

**INC. VILLAGE OF PLANDOME
BOARD OF TRUSTEES**

Board of Trustees SPECIAL Meeting

Wednesday, February 2, 2022 at 5:00pm – MINUTES

MEETING HELD REMOTELY VIA ZOOM



Present:

Tom Minutillo, Don Richardson, Jake Kurkjian, Bob Broderick, Jim Corcoran, Barbara Peebles

Also present: Robert Morici, Esq., Ed Ross Esq.

AGENDA

- I) Pledge of Allegiance
- II) Administrative:

a. Approval of the Extenet Settlement

The Board heard objection comments from the public. Special Counsel Ed Ross responded that there can be no guarantees that ExteNet will agree or be receptive to any further changes. That said, Ed Ross will have the Village wireless consultant confer with ExteNet's engineer to revisit. Clerk/Treasurer Barbara Peebles will follow up and coordinate accordingly.

Other residents shared their appreciation for all the due diligence, careful consideration, and extra steps the Board of Trustees took to ensure the most beneficial outcome to the residents of Plandome.

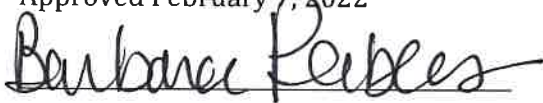
A motion was made by Trustee Jake Kurkjian, 2nd by Trustee Jim Corcoran to approve Resolution R-02-2022-B to approve the settlement of the Extenet Lawsuit. Appended to the minutes.

*Trustee Jake Kurkjian - aye
Trustee Jim Corcoran - aye
Trustee Bob Broderick - abstain
Deputy Mayor Don Richardson - absent
Mayor Tom Minutillo - aye*

There being no further business before the Board, motion to close the meeting by Trustee Jake Kurkjian, 2nd by Trustee Jim Corcoran, and unanimously approved. Meeting ended at 5:47pm.

Minutes submitted by Barbara Peebles
February 4, 2022

Approved February 7, 2022


Village Clerk/Treasurer



**Incorporated Village of Plandome
65 South Drive
Plandome, NY 11030
RESOLUTION R-02-02-2022-B**

Resolution Approving Settlement of ExteNet Lawsuit

WHEREAS, by Resolutions 11-2019-A and 01-2020-A, dated November 18, 2019 and January 21, 2020, the Village of Plandome through its Village Board (“Village”) denied the application of ExteNet Systems, Inc. (“ExteNet”) to install a total of ten (10) Wireless Telecommunication Distributed Antenna System (“DAS”) nodes in the Village;

WHEREAS, ExteNet challenged the denial in the U.S. District Court for the Eastern District of New York in an action entitled *Extenet Systems, Inc. v. Village of Plandome*, E.D.N.Y. Docket No. CV 19-7054 (GRB)(RLM) (the “Litigation”);

WHEREAS, by Memorandum and Order dated September 29, 2021, and subsequent Judgment, the Court granted summary judgment in favor of ExteNet in the Litigation and ordered that the Village and Village Board “are directed to grant plaintiff’s application and issue all necessary permits and authorizations for plaintiff to put its application into effect”;

WHEREAS, by Resolution 10-2021-A dated October 12, 2021, the Village Board resolved to grant plaintiff’s application and issue all necessary permits and authorizations, under compulsion of the Court and under protest and subject to the Appeal, and subject to all other requirements of the Code, and to authorize settlement discussions with the assistance of a technical consultant retained on behalf of the Village;

WHEREAS, the Village filed an appeal before the Second Circuit Court of Appeals (the “Appeal”) in order to preserve the Village’s appellate rights pending settlement discussions and negotiations;

WHEREAS, the Village retained Henningson, Durham & Richardson Architecture and Engineering, P.C. (“HDR”) to review and assist the Village with any terms of a potential settlement; and

WHEREAS, ExteNet and the Village, and their respective legal representatives and consultants, including HDR, engaged in settlement discussions

and negotiations with respect to a proposed settlement of the Litigation and Appeal; and

WHEREAS, the proposed settlement has been memorialized in a Stipulation of Settlement dated January 29, 2022 (Exhibit A hereto, the "Settlement"), which is subject to Village Board review and approval; and

WHEREAS, the Village Board finds it in the best interests of the Village to enter into the Settlement because it will reduce the impacts from ExteNet's installations while providing similar coverage to ExteNet's initial application, and eliminate the need for further costly and time-consuming litigation and will eliminate additional risks and uncertainties with respect to the Appeal;

NOW, THEREFORE, BE IT

RESOLVED, that the Village Board authorizes the following:

1. The Village Board approves the Settlement and authorizes the Mayor, Village Attorney, special legal counsel, and building and planning department to take such actions as may be necessary to effectuate the forgoing, including, without limitation, making appropriate judicial application to effectuate the terms of the Settlement and issuing modified approvals and permits to reflect the terms of the Settlement; and

2. The Village Board approves payment of HDR's invoices totaling no more than \$12,000.

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Resolution approved unanimously by the Board of Trustees, filed with the Village Clerk, and to be appended to the minutes of the meeting.

Approved February 2, 2022



Barbara Peebles  
Village Clerk/Treasurer

Date 2/2/2022