marzo moved and Councilor Dwyer seconded the motion to adopt the West Shore Lighting Budget as presented, for the year 2022. Motion carried 5 - 0.</b>			
	<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>R-206-21</b>	<b>Councilor Palmer moved and Councilor Marzo seconded the motion to adopt the Coye Road, Northeast &amp; Smokey Hollow Water District Budgets as presented, for the year 2022. Motion carried 5 - 0.</b>			
	<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>R-207-21</b>	<b>Councilor Marzo moved and Councilor Palmer seconded the motion to adopt the LaFayette Fire Department, Jamesville Fire Department and LaFayette Ambulance budgets as presented, for the year 2022. Motion carried 5 - 0.</b>			
	<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>R-208-21</b>	<b>Councilor Dwyer moved and Councilor Palmer seconded the motion to adopt the Cohen &amp; Zumpano Drainage District Budgets as presented, for the year 2022. Motion carried 5-0</b>			
	<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
	<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>R-209-21</b>	<b>Councilor Palmer moved and Councilor Marzo seconded the motion to adopt the Southern Onondaga Trash Budget rates at</b>			

**\$325.00 per residence as presented, for the year 2022.  
Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

**B. PUBLIC HEARING- LOCAL LAW 6-2021 Small Cell Wireless Deployment Requirements**

Attorney Jeff Brown explained that Local Law 6-2021 regulates small cell wireless arrays that are attached to light poles in public rights of way. This relates to the 5G cellular service, and cell companies are getting away from the larger towers. This is an effort by the Town of LaFayette to regulate this practice.

If there is a small number of cellular arrays it can be handled directly by our Code enforcement office with an application, but if it is a larger number then the company would need to go before the Planning Board for Site Plan approval. There are several regulations included in this law:

- Design Guidelines
- Appropriate Spacing
- Prohibiting Signage

**R-210-21 Councilor Palmer moved and Councilor Marzo seconded the motion to open the Public Hearing with regard to Local Law 6-2021. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

Q: What is the process of getting a small cell array?

A: Attorney Brown explained that an applicant (typically a larger company i.e., Verizon) would apply and then it would be decided if the application goes to our Code Enforcement office or administratively to the Planning Board for Site Plan approval.

Q: Do we have many / any small arrays in town?

A: No, not at this time, but they are popping up across New York State. This is basically an enhancement for 5G communication.

**R-211-21 Councilor Marzo moved and Councilor Palmer seconded the motion to close the Public Hearing with regard to Local Law 6-2021. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

**R-212-21 Councilor Dwyer moved and Councilor Marzo seconded the motion to adopt Local Law 6-2021 to include design guidelines. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

NEW YORK STATE DEPARTMENT OF STATE

*LOCAL LAW FILING*

162 WASHINGTON AVENUE, ALBANY, NY 12231

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of LaFayette Local Law No. 6 of the year 2021.

A local law creating Article V "Small Cell Wireless Deployment Requirements" of Chapter 249 of the Code of the Town of LaFayette.

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

#### **ARTICLE V**

##### **Small Cell Wireless**

#### **§ 249-22: FINDINGS**

The Town of LaFayette hereby finds:

**A.** The wireless telecommunications industry has expressed interest in submitting applications to lease space within municipalities such as the Town for the installation of "small cell" wireless telecommunications facilities (hereinafter "small cell installations") in the Town.

**B.** The installation of small cell facilities may have both positive and negative impacts on our community. Multiple installations can impact property values; pose a threat to the public health, safety and welfare;

create traffic and pedestrian safety hazards; impact trees where proximity conflicts may require trimming of branches or require removal of roots; create visual and aesthetic blights and potential safety concerns from excessive size, height, weight, noise or lack of camouflaging of wireless facilities including the associated pedestals, meters, equipment and power generators which negatively impact the quality and character of the Town.

**C.** The Town currently regulates wireless telecommunications facilities through zoning and the special permit process (Chapter 249, Article III). The existing standards have not been updated to reflect current telecommunications trends or necessary legal requirements. Further, the primary focus of zoning regulations has been on wireless telecommunications facilities located on private property, and the existing Code provisions were not specifically designed to address the unique legal and practical issues that arise in connection with multiple small cell installations deployed in the public rights-of-way.

**D.** Federal regulations have changed substantially since the Town last adopted regulations on wireless telecommunications. The current FCC Order provides that all local jurisdictions must comply with various restrictions on the exercise of local aesthetic, zoning, public works, and fee restrictions when dealing with wireless installation siting applications. The Order also include modifications to "shot clocks" which require the Town to approve or deny applications within certain periods of time and may actually deem an application approved when a failure to act occurs. Thus, the Town is in clear need of updated regulations for small cell installations.

**E.** The Town recognizes its responsibilities under the Federal Telecommunications Act of 1996 and state law, and believes that it is acting consistent with the current state of the law in ensuring that development activity does not endanger public health, safety, or welfare. The Town intends these code provisions to ensure that the installation, augmentation and relocation of small cell installations are conducted in such a manner as to lawfully balance the legal rights of applicants under the Federal Telecommunications Act and New York State with the rights, safety, privacy, property and security of residents of the Town.

**F.** This Article is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services in the Town; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions so long as such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the Town may not deny under federal or state law; or (6) otherwise authorize the Town to preempt any applicable federal or state law.

**G.** Based on the foregoing, the Town Board finds and determines that the preservation of public health, safety and welfare requires that this Article V of Chapter 249 of the Town Code be enacted.

#### **§ 249-23: DEFINITIONS**

a. "Administrative Review" means ministerial review of an Application by the Town relating to the review and issuance of a Permit, including review by the Code Enforcement Officer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Article.

b. "Antenna" means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

- c. “Applicable Codes” means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted, or incorporated, by the Town.
- d. “Applicant” means any Person who submits an Application under this Article.
- e. “Application” means a written request, on a form provided by the Town, for a Permit.
- f. “Authority” or “Town” means the Town of LaFayette or any agency, subdivision or any instrumentality thereof.
- g. “Collocate” means to install or mount a Small Wireless Facility in the Public ROW on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the Application. “Collocation” has a corresponding meaning.
- h. “Communications Facility” means, collectively, the equipment at a fixed location or locations within the Public ROW or on private property that enables Communications Services, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.
- i. “Communications Service” means cable service, as defined in 47 U.S.C. § 522(6); information service or broadband, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).
- j. “Communications Service Provider” means a provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).
- k. “Decorative Pole” means a Pole that is specially designed and placed for aesthetic purposes.
- l. “Discretionary Review” means review of an Application by the Town Planning Board relating to the review and issuance of a Permit that is other than an Administrative Review.
- m. “Eligible Facilities Request” means an eligible facility request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.
- n. “FCC” means the Federal Communications Commission of the United States.
- o. “Laws” means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.
- p. “Ordinary Maintenance and Repair” means inspections, testing and/or repair of existing Communication Facilities that maintain functional capacity, aesthetic and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Public ROW.
- q. “Permit” means a written authorization (in electronic or hard copy format) to install, at a specified location(s) in the Public ROW or at a specific location on private property, a Communications Facility, Tower or a Pole to support a Communications Facility.
- r. “Permittee” means an Applicant that has received a Permit under this Article.
- s. “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.
- t. “Pole” means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made

of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support Structure.

u. “Provider” means a Communications Service Provider or a Wireless Services Provider, and includes any Person that owns and/or operates within the Public ROW any Communications Facilities, Wireless Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers.

v. “Public Right of Way” or “Public ROW” means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, alley or similar purpose, and for purposes of this Article shall include Public Utility Easements, but only to the extent the Town has to permit use of the area or Public Utility Easement for Communications Facilities or Poles, Towers and Support Structures that support Communications Facilities. The term does not include a federal interstate highway or other areas that are not within the legal jurisdiction, ownership or control of the Town.

w. “Public Utility Easement” means, unless otherwise specified or restricted by the terms of the easement, the area on, below, or above a property in which the property owner has dedicated an easement for use by utilities. Public Utility Easement does not include an easement dedicated solely for Town’s use, or where the proposed use by the Provider is inconsistent with the terms of any easement granted to the Town.

x. “Replace” or “Replacement” means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Article and any other applicable Town [charter/code regulations], in order to address limitations of the existing structure to structurally support Collocation of a Communications Facility.

y. “Small Wireless Facility” means a Wireless Facility that meets both of the following qualifications:

(i) each Antenna could fit within an enclosure of no more than six (6) cubic feet in volume; and

(ii) all other wireless equipment associated with the Antenna, including the Provider’s preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume

z. “State” means the State of New York.

aa. “Support Structure” means a structure in the Public ROW other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

bb. “Tower” means any structure in the Public ROW built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

cc. “Wireless Facility” means the equipment at a fixed location or locations in the Public ROW that enables Wireless Services. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one type of a Wireless Facility.

dd. “Wireless Services” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

ee. “Wireless Services Provider” means a Person who provides Wireless Services.

§ 249-24 Access to Public ROW:



a. Agreement. Prior to installing any Communications Facility in a Public ROW, or any Pole built for the sole or primary purpose of supporting a Communications Facility, or any Tower, a Person shall enter into a Right of Way Agreement (“ROW Agreement”) with the Town expressly authorizing use of the Public Right of Way for the Communications Facility, Pole or Tower proposed to be installed.

(i) General Terms. The Right of Way Agreement shall include:

(A) the term of the ROW Agreement shall be annual, which shall renew automatically unless terminated by the Town upon ninety (90) days’ written notice.

(B) The ROW Agreement authorizes the Provider’s non-exclusive use of the Public ROW for the sole purpose of installing, maintaining and operating Communications Facilities, including any Pole built for the sole or primary purpose of supporting the Communications Facilities and any Tower, to provide the services expressly authorized in the ROW Agreement, subject to applicable Laws, this Article and the terms and conditions of the ROW Agreement. The ROW Agreement authorizes use only of the Public ROW in which the Town has an actual interest. It is not a warranty of title or interest in any Public ROW and it does not confer on the Provider any interest in any particular location within the Public ROW. No other right is granted except as expressly set forth in the ROW Agreement. Nothing herein shall authorize the use of the Town’s Poles, Towers, Support Structures, or other structures in the Public ROW. All use of Town Poles, Towers, Support Structures, and other structures in the Public ROW shall require a separate agreement (Attachment Agreement), and the payment of separate fees for such use.

(C) The Provider shall, at its sole cost and expense, keep and maintain its Communications Facilities, Poles, Support Structures and Towers in the Public ROW in a safe condition, and in good order and repair. Additionally, the Provider will conduct annual tests at the Town’s request of a select number of Small Wireless Facilities to ensure compliance with applicable health, safety and frequency regulations.

(D) The Provider shall keep and maintain liability insurance in the amount of \$1,000,000 for each incident and an umbrella policy in the amount of \$5,000,000 for each Communication Facility in a Public ROW. The Town shall be named an additional insured on each policy and subrogation against the Town shall be waived.

(E) The ROW Agreement shall include the name and contact information for the Provider to be called in cases of emergencies.

(F) Licensees using space in ducts, conduits and on Poles must comply with the terms of this ROW Agreement, unless expressly exempted by the Town.

(G) The Town shall have the right to access books and records, including audit rights, of the Provider to determine that all applicable fees and payments have been made to the Town.

(H) The Provider shall provide proof to the Town that it has a license or authority from the owner to use an existing Pole, Tower or Support Structure in the ROW for a Communications Facility.

(I) The terms and conditions set forth herein are not exclusive and the Town reserves the right to require additional terms and conditions to the ROW Agreement.

(ii) Public ROW Construction and Installation Requirements.:

(A) ROW Permit.

1. Unless expressly authorized in this Article or in writing by the Town, no Person may construct, maintain or perform any other work in the Public ROW related to Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers without first

receiving a Permit to the extent required under this Article, and any other permit or authorization required by applicable Laws.

2. The Town shall not issue a Permit unless the Applicant, or a Provider on whose behalf the Applicant is constructing Communications Facilities, Poles or Towers, has executed a ROW Agreement required by this Article, or otherwise has a current and valid franchise with the Town expressly authorizing use of the Public ROW for the Communications Facilities, Poles or Towers proposed in the Application, and all applicable fees have been paid.

(B) Location of New Facilities.

1. The Provider shall not locate or maintain its Communications Facilities, Poles and Towers so as to unreasonably interfere with the use of the Public ROW by the Town, by the general public or by other persons authorized to use or be present in or upon the Public ROW.

2. Aboveground placement of new poles and equipment cabinets shall meet the requirement set forth in Section 249-26d. of this Article;

3. Unless otherwise agreed to in writing by the Town or otherwise required by applicable Laws, whenever any existing electric utilities or Communications Facilities are located underground within a Public ROW, the Provider with permission to occupy the same portion of the Public ROW shall locate its Communications Facilities underground at its own expense. The Town may, in its sole discretion, approve aboveground placement of equipment cabinets, pedestals and similar equipment, pursuant to Section 249-26d. of this Article. For facilities or equipment such as Wireless Facilities that cannot, by their nature, operate unless located above-ground, the Provider and Town shall work to find a suitable location for such facilities or equipment, which may be outside the Public ROW.

(C) Construction Standards. In performing any work in or affecting the Public ROW, the Provider, and any agent or contractor of the Provider, shall comply with the provisions of Section 249-28 of this Article and all other applicable Laws.

(D) Restoration Requirements.

1. The Provider, or its agent or contractor, shall restore, repair and/or replace any portion of the Public ROW that is damaged or disturbed by the Provider's Communications Facilities, Poles, Towers or work in or adjacent to the Public ROW as required in Section 249-28 of this Article and all other applicable Laws.

2. If the Provider fails to timely restore, repair or replace the Public ROW as required in this subsection, the Town or its contractor may do so and the Provider shall pay the Town's costs and expenses in completing the restoration, repair or replacement.

(E) Removal, Relocation and Abandonment.

1. Within sixty (60) days following written notice from the Town, the Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the Public ROW, including relocation of above-ground Communications Facilities underground (consistent with the provisions of this Article), whenever the Town has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Town improvement, the operations of the Town in, under or upon the Public ROW, or otherwise is in the public interest. The Provider shall be responsible to the Town for any damages or penalties it may incur as a result of the Provider's failure to remove or relocate Communications Facilities, Poles, Support Structures or Towers as required in this subsection.

2. The Town retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public ROW of the Town, as the Town may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Town shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Town shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible.

3. A Provider shall notify the Town of abandonment of any Communications Facility, Pole, Support Structure or Tower at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the Provider shall remove its Communications Facility, Pole, Support Structure or Tower at the Provider's own expense, unless the Town determines, in its sole discretion, that the Communications Facility, Pole, Support Structure or Tower may be abandoned in place. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public ROW unless the Town agrees in writing to take ownership of the abandoned Communications Facilities, Poles, Support Structures or Towers. Upon the issuance of a Permit, the Provider shall provide a removal bond in the amount estimated for the removal of all of the Communication Facilities that are the subject of an Application, such estimated amount to be determined by the Code Enforcement Officer after consultation with the Engineer for the Town.

4. If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Town or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Town incurs arising from the delay.

(F) As-builts and Maps - Maps showing location of equipment in ROW and as-builts after construction shall be provided to the Town, within thirty (30) days after completion of construction, in conformance to the requirements of the Engineer for the Town.

b. Fees and Charges.

(i) Permit Application Fee. Every Applicant for a co-location shall pay a Permit application fee of \$500.00 for each Application up to five (5) Small Wireless Facilities and \$100.00 for each additional Small Wireless Facility. The fee shall be paid upon submission of the Application.

(ii) Every Application for a new pole in the Right of Way shall pay a Permit application fee of \$1000.00. The fee shall be paid upon submission of the Application.

(iii) ROW Agreement Fee. Every Person requesting a ROW Agreement from the Town shall pay an administrative fee of \$340.00, which shall include the legal costs of drafting such ROW Agreement.

(iv) ROW Use Fee. In exchange for the privilege of non-exclusive occupancy of the Public ROW, the Provider shall pay the Town \$270 per Small Wireless Facility, per year, for as long as the ROW Agreement is effective. The ROW Use Fee shall be due and payable within thirty (30) days of issuance of the ROW Agreement

(v) Attachment Fees. The Provider shall be subject to an additional attachment fee of \$500.00 if the Small Wireless Facilities will be attached to property (either real or personal) owned by the Town. No attachment will be allowed except after issuance of a permit pursuant to an Attachment Agreement.

(vi) Other Fees. The Applicant or Provider shall be subject to any other generally applicable fees of the

Town or other government body, such as those required for electrical permits, building permits, or street opening permits, which the Applicant or Provider shall pay as required in the applicable Laws, as well as attachment fees for the use of Town owned Poles, Towers, Support Structures, ducts, conduits or other structures in the Public ROW, as set forth in attachment agreements authorizing such use.

(vii) No Refund. Except as otherwise provided in a ROW Agreement, the Provider may remove its Communications Facilities, Poles or Towers from the Public ROW at any time, upon not less than thirty (30) days prior written notice to the Town, and may cease paying to the Town any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the Public ROW. In no event shall a Provider be entitled to a refund of fees paid prior to removal of its Communications Facilities, Poles or Towers.

(viii) Changes in Fees and Charges. Any fees and charges set forth in or requires by this Article may be increased or otherwise amended from time to time by Resolution of the Town Board.

#### **§ 249-25 Permit Applications**

a. Permit Required. Unless expressly authorized in this Article or in writing by the Town, no Person may construct, install or maintain in the Public ROW any Communications Facilities, Poles built for the primary purpose of supporting Communications Facilities, or Towers, including the installation or Collocation of Communications Facilities on existing Poles, Towers, Support Structures or other structures within the Public ROW, without first receiving a Permit. Notwithstanding the foregoing, in the event of an Emergency, a Provider or its duly authorized representative may work in the Public ROW prior to obtaining a Permit, provided that the Provider shall attempt to contact the Town prior to commencing the work and shall apply for a Permit as soon as reasonably possible, but not later than twelve (12) hours after commencing the Emergency work. For purposes of this subsection, an “Emergency” means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

b. Permit Application Requirements. The Application shall be made by the Provider or its duly authorized representative and shall contain the following:

(i) The Applicant’s name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.

(ii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.

(iii) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Article. The Applicant shall state whether the Applicant believes the proposed work is subject to Administrative Review or Discretionary Review and if the Permit is an Eligible Facilities Request.

(iv) If applicable, a copy of the authorization for use of the property from the Pole, Tower or Support Structure owner on or in which the Communications Facility will be placed or attached.

(v) Detailed construction drawings regarding the proposed Communication Facility.

(vi) To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.

(vii) For any new aboveground facilities or structures, accurate visual depictions or representations, if not

included in the construction drawings.

(viii) If new construction, a plan that would show how co-locations on the new Pole, Tower or Support Structure would be possible for other Providers who may wish to deploy small cell technology in the geographic area of the subject Application.

c. Proprietary or Confidential Information in Application. Applications are public records that may be made publicly available pursuant to the New York State Freedom of Information Law. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each portion of such materials accordingly, and the Town shall treat the information as proprietary and confidential, subject to the requirements of the New York State Freedom of Information Law and the Town’s determination that the Applicant’s request for confidential or proprietary treatment of Application materials is reasonable.

d. Ordinary Maintenance and Repair. A Permit shall not be required for Ordinary Maintenance and Repair. The Provider or other Person performing the Ordinary Maintenance and Repair shall obtain any other permits required by applicable Laws and shall notify the Town in writing at least forty-eight (48) hours before performing the Ordinary Maintenance and Repair.

e. Material Changes. The Town may require payment of an additional Permit application fee in the event the Town determines, in its sole discretion, that material changes to an Application after submission amount to a new Application and will materially increase the time and/or costs of the Permit review process. Unless otherwise agreed to in writing by the Town, any material changes to an Application, as determined by the Town in its sole discretion, shall be considered a new application for purposes of the time limits set forth in Section 249-26b.(ii), unless otherwise provided by applicable Laws.

f. Application Fees. Unless otherwise provided by applicable Laws, all Applications pursuant to this Article shall be accompanied by the Fees required under Section 249-24b.

g. Effect of Permit. A Permit from the Town authorizes an Applicant to undertake only the activities in the Public ROW specified in the Application and Permit, and in accordance with this Article and any general conditions included in the Permit. A Permit does not authorize attachment to or use of existing Poles, Towers, Support Structures or other structures in the Public ROW; a Permittee or Provider must obtain all necessary approvals and pay all necessary fees from the owner of any Pole, Tower, Support Structure or other structure prior to any attachment or use. A Permit does not create a property right or grant Town to the Applicant to interfere with other existing uses of the Public ROW.

h. Duration. Any Permit for construction issued under this Article shall be valid for a period of ninety (90) days after issuance and can be extended for an additional ninety (90) days upon written request of the Applicant, at the sole consent of the Town.

i. An Applicant may simultaneously submit up to five (5) Applications for Communications Facilities, or may file a single, consolidated Application covering a batch of not more than twenty (20) such Communications Facilities, provided that the proposed Communications Facilities are to be deployed on the same type of structure using similar equipment and within an adjacent, related geographic area of the Town. If the Applicant files a consolidated application, the Applicant shall pay the application fee calculated as though each Communication Facility were a separate Application. No Applicant shall submit more than one (1) consolidated application over a six (6) month period. The Code Enforcement Officer has the discretion to determine whether a Provider is submitting a consolidated Application through the submission of multiple single Small Wireless Facilities.

## § 249-26 Administrative Review

a. Permitted Use. The following uses within the Public ROW shall be permitted uses, subject to Administrative Review and issuance of a Permit as set forth in this Section 249-26. All such uses shall be in accordance with all other applicable provisions of this Article and the terms of any ROW Agreement. Administrative Review will not be available for consolidated Applications or simultaneous Applications for more than five (5) Communication Facilities.

(i) Collocation of a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 249-26c. or a Collocation that qualifies as an Eligible Facilities Request.

(ii) Modification of a Pole, Tower or Support Structure or Replacement of a Pole for Collocation of a Communications Facility where the modification or Replacement qualifies as an Eligible Facilities Request.

(iii) Construction of a new Decorative Pole or a monopole Tower (but no other type of Tower) to be used for a Small Wireless Facility that does not exceed the maximum height set forth in Subsection 249-26c., provided that there are existing poles of similar height within one hundred (100) feet of either side of the proposed new Pole or monopole Tower.

(iv) Construction of a Communications Facility, other than those set forth in subsections (i), (ii) or (iii) in this Section 249-26a., involving the installation of coaxial, fiber-optic or other cabling, that is installed underground or aboveground between two or more existing Poles or an existing Pole and an existing Tower and/or existing Support Structure, and related equipment and appurtenances.

(v) Collocation of a Small Wireless Facility on a Pole, Tower, Support Structure or building that is in the Federal, State or County Right of Way or on private property.

### b. Application Review.

(i) The Town shall review the Application either under the Administrative Review or Discretionary Review, as the case may be, and, if the Application conforms with applicable provisions of Section 249-25 and this Section, the Town shall issue the Permit, subject to the design standard set forth in Section 249-26d. of this Article.

(ii) Except as otherwise provided by applicable Laws, the Town shall:

(A) Within ten (10) days of receiving an application, notify the Applicant if the Application is incomplete, and identify the missing information. The Applicant may resubmit the completed Application within thirty (30) days without additional charge, in which case the Town shall have ten (10) days from receipt of the resubmitted Application to verify the Application is complete, notify the Applicant that the Application remains incomplete or, in the Town's sole discretion, deny the Application; and

(B) Make its final decision to approve or deny the Application within sixty (60) days for a collocation, and ninety (90) days for any new structure, after the Application is complete (or deemed complete in the event the Town does not notify the Applicant that the Application or resubmitted Application is incomplete).

(iii) The Town shall advise the Applicant in writing of its final decision.

c. Maximum Height of Permitted Use. Small Wireless Facilities, and new, modified or Replacement Poles, Towers and Support Structures in the Public Right of Way may be approved through Administrative Review as provided in Section 249-26a. only if the following requirements are met:

(i) Each new, modified or Replacement Pole, Tower or Support Structure installed in the Public ROW shall not exceed thirty-five (35) feet in height.

(ii) New Small Wireless Facilities in the Public ROW shall not exceed thirty-five (35) feet in height.

d. Design Standards. The Design Standards for Communication Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers shall be adopted by the Town Board and shall be published on the official Town Website and made available to all Applicants at their request or upon submission of an Application. The Design Standards shall be subject to change upon thirty (30) days' notice to an Applicant and upon a majority vote of the Town Board.

**§ 249-27 Discretionary Review and Approval.** All other uses within the Public ROW or on private property not expressly set forth or referenced in Section 249-26a. shall require compliance with, and issuance of, a site plan approval pursuant to Chapter 249 and Chapter 290 of the Town Code. In determining the deployment and placement of Communication Facilities, the Planning Board shall consider the following criteria and its impact on the surrounding neighborhood during the Site Plan review process: (i) the design standards set forth in Section 249-26d. of this Article; (ii) the compatibility of further deployments and their potential impact on the surrounding neighborhood; (iii) the potential for Collocation of other Provider's Communication Facilities; (iv) the density fulfillment needs of the neighborhood.

**§ 249-28 General Public ROW Installation Requirements.**

a. General Work Requirements.

(i) General safety and compliance with laws. The Permittee shall employ due care during the installation, maintenance or any other work in the ROW, and shall comply with all safety and Public ROW protection requirements of applicable Laws, Applicable Codes, and any generally applicable Town guidelines, standards and practices, and any additional commonly accepted safety and Public ROW-protection standards, methods and devices (to the extent not inconsistent with applicable Laws).

(ii) Traffic control. Unless otherwise specified in the Permit, the Permittee shall erect a barrier around the perimeter of any excavation and provide appropriate traffic control devices, signs and lights to protect, warn and guide the public (vehicular and pedestrian) through the work zone. The manner and use of these devices shall be described within a traffic control plan in accordance with the Uniform Manual of Traffic Control Devices. The Permittee shall maintain all barriers and other traffic control and safety devices related to an open excavation until the excavation is restored to a safe condition or as otherwise directed by the Town.

(iii) Interference. The Permittee shall not interfere with any existing facilities or structures in the Public ROW, and shall locate its lines and equipment in such a manner as not to interfere with the usual traffic patterns (vehicular or pedestrian) or with the rights or reasonable convenience of owners of property that abuts any Public ROW.

(iv) Utility Locates. Before beginning any excavation in the Public ROW, the Permittee shall comply with CALL BEFORE YOU DIG.

b. Compliance with Permit.

(i) State that the Permittee must follow permit requirements. All construction practices and activities shall be in accordance with the Permit and approved final plans and specifications. The Town and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements. All work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Article, shall be removed at

the sole expense of the Permittee. The Town may stop work in order to assure compliance with the provision of this Article.

(ii) Address any needed additional permits. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to, [insert other specific local permits

c. Mapping Data. Insert required maps and as-builts. The Permittee shall provide to the Town as-builts, in a format designated by the Town or otherwise compatible with such format, showing the location of Communications Facilities, Poles, Support Structures and Towers upon completion of the permitted work.

§ 249-29 Attachment to and Replacement of Decorative Poles. Notwithstanding anything to the contrary in this Article, an Applicant may not install a Small Wireless Facility on a Decorative Pole, or replace a Decorative Pole with a new Decorative Pole unless the Town has determined, in its sole discretion, that each of the following conditions has been met:

a. The Application qualifies for issuance of a Permit under Section 249-26a.;

b. The attachment and/or the replacement Pole is in keeping with the aesthetics of the Decorative Pole; and

c. Notwithstanding anything to the contrary in this Article, an Applicant may not install a Small Wireless Facility on a Decorative Pole, replace a Decorative Pole with a new Decorative Pole, or install new above-ground Communications Facilities in a Residential Zoning District unless the Town has determined, in its sole discretion, that each of the following conditions has been met:

(i) The Application qualifies for issuance of a Permit under Section 249-26a.;

b. The attachment and/or the replacement Pole is in keeping with the aesthetics and character of the Decorative Pole and/or the Residential Zoning District;

§ 249-30 Violation of this Article. Violation of any of the provisions of this Article shall be a violation punishable with a civil penalty of \$250 for each violation. Each day that a violation occurs or is permitted to exist by the Applicant or Provider constitutes a separate offense.

2. This local law is effective immediately upon filing with the Secretary of State.

5. COMMUNICATIONS

A. CNY SPCA Dog Control Services & Cruelty Services Contracts (maintain shelter)

Supervisor McConnell advised that these are our annual agreement that are signed each year.

**R-213-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to accept the 2022 CNYSPCA Agreement for the Town of LaFayette and authorize Supervisor McConnell to sign the agreement for Dog Control services within the Town of LaFayette boundaries. Motion carried 5 - 0**

**William McConnell Supervisor Voted Yes**



<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

B. CNY SPCA Dog Control Services & Cruelty Services Contracts (Cruelty Investigation)

**R-214-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to accept the 2022 CNYSPCA Agreement for the Town of LaFayette and authorize Supervisor McConnell to sign the agreement for animal cruelty services within the Town of LaFayette boundaries. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

C Hamlet Property Update & Environmental Study results

- The Town made purchase offers in September
- Phase 1 environmental study has been completed for the old LaFayette Hotel building a few items that need to be looked at closer.
- Phase 2 is focused on looking at the gas/ kerosene pumps that were there back in the 1920's-30's.
- On November 15 & 16, 2021, C&S will be doing radar/sonar investigations and drilling holes to determine if any remediation is necessary due to contamination. This information will likely be ready by the next Town Board meeting. The hope is to obtain grant funds and we should know this by December/January.

D. Dog Park and Senior Center Updates

At the October meeting the Town Board decided to reject the bids for these projects.

- We have a \$50k grant for the Dog Park project but the bids came in significantly higher so this project has been put on hold and pursuant to the suggestion of C&S Engineering we are rebidding the projects sometime around January - March.
- We have received an additional \$25k grant from Onondaga County due to the increase in cost of materials.
- The Senior Center project bids were extremely high due to various factors.
- C&S Engineering is looking at ways to reduce the cost.
- Project will be postponed and rebid

- Supervisor McConnell & Councilor Marzo will meet with C&S in regards to the project.

E. 2022 LaFayette After-Prom Support Request

**R-215-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to support the 2022 LaFayette After Prom Party in the amount of \$200.00. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

F. DEC - Holiday Hunt

Attorney Brown explained that this was discussed at length during the October 12<sup>th</sup>, 2021 Town Board meeting. This is a proposal to extend the hunting during the Christmas holiday vacation. The Town of LaFayette and several other municipalities are opposed to this extension. The resolution below states the Town's opposition.

**OPPOSITION TO THE HOLIDAY HUNT DEER SEASON**

**WHEREAS**, it has come to the attention of The Town of LaFayette that the Department of Environmental Conservation (DEC) has proposed a special deer season from December 26 to January 1 (Holiday Hunt) for the entire southern zone of New York State.

**WHEREAS**, the Town of LaFayette is mostly a rural community; and

**WHEREAS**, during the holiday break many outdoor user groups (residents and from afar) enjoy the outdoors throughout the town; and

**WHEREAS**, most outdoor recreation is on standby until after the end of deer season; and

**WHEREAS**, this regulation will close the outdoors to the many users groups the week of Christmas and New Years' when much of Onondaga County has recreational snow, and

**WHEREAS**, there are many small businesses supported and dependent on the holiday week activity of these outdoor user groups at their establishments, many of which were abruptly closed due to the virus, are only starting to get back on their feet; and

**WHEREAS**, delaying the economic support that multiple outdoor user groups provide is unwarranted; and

**WHEREAS**, New York State has one of the longest most liberal deer seasons of all northern states (close to 12 weeks); and

**WHEREAS**, the DEC states it doesn't need these additional days to manage deer population; and

**WHEREAS**, the need to protect rural economies, small businesses, residents, multiple outdoor user groups and deer yards from special interest groups looking to expand the deer hunting season for a very small user group is unacceptable;

**NOW THEREFORE, BE IT RESOLVED**, that The Town of LaFayette respectfully requests that the DEC let the Town of LaFayette opt out of the Holiday Hunt and recommend that the Onondaga County Legislature pass a law opting out Onondaga County and end the deer hunting season in Onondaga County on or before 32 days after the third Saturday in November.

**R-216-21 Councilor Marzo moved and Councilor Palmer seconded the motion to enact the above Resolution in opposition to the proposed Holiday Hunt and allow Attorney Jeff Brown to forward said Resolution to the appropriate parties. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

G. DISH Wireless (Groth Road Tower) Policy Act Certification

Attorney Brown explained that that this new opportunity for the Town to rent space on the Town tower to a new user, DISH Wireless. Attorney Brown advised that he reviewed the contract and made edits to clarify things. Upon review by our consultant and himself it is recommended that we accept this contract as it will bring in an additional \$20-\$21k annually to our budget.

**R-217-21 Councilor Marzo moved and Councilor Palmer seconded the motion to authorize Supervisor McConnell to sign the Historic Preservation Act which is a standing document that goes with the tower. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

**R-218-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to authorize Supervisor McConnell to sign the agreement with DISH Wireless, LLC as negotiated by tower consultant to lease space at the initial rate of \$40,800.00 per year. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

**Carole Dwyer**  
**Jerry Marzo**

**Councilor**  
**Councilor**

**Voted**  
**Voted**

**Yes**  
**Yes**

H. Cardiff Water District update

- Letter to Cardiff residents went out this week to inform them of an informational meeting @ 5:30 pm on November 9, 2021.
- Cost? Approximately \$75 / quarter for a average user
- When will the work start? If agreements are signed this week work will start soon, before end of this year.
- Of the \$2.2 million from Honeywell the majority will go towards the Tully Valley side as they did not have their water mains replaced like LaFayette did a decade or so ago.
- Ten-year contract with the option to extend by mutual agreement.
- Town is exploring long term options

I. Introduce Local Law 5-2021 Noise Limitation/Public Assemblies

A second public hearing will be held on Tuesday, November 9, 2021 at 6:30pm due to several edits to the original draft of the law. Mark Distler, acoustic engineer reviewed the proposed changes from both sides. He recommended one change that dealt with the term "Broadband noise" stating that it may not be understood by the general public. It is proposed to change the term to "Noise without discreet tones". Because it is a substantive change a second public hearing is necessary. Attorney Brown advised that the less ambiguity you have in the law the better protected the town is. Other proposed changes to the Local Law 5-2021 would make it more subjective and more open to legal challenges.

**R-219-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to set the public hearing for Local Law 5-2021 for Tuesday, November 9, 2021 at 6:30 pm. Motion carried 5 - 0**

**William McConnell**  
**Steve Zajac**  
**Melanie Palmer**  
**Carole Dwyer**  
**Jerry Marzo**

**Supervisor**  
**Councilor**  
**Councilor**  
**Councilor**  
**Councilor**

**Voted**  
**Voted**  
**Voted**  
**Voted**  
**Voted**

**Yes**  
**Yes**  
**Yes**  
**Yes**  
**Yes**

J. Shared Services Agreement between NYSDOT and Town of LaFayette

Supervisor McConnell advised this is an annual agreement that we have with NYS DOT where we "share" services, equipment, etc... Attorney Jeff Brown advised he intends to ask the Highway Superintendent to ask the state to add a joint indemnification clause.

**R-220-21 Councilor Marzo moved and Councilor Palmer seconded the motion authorizing the Supervisor to sign the Shared Services agreement for 2021-2022. Motion carried 5 - 0**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

8. OPEN COMMUNICATIONS FROM THE PUBLIC

Resident, Steve Pitoniak had 3 questions:

1. He was not able to hear Attorney Brown with regard to the noise terminology. Attorney Brown explained that the term changed in the Local Law is noise without discreet tones, meaning noise that is different than what you normally hear.
2. Is Lake water still an option for the Cardiff Water district? Supervisor McConnell advised that it is still an option long term.
3. Is Ichor gone? Supervisor McConnell advised that they are. They vacated the building below Mahar Plaza and Dr. Sheffield is moving his dental practice there. Part of the reason they moved was due to lack of high-quality water available in the hamlet, therefore they have moved to Canton. He is unsure of what the status is with their office in the former Health Center building.

Departmental

1. Town Supervisor

a. Budget Officer Tom Chartrand advised that court fines have come in strong and we are approximately \$25k in excess of what we had budgeted for. Our Communications tower rentals are very close to budget and we should exceed that by a small amount. Happily, reported that Supervisor McConnell finally secured the \$50k DASNY grant that we have been trying to get for the past 3 years. General spending is at 51% without S.O.T.S / Revenue is at 114%; Highway spending is at 65% / Revenue at 103%; Library spending is at 68% / Revenue is at 99% Over all we are in good shape. Supervisor McConnell inquired to an approximation of what the fiscal carryover to next year would be. Tom advised that we have a lot of projects in the works right now that we have dedicated funds to so it would be difficult to project that at this time.

**R-221-20 Councilor Dwyer moved and Councilor Palmer seconded the motion to approve the fiscal report submitted by budget officer Tom Chartrand. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

Tom advised of the new transfer of appropriations for this month listed below.

**R-222-20 Councilor Marzo moved and Councilor Palmer seconded the motion to approve the transfer of appropriations as listed below. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

GENERAL FUND

To:

A1440.4	Engineer	Contractual	\$25,000.00
A5132.2.	Garage	Equipment	\$50,000.00
<u>A9050.8</u>	Employee Benefits	Unemployment Insurance	<u>\$ 1,000.00</u>
		<b>TOTAL</b>	<b><u>\$76,000.00</u></b>

From:

A599	Surplus	Mortgage Tax	\$25,000.00
A599	Surplus	DASNY Grant	\$50,000.00
A9060.8	Employee Benefits	Health Insurance	<u>\$ 1,000.00</u>
		<b>TOTAL</b>	<b><u>\$76,000.00</u></b>

**TOTAL** **\$5,000.00**

HIGHWAY FUND

To:

DA5130.4	Machinery	Contractual	\$20,000.00
		<b>TOTAL:</b>	<b><u>\$20,000.00</u></b>

From:

DA5110.1	General Repairs	Personal Services	\$ 5,200.00
DA5142.1	Snow Removal	Personal Services	\$ 4,800.00
DA9950.0	Transfer to Reserve	Intrafund Transfer	<u>\$10,000.00</u>
		<b>TOTAL:</b>	<b><u>\$20,000.00</u></b>

**R-223-21 Councilor Palmer moved and Marzo seconded the motion that a positive audit of the bank reconciliation of the Supervisor’s account for September was completed by Councilor Dwyer and for October by Supervisor McConnell and was appropriate. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

2. Town Attorney - Attorney Jeff Brown advised that he has nothing further to report at this time.

3. Highway Superintendent

**Roads:** Miscellaneous repairs and general maintenance to our roads are complete for this season.

I spoke with Robert Duell of Homeland Security and Emergency Services on storm damage from Hurricane Fred. I was informed that Onondaga County broke the threshold of 1.8 million dollars. FEMA approval for assistance with storm damage is still pending but the agency is expected to reach out to potential applicants in the next week or two. We spent 4 days cleaning up from the last round of rain on October 26<sup>th</sup> thru 29<sup>th</sup>. All time and materials reports will be compiled and ready for possible reimbursement from Hurricane Fred.

**Equipment:** Preparation of all our snow plow equipment will be completed this week and be ready for the first snow fall of this year.

Tentative delivery of the new Roadside Mower (New Holland) is pending. Tentative delivery of the new Truck 2 (International) is now March of 2022.

4. Town Clerk

a. Monthly Report for October and payment to Supervisor’s Account were in the packet for Town Board review.

b. Town Clerk Jackie Roorda reported that we have been very busy with hunting licenses and had a record day on September 30 we sold \$1,629.00 worth of hunting licenses. We are working to get information out to residents prior to Board meetings to conform with the Governor’s new law. We are looking into some programs that other local towns utilize to help keep us in compliance with this new law.

5. Building and Code Enforcement - Code Enforcement Officer Ralph Lamson submitted his written report for building permits, issued for October, 2021.

6. Justice Court

a. October 2021 Justices Reports.

Judge Perrin had 105 cases and turned over \$9,587.00 to the Town of LaFayette for October, 2021.

Judge Shute had 161 cases and turned over \$15,016.00 to the Town of LaFayette for October, 2021.

- 7. Library - No report
- 8. Parks - No report
- 9. LCC - No report
- 10. Fire Department - No report

B. Committee Reports

Monthly Report LaFayette Advisory Conservation Commission (LACC)

Submitted by: Mark Distler, LACC Chair

These are the LACC activities between October 8 and November 4, 2021:

- 1. Membership - No change in membership.
- 2. Meetings - No meeting was held. The next one is scheduled for November 16.
- 3. Special Projects - See attached status summary of special projects requested by the Town Supervisor.

Of note:

- a. The LACC received approval from Supervisor McConnell to obtain cost quotations for the tree and bench memorial program, which is expected to be ready for roll-out next Summer, if approved.
- b. At the request of Supervisor McConnell, the LACC reviewed the current solar farms law (290-35(H)) as well as similar laws from other towns, and are developing recommendations for law revisions, which will be submitted by end of the year.

7. NEW BUSINESS -

Councilor Zajac advised that he is looking into hiring a new handyman to handle general repairs and maintenance, monthly inspections and water testing. He approached Jeff Clarke who currently cleans the Community Center. Councilor Zajac advised he hopes to determine over the next month what Jeff would be willing to take on and what would be expected of him. He will report back to the Board at the December Town Board meeting.

8. Motion to audit and pay bills.

General Fund	18315-18345	\$ 35,844.47
Highway Fund	18346-18360	\$ 36,010.66
Special District	18361	\$ 112.15

**R-225-21 Councilor Dwyer moved and Palmer seconded the motion to audit and pay the above listed bills. Motion carried 5 - 0.**



<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

9. Motion to adjourn.

**R-226-21 Councilor Palmer moved and Councilor Dwyer seconded the motion to adjourn the meeting. Motion carried 5 - 0.**

<b>William McConnell</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes</b>
<b>Steve Zajac</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Melanie Palmer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Carole Dwyer</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>
<b>Jerry Marzo</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes</b>

The Town Board Meeting was adjourned at 6:09 p.m.

Respectfully submitted,

Jacqueline G. Roorda  
Town Clerk