

THE SPECIAL MEETING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTEBELLO WAS HELD ON WEDNESDAY, MARCH 25, 2026, AT THE DR. JEFFREY OPPENHEIM COMMUNITY CENTER, 350 HAVERSTRAW ROAD, MONTEBELLO, NEW YORK. THE MEETING WAS CALLED TO ORDER AT 7:15 PM. FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

Present:	Lance N. Millman	Mayor
	Stacy Caridi	Deputy Mayor
	Michael Humphrey	Trustee
	Bruce Egenhauser	Trustee
	David Rose	Trustee
	Warren E. Berbit	Village Attorney

Recording Secretary: Joan Will	Village Clerk-Treasurer
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**Resolution No.26 – 035**

**Village of Montebello**

Title: Approval of Minutes for March 18, 2026

BE IT RESOLVED, the minutes of the Board of Trustees of March 18, 2026, be and are hereby approved.

Motion: Trustee Egenhauser

Second: Trustee Rose

Deputy Mayor Caridi abstained.

**Resolution 26 - 036**

**Village of Montebello**

Title: NEGATIVE DECLARATION

Re: Monroe Balancing Test Determination and Lease to Homeland Towers, LLC

BE IT RESOLVED, Pursuant to Part 617 of Article 8 of SEQRA that Notice of Determination stamped in March 24, 2026, of Non-Significance is hereby given in the referred matter for the reasons set forth in said Notice; and, as a consequence, a Draft Environmental Impact Statement (DEIS) will not be prepared, the Village Board, as Lead Agency, having relied upon the Environmental Assessment Form (EAF), and all documents and testimony on the Record; and

THEREFORE, BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to sign and date said Notice which shall be filed with the Village Clerk and made available for viewing, along with the EAF and all documents and testimony in the Record.

Motion: Deputy Mayor Caridi

Second: Trustee Egenhauser

Roll call:

Mayor Millman	-	yes
Deputy Mayor Caridi	-	yes
Trustee Egenhauser	-	yes
Trustee Humphrey	-	yes
Trustee Rose	-	no

**Resolution No. 26 - 037**

**Village of Montebello**

Title: Approval of Lease to Homeland Towers, LLC and Monroe Test Exempting Portion of Village Property from Village Code

WHEREAS, the Village of Montebello owns a parcel of real property located at 350 Haverstraw Road, Village of Montebello, NY (“subject premises”), utilized as the Dr. Jeffery Oppenheim Community Center; and

WHEREAS, the Village Board of Trustees (“Village Board”) desires to lease a portion of the subject premises to Homeland Towers, LLC (“Homeland Towers”) for the purpose of constructing, establishing, and maintaining a public utility wireless telecommunication facility (“Facility”), which facility includes a monopine tower and associated facilities, including radio transmitting and receiving antennas, communications equipment, and related cables, wires, conduits, air conditioning equipment and other appurtenances, as shown on a certain plan for said purpose as submitted to the Village Board; and

WHEREAS, the Village Board of Trustees finds that it is in the best interest of the Village to lease a portion of the subject premises with access, as set forth in a certain Lease, a copy of which is annexed hereto as Exhibit A, and as shown on the aforementioned Site Plan (hereinafter referred to as the “Lease Area”), to Homeland Towers, LLC, a New York limited liability company having a place of business at 9 Harmony Road, 2<sup>nd</sup> Floor, Danbury, Connecticut 06810. As shown by V-Comm in the Radio Frequency Justification reports submitted by Homeland Towers, there is a significant gap in reliable wireless communications in the area of the subject premises. The Facility will remedy that significant gap in service and provide support for at least three (3), possibly four (4) wireless carriers and the Village’s public service entities as detailed in the Lease and on the Site Plan. Given its location adjacent to a gas line and undeveloped park on a municipal hall property, and thus in a sparsely populated area of the Village optimally located to address the void, the Facility is the least intrusive means of remedying the significant gap in service; and

WHEREAS, in accordance with Article 8 of the Environmental Conservation Law (the State Environmental Quality Review Act) and 6 NYCRR Part 617 of the implementing regulations, the Village Board declared its intention to be lead agency and circulated its intention

to any Involved Agencies and Interested Agencies, none of which objected to the Village Board acting as Lead Agency. Thereafter, the Village Board declared itself Lead Agency in a coordinated review and classified the action to be an UNLISTED Action; and

WHEREAS, the Village Board has reviewed the Environmental Assessment Form submitted for the project and all supporting documentation and comments; and

WHEREAS, the Village Board issued a negative declaration of significance pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, in that it has determined that the proposed action, namely entering into the aforementioned Lease and Monroe Balancing Test Determination, will not have a significant environmental impact and that a Draft Environmental Impact Statement will not be prepared. A copy of the Negative Declaration is attached hereto as Exhibit B; and

WHEREAS, duly noticed public hearings were held on October 22, 2025, January 21, 2026, February 18, 2026, and March 18, 2026. All persons interested were given an opportunity to speak and before that field tests were performed, all with public notice provided, full participation, full opportunity to participate, and certain objectors were represented by counsel; and

WHEREAS, the agreement between the parties pertains to Village property not presently being utilized by the Village and not anticipated to be needed by the Village over the term of the agreement, and the agreement is for fair market value and in the best interests of the Village and its residents. No further Village permits or approvals are required other than a building permit. See Matter of County of Monroe v. City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (“Monroe”). Accordingly, no other zoning approvals are required; and

WHEREAS, it is well-recognized under New York State Law that Villages are accorded certain immunity from local zoning regulations; and

WHEREAS, the leading New York Court of Appeals decision in Monroe establishes the balancing of the interest’s approach for determining whether a project should be accorded immunity from local zoning regulations; and

WHEREAS, Monroe permits the Village to determine whether or not it is in the public interest to subject a particular project serving governmental interests to local zoning; and

WHEREAS, Monroe discusses the following nine (9) factors for consideration when balancing the interests of the public and the governmental entity:

- 1) The nature and scope of the instrumentality seeking immunity;
- 2) The encroaching governmental entity’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 facility 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) The intergovernmental participation in the project development process and an opportunity to be heard;

(Collectively, the “Monroe Balancing Test.”)

WHEREAS, in Bruenn v. Town Bd. of the Town of Kent, the Supreme Court of the State of New York ruled that the Monroe Balancing Test is applicable to telecommunications facilities on the property of the municipality performing the Monroe Balancing Test, as in this case. See also, Carmelos v. Armenia, 152 A.D.2d 928, 543 N.Y.S.2d 832 (4th Dep’t 1989) (Town of Grand Island immune from its own zoning under Monroe for installing floodlights at Town-owned tennis courts without challenge from second governmental entity); Corrini v. Village of Scarsdale, 1 Misc.3d 907(A); 781 N.Y.S.2d 623, 2003 WL 23145905 (Westchester Sup. 2003) (Monroe Balancing Test exempts Village’s construction of ambulance facility on Village-owned land from zoning without challenge from second governmental entity); Dunn v. Warwick, 146 A.D.2d 601, 537 N.Y.S.2d 174 (2d Dep’t 1989) (Town effort to construct Town Hall on Town-owned property not subject to zoning and no challenge from second governmental entity); In the Matter of the Application of Richard Syms v. Town of Amenia, Supreme Court of Dutchess County, Index No. 5002/2002 (Town Board appropriately applied the Monroe Balancing Test to exempt a wireless telecommunications tower from zoning on Town-owned property without challenge from second governmental entity). The Village Board thus finds it has clear authority to conduct the Monroe Balancing test and determine whether any zoning variances or other approvals may be required; and

WHEREAS, the record in this matter includes the following reports and documentation, as well as all testimony and materials submitted throughout the process and at the public hearings: the Environmental Assessment Form; the support letters from Verizon Wireless and T-Mobile confirming their needs for the Facility; the Site Plan; the Lease terms; the RF Exposure Report prepared by Pinnacle Telecom Group, dated June 30, 2025 (“Pinnacle Report”), confirming that the Facility will comply with all applicable radio frequency exposure regulations, with the maximum exposure being 6.3654 percent of the FCC general population limit even under worst-case calculations; property value analysis by Paul A. Alfieri, MAI Certified General Appraiser of Lane Appraisals, Inc., dated October 30, 2025 (“Appraisal Report”), finding that the “installation, presence and/or operation of the proposed Facility will not result in the diminution of property values or reduce the marketability of properties in the immediate area[;]” noise study evaluation by Dave Weinpahl, P.E. of On Air Engineering, LLC (“Noise Letter”), confirming that the Facility will not create any unreasonable noise; RF Justification Reports by Dominic C. Vilecco and David K. Stern of V-Comm, dated June 17, 2025 and December 15, 2025, demonstrating the need for the proposed Facility and providing propagation maps and actual drive test data and studying alternative technologies and the minimum height of the Facility; photographs of alternative branch and pole colors for the proposed Facility; list of references for Homeland Towers; US Fish and Wildlife Service (“USFWS”) letter dated November 18, 2025; TriLeaf letter dated January 8, 2026, confirming SHPO concurrence that No Historic Properties exist in the area of potential effects for Direct Effects and there will be No Adverse Effects on Historic Properties within the area of potential effects for Visual Effects; Visual Resource Assessment, including Appendix A - Viewshed Maps, revised to include the locations of new photo points in Harriman State Park which

demonstrate no visibility (see new Photos 23, 24 and 25), Appendix B - Photo Log, revised to include photographs from trail overlooks within Harriman State Park (see new photos 23, 24 and 25), Table 1 - Photo Locations, including photos 23, 24 and 25, and Appendix C - Photo Simulations, revised to include photo simulations illustrating a brown painted monopole alternative (see photos 01, 02, and 14); Alternative Site Analyses by Klaus Wimmer dated April 15, 2025 and November 17, 2025, confirming that the proposed site is the most suitable and least intrusive to remedy the service needs of T-Mobile and Verizon Wireless; and species analysis letter from Tri Leaf, dated September 19, 2025; and structural certification letter, signed and sealed by Dave Weinpahl, New York State Licensed Professional Engineer. All material submitted by the public were also considered, including the Memorandum from Andrew Campanelli with exhibits (it being intended that all submitted materials be included irrespective of whether omitted in mention in the foregoing listings).

NOW, THEREFORE, upon a duly noticed public hearing and upon the evidence adduced thereat and the entire written record in this matter, it is hereby found and determined that based upon a review of the foregoing considerations, this Village Board has adopted the following findings of fact:

FIRST: The Village is a municipal corporation of the State of New York and provides emergency and public safety protection to its residents. Therefore, the Village is purely public in nature and is a governmental entity that provides an essential public service.

SECOND: The Facility will be located within the municipal borders of the Village, and therefore there is no encroaching entity. The Village has authority to lease Village lands. NYS Village Law § 1-102(1) provides: A village “shall have power . . . to take, purchase, hold, lease, sell and convey such real and personal property as the purposes of the corporation may require.” Here the land to be leased is vacant land and not devoted to public uses and is not necessary for the purposes of the Village. Moreover, the lease is fair compensation for the vacant land.

THIRD: The function or land use contemplated by the Village under the Lease is a public utility wireless communications facility. The Facility will consist of a 100-foot tower and compound to support the communication needs of various Village departments, and to provide for the collocation of antennas operated by wireless public utility telecommunications service providers, including Verizon Wireless and T-Mobile. See Verizon Wireless and T-Mobile letters. Verizon Wireless and T-Mobile are each a public utility in this context. In Cellular Telephone Company v. Rosenberg, the Court of Appeals unambiguously held that federally licensed wireless carriers provide an essential public service and are public utilities in the State of New York which should be accorded favored treatment. Cellular Telephone Company v. Rosenberg, 82 N.Y.2d 364, 604 N.Y.S.2d 895 (1993). Moreover, in Cellular Telephone Company v. Town of Oyster Bay, the Second Circuit Court of Appeals, citing Rosenberg, held that: “[i]n New York, cellular telephone companies are afforded the status of public utilities.” See Cellular Telephone Company v. Town of Oyster Bay, 166 F.3d 490, 494 (2d Cir. 1999) (internal citations omitted). Testimony from emergency service personnel demonstrated the need for the Facility for Village purposes.

FOURTH: Imposing local land use regulations on the proposed Facility would have the effect of unreasonably delaying or denying essential public need for immediate and effective

emergency response and reliable wireless communications. See Dunn v. Warwick, 146 A.D.2d 601, 604, 537 N.Y.S.2d 174, 176 (2d Dep't 1989) (When applying the Monroe Balancing Test, "no element should be 'thought of as ritualistically required or controlling'"); Town of Hempstead v. State of New York, 42 A.D.3d 527, 840 N.Y.S.2d 123 (2d Dep't 2007) ("[w]e note that even assuming that the Town is correctly contending that the subject tower is more visible from the surrounding residences than the negative declaration pursuant to SEQRA states, this factor does not outweigh the public benefits which are gained from more widespread cellular coverage in the subject area").

FIFTH: There are no alternative locations for the Facility in less restrictive zoning areas as such facilities are not expressly regulated. There are also no other feasible alternative locations. See Alternative Site Analyses submitted by Klaus Wimmer. Location on parkland would be a speculative and difficult process requiring parkland alienation legislation passed by the State Legislature and signed by the Governor and the Village would lose control of the project including being able to limit the height. Moreover, the proposed location for the Facility at the subject Property is ideal in order to minimize aesthetic impacts to the greatest extent feasible based on the large size of the property and distance from neighboring uses, as demonstrated by the Visual Resource Evaluation. The Property already supports municipal operations, and therefore the location of the Facility on the Property will not have a detriment on the community. By locating the Facility on municipal property, the Village can ensure that there is adequate infrastructure in place for the location of emergency communication antennas while controlling the proliferation of new towers.

SIXTH: The Facility will not have an adverse environmental or other impact on the public because the Facility will be sited on a large parcel distant from neighboring residential uses. See EAF, Visual Resource Assessment, TriLeaf letter confirming SHPO concurrence and USFWS Letter. The Facility will benefit the public interest by providing essential services, by producing revenue for the Village, and 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 Facility will comply with all structural standards and will not adversely affect the public health, safety or general welfare. The tower meets the underlying setbacks. No variance would be required even if the project was not exempt from the Zoning Code. Moreover, the tower will be structurally designed to meet or exceed all applicable Federal, state or local structural requirements and have a fall zone less than the distance to the closest property line and will not create any adverse impacts due to ice fall or fire. See structural certification letter, signed and sealed by Dave Weinpahl, New York State Licensed Professional Engineer. The Facility will not cause any harmful interference with the frequencies of any radio, television, telephone or other uses. The Facility 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 Facility will not produce any smoke, gas, odor, heat, dust, noise above ambient levels, fumes, vibrations or flashing lights; the Facility will not generate solid waste, wastewater 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 Facility, even under "worst-case" conditions, will be several orders of magnitude below the exposure limits established by the FCC.

See FCC Compliance Report. The Facility will not impact any wetlands and will not be located within any wetland buffers. See Site Plan. The Facility will not adversely impact property values. See property value analysis by Lane Appraisals, Inc., dated October 30, 2025, finding that the “installation, presence and/or operation of the proposed Facility will not result in the diminution of property values or reduce the marketability of properties in the immediate area.” The Village also retained its own expert who concurred with these health and safety findings.

SEVENTH: Due to the topography of the Village, the proposed height of the Facility is necessary to provide reliable wireless communications services in the local area and support collocation, thereby discouraging the proliferation of towers. See RF Justification Reports by Dominic C. Villecco and David K. Stern of V-Comm, dated June 17, 2025, and December 15, 2025, including actual drive test data.

EIGHTH: The Facility will protect and promote the public interest, in that it will serve and benefit the entire community by providing the infrastructure necessary to offer the public wireless telecommunications services essential for protecting public health, safety, and welfare, including the provision of enhanced 911 services. See RF Justification Reports by Dominic C. Villecco and David K. Stern of V-Comm, dated June 17, 2025, and December 15, 2025.

NINTH: The zoning exemption contemplated by this resolution shall apply and extend to the commercial public utility antennas and related equipment located on or associated with the Facility consistent with the decision of the New York State Court of Appeals in Crown v. Department of Transportation, 4 N.Y.3d 159, 791 N.Y.S.2d 494 (Court of Appeals 2005). Any such entities must obtain a Building Permit from the Village to locate at the Facility.

TENTH: The agreement is for Village land that will not be required by the Village over the term of the Lease, and the compensation provided to the Village under the agreement is for fair market value representing substantial revenue over time.

ELEVENTH: The Village Board of Trustees has reviewed the project, has conducted multiple open meetings, and has held Public Hearings on October 17, 2025, January 21, 2026, February 18, 2026, and March 18, 2026, in addition to field viewings and tests at the site at which the public was present. Moreover, the application has been circulated to any Involved and all Interested Agencies under SEQRA and provided all notices required under the New York State Village Law. Therefore, the public has been given ample opportunity to be heard.

NOW THEREFORE BE IT RESOLVED, that based upon the foregoing balancing of interests, it is not in the public interest to subject the Facility to local zoning regulations, and the Facility is exempt from same, requiring only a Building Permit from the Village; and

BE IT FURTHER RESOLVED, that the Village Board of the Village of Montebello hereby authorizes and grants approval for the project on the subject premises to Homeland Towers, LLC, upon the terms and conditions contained in the Lease and as detailed on the Site Plan, incorporated herein by reference thereto, subject to Building Permit review and non-substantial changes thereto for issuance of the Building Permit. Tree removal understood to represent commencement of construction, may commence immediately in order to comply with tree clearing restrictions and

protect threatened and endangered species. The height of the tower shall be constructed to a height of 100 feet and may only be extended in the future not to exceed 110 ft but with the authorization of the Village pursuant to applicable law, color of tower trunk and foliage to be the most subdued unless timely changed by the Village Board; and

BE IT FURTHER RESOLVED, that the Village Board of the Village of Montebello approves the Lease with a maximum tower height of 110 feet under the lease (with initial construction limited to a 100-foot tower until and unless further action by the Village Board) and hereby authorizes the Mayor to execute any and all documents necessary to give effect to this resolution.

Motion: Deputy Mayor Caridi

Second: Trustee Egenhauser

Before voting, Mayor Millman stated that before he calls for a Roll Call Vote, he will give each Trustee an opportunity to make a comment or statement.

Trustee Humphrey stated he had no comments.

Trustee Rose stated he wished to make several comments. In paragraph "Fourth", the portion that discusses the imposing local land use regulations and the effect of unreasonably delaying or denying essential public needs for immediate and effective emergency response and reliable wireless communication seems to still be in dispute.

In paragraph "Fifth", it has been discussed that it should be put in parkland; however, the company stated it would be a speculative and difficult process. He stated so, that's why they call it work. He stated that although it might not be in Homeland's best interest, it might be in Verizon or T-Mobile's best interest to contract with the people that own the power lines and put them on them. They are not nice to look at as they are.

In paragraph "Sixth", the facility will not have an impact on the public which he feels is still in dispute. In that same paragraph, it states fall zones will be less than the distance to the closest property, but it does not state if it falls in the parking lot and there are cars there, people there or kids playing there. He states it has not been ascertained whose responsibility it is.

In paragraph "Seventh", states that the height of the tower is necessary to which he comments then do not put it there.

In the lease, in paragraph marked 7, states that Homeland can put whatever they wish on the property they are leasing. What happens if they install equipment that is less safe or cheaper.

Trustee Rose stated that several tests have been done on the quality of service of the two carriers in question, several people stated they had spotty service, others stated that had adequate service, the unknown here is we do not know what these people are using whether it is state of the art Apple products or are they still using Blackberry. Does not think spotty service is the yardstick to measure anything.

Trustee Egenhauser had no comments.

Deputy Mayor Caridi had no comments other than stating that she has reviewed all the documents presented.

Mayor Millman stated that at this time, all the public hearings, that everyone was heard. He stated that given the opportunity with multiple public hearings. He stated that we have had other professionals advise and have noted it and added it to the resolution.

At this time, Mayor Millman calls for a Roll Call Vote.

UPON ROLL CALL VOTE:

Mayor Millman	Yes	Deputy Mayor Caridi	Yes
Trustee Egenhauser	Yes	Trustee Humphrey	Yes
Trustee Rose	No		

Mayor Millman stated that the board has always looked out for the best interests of everybody in the Village of Montebello.

At 7:50 PM, Deputy Mayor Caridi made a motion to close the meeting, seconded by Trustee Egenhauser. Vote carried unanimously.

Respectfully submitted:

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Joan Will, Village Clerk - Treasurer