

Planning Board Meeting
February 25, 2019

Tim Wilford, Chairman
Deb Hext
John Hukey
Steve Caruso

ABSENT:
Wayde Bush
Connie Rue, Alternate

Lance Moore, Building and Zoning Officer
Dean Whalen, Board Liaison
Kelly Best, Secretary
Justin Heller, Village Attorney
Jeff Moller, Superintendent Public Works
Todd Pucci, Altamont Police
Bill Biscone, Applicant, ECS
Josh Silver, Attorney for ECS
16 citizens

Chairman Wilford opened the meeting at 7:05 pm.

Chairman Wilford:

Good evening everyone. Welcome to the Village of Altamont Planning Board meeting. My name is Tim Wilford. I am the chairperson of the Planning Board. This is Steve Caruso, Deb Hext and John Hukey. Justin Heller is our attorney. We are missing two members tonight. One's an alternative, who normally doesn't take the chair unless required. The other one that's also not here. So we're down one person. So we are here with a continued review of an application for a special use permit for ECS, uh, to erect a 120 foot pole telecommunications facility consisting of 120 foot monopole at 23 Agawam Lane. Okay. So we've gotten your updates in regards to the slimmer booms. I saw some information we toss back and forth about the pad going smaller than your lease allows you. ECS felt it's in their best interest. They can still use the full 80 as outlined in the lease. But you were going to size it down those little bit, is that correct? As far as their footprint in some way. Right.

Mr. Silver:

That is correct. The pad is 55 by 70 feet instead of 80 by 80.

Board member Hukey:

Not 80 x 80? So your site planning is not up to date. It shows 80 x 80 on the one you gave me.

Chairman Wilford:

It is right here, John. Take a moment to look it over.

Board member Hukey:

If I am reading it right.

Chairman Wilford:

Take a moment to look it over, so we are all on the same page.

Board member Hukey:

On the SP1, it shows proposed 80 x 80 leased area.

Mr. Silver:

So yeah, can I come up? It's the shading. So we're showing the lease area in the same size, but this is the fenced in area and

I've got a detail here, so I'm showing the ECS fenced in compound 55 by 70, but we still want it to show what the lease area, but that's not where improvements going. So you could see that you see the uh, the um

Chairman Wilford: You both see this.

Board member Hukey: Yeah.

Board member Caruso: Yeah.

Board Member Hext: Yeah.

Chairman Wilford: Okay. Um, we have received your environmental reports for wildlife and can go through that. Um, that came back with a no negative declaration on their side for the endangered species, particularly the two bat varieties, I should say. That's the Department of Interior Fish and wildlife service reports come out. Right. And I also have, was it the Site Safe report? It was a RF thing.

Mr. Silver: Electromagnetic?

Chairman Wilford: Yeah. So we received that paperwork too. Those documents that we asked for.

Board member Hext: We received that the site was in compliance with the RF emissions. So I just want to say that we, you know, not only received it, but in both cases, it's in compliance.

Chairman Wilford: It's important to thank you. Okay. Was there any information; is there any information that the board doesn't have that I remember asking him for? That could be clarified.

Board member Caruso: I don't believe so. No.

Chairman Wilford: John?

Board member Hukey: No.

Board member Hext: No.

Chairman Wilford: Okay. So is the time that you guys want to continue with the public comments? We can do that. Thank you for the information. You guys okay with that?

Board member Hext:

I'm okay with allowing public comment. If someone new here that is something new to present. Um, but you know, I think, I think we've read and heard everyone's opinions on this, but I would like to give anybody that hasn't been here and hasn't presented something a chance to get up and speak. Um, yeah, I think that's most important. Then if someone still wants to get up and present something new, I'd be fine with that. But we have the same people coming up and saying the same thing all the time, we're taking away from those who have something different to say.

Chairman Wilford:

Okay. So let's start, uh, anyone would like to come up, make a public comment in regards to the EEC application. Um please make sure you speak into the microphone. State your name, your address, and uh, give us to your comments, concerns or feedback regarding this whole process.

John Sands:

My name is John Sands. I live at 118 Grand Street, Altamont. And my sister lives at 144 Helderberg Avenue. And I'm not sure if this is a done deal or what. I just want to give some feedback regarding this whole process. And I think that, my sister is an attorney in Washington and she hears a lot of these kind of cases and she thinks that um, the village really doesn't understand what they're getting into and her sense is that you're opening up Pandora's box by putting it on public land and she's been around, all over the country where they had this done. And um, she goes, uh, the cost to the municipalities to defend these lawsuits, she says they are astronomical and she's not so sure that the village should even enter into this. I don't know if they gave any thought to that or not, but she says she does know from personal experience, it's a huge issue in places where she has worked. I think you got to keep that in mind. In addition to that, it's my understanding that in Europe, they are much stricter about these things and it, uh; you really can't site these things within a half a mile, the new 5 G unit, of a legal residence. And clearly that doesn't apply here. And the other issue is, I don't know, my brother's been in the medical business for a very long time and uh, he talks about the effect on the electromagnetic fields and things like that. And, um, because of him, that was his research business, he says it. Again, I really don't think the Village has done its research. They understand that the Village will get a little bit of money to offset some of the cost but quite honestly, to go down this road and not think long term. And I think a little bit more long term, um, as long as they agreed to do this. And I don't know if they just agreed to do this, uh, because uh, they didn't, uh, clearly think it out or it was misrepresented to them.

Mr. Sands:

It was some of the criteria that force them to say that, you know, or maybe just uninformed about it, who knows. But, um, I do think that you maybe want to reconsider it. And uh, of course there's always the issue with cell towers. This is not new. The old technology was such that people clambered about the new technology is quite different than the old. And the issue on that is really the (inaudible) opinion on that kind stuff and it probably won't be for a while. And usually there are studies that is done for this stuff beforehand and it takes so long too straightened out. So, um, so anyway, that was, I'm sure getting involved in something that is, my sister said, you know, \$7,000 a year or whatever they are supposed to get, she goes, like, I just don't get it. She said they had no idea what kind of Pandora box they are going to open up and she goes, being with justice department, she sees a lot of these kinds of things all over the country and she goes, she just doesn't know. And it would be, seem to me also, if they want to correct this thing, that there will be better sites within the, you know, the, you know, the area here then to put it on Village property. Um, you know, whether it's private property, or not, but again if it's not suited for sited property, I think that no matter whether it's public or private, they leave themselves open for law suits, one way or the other. And I'm not sure that the, the tower that they could give guarantees and assurances bonds or wherever it happens to be to see that doesn't happen. Um, I do know that the cell service in the village is a bit spotty, you know, I have had a cell phone for 40 years. And it's almost; it's been lousy here for a long time. But it hasn't been bad lately in the past few years. Considerably better than it used to be. So, but again, I think that they should think about this. And one other thing is that, I don't know if the village was talking about this or not, but when you site a cell tower next to our residents, or any kind of property, what does that do for health of the district? That doesn't make much difference because the perception is there are something not good about it and so, and the boundaries of the property around it. Um, and I think that's certainly the case for those people who were adjacent. My sister's, I agree, is adjacent to this. My brother Dean actually has a piece of property which is adjacent to this. Um, and so I always say, so who compensates the homeowner um, is this person, whoever he is when the decision's made, who compensates them for the loss in value of their home. Um, usually, uh, and they take the hit on it um, the name of the public good, it's better for the public good. And I'm not sure that that's exactly true, but I would come back to the fact that in Europe, there is much more stringent on these things, especially with the new technology which I think is a hundred times better than the old technology so, and they require them to site those away from those populist areas. And

my brother says from his research on a lot of this stuff, he said he wouldn't move within three miles of one of these things. Uh, that's a little bit extreme. If they can put the cell tower close to, you know, if they can get the information of what I'm saying is absolutely wrong, (inaudible). What I do know, my brother, who's been in the medical research business for years (inaudible) and my sister who's been an attorney (inaudible). They say you're opening Pandora Box. Um, and you really ought to think twice about this, because sooner or later, more likely sooner, you're going to be involved in a legal business that's going to cost the village a lot of money. So that is pretty much what I have to say. Thank you.

Chairman Wilford:

Thank you. Anyone else at this time?

Board member Hukey:

Can we ask them to speak up?

Chairman Wilford:

We ask that you try to speak up as loud as you can. Um, and into the microphone.

Dagmar Frinta:

My name is Dagmar Frinta. I live at 105 Maple Avenue, and I just handed a copy of the minutes January 7th 2014. Okay. And I, I attended the meeting then because I have heard started through the grapevine that there might be a cell tower and I would request making the Planning Board to review the tape of that meeting because it was the client, my memory is not quite as sharply clear but, it was my understanding that when I asked about it, the village board said, don't worry, I'm saying I was getting a little bit nervous, there will be plenty of time for public comments and I just found out that actually one week after they said that they sign the lease for the site. So I wonder where the time for public comment was because that really wasn't time. Sorry, I'm just getting really upset about it. That was really the time when the public should have been invited to discuss this thing, not putting it on the Planning Board. It should have been discussed before it was even leased. So, I find that there's a problem way back and if you can maybe listen to the tape of that meeting and see what was said because I, I didn't realize that there would be public comment on it before it was even started. Like John says, once it's signed, it is going to be much harder to have public comments. Thank you.

Board member Hext:

Thank you.

Harvey Vlahos:

Harvey Vlahos, 221 Main Street in Altamont. I gave everybody a copy of this, but I would like to just read it so it becomes part of public record that um, there's been discussion about end of useful life, a removal of the tower and the village should insist,

that ECS place the estimated monies and decommissioning, for decommissioning in an escrow account rather than simply getting them to agree to do it, you just take a look around at the national landscape and how companies have failed and gone bankrupt or worse yet deliberately went bankrupt to avoid obligations and stuck taxpayers with cleanup bills, so what is there to prevent this from happening in this situation. And then, the other thing is, that my understanding is, at this time anyhow, the Federal Law permits, um prohibits denying a tower based on radiation claims, now, 5G technologies is new, alarm bells have already been raised. Uh, if in the future is determined that 5G does have a deleterious effect on the people within a certain radius, ECS and everyone involved was to have an escrow account that will pay for removing the tower even before the end of useful life occurs. And then the other thing is that, uh, I wanted to say has the board, and this is really not a rhetorical question, but, has the board any kind of study as to what the effect will be on the property values. Uh, is this something that apparently is, uh, throughout the country? It does have some sort of effect on that, I am wondering if we entered into something like that without having done a study on that. Has there been a study?

Board member Hukey:

Not that I am aware of.

Board member Hext:

Not that I am aware of.

Board member Caruso:

Not that I am aware of.

Mr. Vlahos:

Okay, we get to see that the contract was signed. So that seems problematic. Thank you.

Chairman Wilford:

Anyone else at this time like to make a comment?

David Burke:

David Burke, 6 Sanford Place. Oh, pardon my scratchy voice. I'm fighting a bit of a cold here. Um, but I want to compliment all our neighbors and our Board for coming out at such a blustery night, uh, either shows you care an awful lot or you have a lot to gain. Uh, on a procedural note, I respectfully informing the planning board that today's meeting agenda was not posted online until just a couple of hours ago. Um, I'm not sure the proper procedure, that's really not enough advanced time for review and preparation. Thank the Board in advanced for listening to your neighbors voices and having an open mind, hoping it's not made up yet and for, hopefully, we're going the best for Altamont, our historic village, the rural western corner of Guilderland, the farm country end of Guilderland, and the scenic end of Guilderland, a unique historic village. People who

care about the Altamont, cherish our incredible view. The Helderberg Escarpment. It defines us. It defines our village. It is the first thing people say is the reason we want to be here, why we'd like to live here. That is about to change, not because we are lacking any essential services, not because citizens are demanding the change because somebody wants to turn a profit at our expense. Everybody should note that the view of a cell tower will impact the ability for us to sell our homes. The view of a cell tower will decrease the value of the homes. Nobody likes looking at the cell tower. So, we'll allow this non-local vendor to expand and increase their profits. We have to give up something. You give something up forever. At the last meeting, the paid cell tower representative stated the tower would only be, and I quote, partially visible. Well, that's a little bit insulting to our intelligence and to our eyesight. The part of the tower that will jut above the tree line will be the ugliest, most industrial portion of the tower. The zinc plated metallic part of the tower, the ugly antennas, the parts no one wants to see. Again, at the last planning meeting, the representative of the vendor stated that the tower would not have any effect on historic properties. Once again, I take exception; maybe instead of just pushing their agenda, these people should take a walk around Altamont and see for themselves what the impact would be. I'll make it easy. I'll offer them a brochure. It's called the museum in the streets. I am sure. Most of us, locals of this room already know about it, but for those of you that don't, and for the vendor before us, it is a wonderful walking tour of our historic village. It was accomplished by the dedicated efforts of our elected officials and our neighbors, the people who truly care about our village. They put in a tremendous effort to draw attention to the history and the beauty of our village, a village that we were proud to show off and to share. A village we are trying to promote. The walking museum points out 27 different historic sites throughout our village. I have visited all the sites. From many of these sites, you will clearly be able to see the cell tower. Would anybody disagree that the view of a cell tower is certainly not compatible with historic walking tour. From the museum and the streets webpage comes their mission statement and I quote, we design free walking tours that foster a sense of historic identity, educate and encourage the preservation of local historic sites. Are we to ignore the stated goal? I'm sure this is not what our village and our residents had in mind when they think about Altamont. When we put all the effort to create the walking tour. We must take seriously the preservation of our cherished historic sites. This cell tower will or will not happen on our watch. What is our elected officials, our volunteers, our neighbors, us. What are we going to pass on to our children? What can be their heritage? How do we want

to be remembered? Maybe the applicants should do a little soul searching. I wonder how he would react if a cell tower was to be located out his front window. Maybe, just maybe, that he might want to do what's best for everyone and not himself. I wonder if they truly interested or do they care, so I urged them, go take that walk. Get to know our charming, charming village, our historic sites. Let's let some common sense prevail. No Tower.

Chairman Wilford:

Would anyone else like to make any comment at this time?
Nobody. Okay.

Board member Hext:

Do we want to address some of these statements.

Chairman Wilford:

That doesn't need to happen and we could address them as we move forward, some of them are repeated...

Board member Hext:

There were some inaccuracies.

Chairman Wilford:

That's okay. We can do that if you want, but do you guys, what do you want to do about the public hearing part? It's been open for three months.

Board member Caruso:

I'd like to make a motion that we close the public hearing.

Board member Hukey:

I liked to say something first.

Chairman Wilford:

Sure.

Board member Caruso:

Sure.

Board member Hukey:

I want to read something from email we got from our attorney and there's a lot of repetition with what Tim said, but just to reinforce things. A municipality cannot regulate the placement or construction of a tower on basis of radio frequency emissions and that includes radiation provided the facility will comply with FCC emission standards. This is because the federal government, the FCC has already determined what levels are safe. You can ask for proof that the tower will meet FCC standards, but that's it. If there was public comment on this, it might be prudent to remind the public that the board is prohibited from factoring this issue into its decision making. Uh, so as far as some of the concerns on radiation, we cannot use that as any basis because the federal government, not because of anything else.

Chairman Wilford:

Okay.

Chairman Wilford:

Um, Steve?

Board member Hukey:

I want to ask Jeff something, can I?

Chairman Wilford:

With this vote, this can be done.

Board member Hukey:

Okay.

Board member Caruso:

I just wanted to make a motion to close the public hearing.

Chairman Wilford:

You're closing the public hearing at this time? Someone would have to second this.

Board member Hext:

I'll second.

Ms. Best:

Board member Caruso - in favor, Board member Hext - in favor, Board member Hukey - in favor, Chairman Wilford - in favor.

Chairman Wilford:

Okay. So do you want to go through some questions each individually or do you want me to go through a couple of things first that I have and see what happens. By any chance is Paul Miller from the Fire Department here?

Board member Hext:

Probably here.

Chairman Wilford:

If he's available for one, one thing that would be wonderful, if not we can move on, in the meantime, so, Jeff Moller, um, there was the issues raised about the terrain that was originally in the plans and then you guys made some changes to the drainage in the plans and then the engineer had some other suggestions based on a different pad. Okay. So I understand there's drainage that runs by the one tower crosses under the road before the pad that's listed on the, on the plans. Have you seen their new set of plans yet with the drainage?

Mr. Moller:

Yes, I have.

Chairman Wilford:

Okay. Did you have any concern with the drainage that's there?

Mr. Moller:

No. Nope.

Chairman Wilford:

No concerns at all. Any concerns about getting your vehicles there to clear or maintain that site during the winter time if need be for emergency access.

Mr. Moller: That's the only concern we have is uh, having a row down the bottom side of your fence so that we can turn our plows around...

Mr. Silver: The turn-around area?

Mr. Moller: Yeah. Right now your site is going to remove some of our black top area. We like to have that expanded over just so that we maintain that same areas so we can move our trucks around.

Chairman Wilford: Asked Mr. Moller to point out on the map where that would be needed.

Mr. Moller: Pointed out the area, stating that it was the area closer to route 156.

Chairman Wilford: That would be towards the tower.

Mr. Moller: Yes, that's our major concern. We worked with Mr. Biscone on everything else. He has addressed all of our concerns for public works.

Chairman Wilford: Okay. So, it is possible to even put a condition on that pad where that any coordination would have to be approved by Mr. Moller during any construction phase of whatever takes place. That's something you guys understand that I'm allowed to ask and if they want to do that. That's your need right there. You need a bigger pad and you could coordinate that with them and the building department though.

Mr. Moller: Yes.

Chairman Wilford: All right. Thank you Mr. Moller. Mr. Miller. Thanks for taking the time. Um, my couple of questions are, have you been able to see the new ECS pad or even the old one? It's basically the same as far as the 80.

Mr. Miller: No, I have not seen the new one.

Chairman Wilford: Okay. It has a slight change from the downhill side. It comes in a little bit. 15 feet. I have the right size, that one is 10 so it comes in a little bit. So as you just overheard, Mr. Moller had concerns about turning around. Do you have any reservations that the fire department can't access this site in an emergency if there were to be one?

Mr. Miller: I don't see any issues.

Mr. Miller:

You don't see any. And I also have some, the minutes in December that you had expressed the fire department or first responders, do use cell phones quite regularly.

Board member Hukey:

Police department too.

Mr. Miller:

Our engines are also equipped with iPads now. Our engines are hooked up with Verizon cell towers also.

Chairman Wilford:

So for your department's needs, the tower does help.

Mr. Miller:

Absolutely.

Chairman Wilford:

Absolutely. Okay. So this is something that is beneficial to our village fire department. Okay. Thank you for coming. Mr. Miller is going to leave. Did you guys have any things for him?

Board members:

No.

Chairman Wilford:

Okay, thank you Paul. Thanks again. I want to do address those things right there. So, um, so under section 355-33(I), it actually allows the planning board to require the applicant to provide an escrow or bond for decommission. That's something that we can add as a condition. Now they have something that's in their contract, but you can still add a condition to that if, if the board wants you, we should, you should know that. Okay, you can add condition. Now the language that was discussed last month that discussed the, the height, so the height of your special use permit is for 120 feet with four foot lightning rod. Okay. The village code says that you can have this without a variance because you have, under the telecommunications, see what's called is. It's, uh, it's called crossover of words, but since it's called special use. Under that you have different guidelines and in your guidelines there's actually not a set number of height in that guideline yet you are required to get a special use permit for set height. Now the way this reads here, it says on there 355 33(D), alright, (D) 1, okay. No telecommunication tower shell hereafter be used, redirected, moved, reconstructed, changed or altered except after the approval of the special use permit and conformity with these regulations. The way I read this, it implies that you would still be required under our zoning laws if you were to alter the height to come back for a special use permit. Now, Mrs. Murray had said something about a federal law about 10% or a Max of 20 feet. I don't have that information. So I'd like that sited and I'd like to find out if that actually supersedes our village law in this particular case. Seems to me, this would still require you to come back because your

application is for a specific height and for specific use. It is not a variable in the application at all. Now, if there's a federal law that allows you to have that variable that needs to be stated, but again, are having worded where it supersedes this particular code as far as that thought.

Mr. Silver:

I can tell you unequivocally that that federal law does in fact supersede that provision that you just read. Um, and expressly so, um, it says notwithstanding local zoning, uh, an existing operator over telecommunications facility, uh, may, uh, extend the, the height of it, of, of a tower by, uh, to a lesser or greater of 20 feet or 10% of this tower height. So, um, that is the case. Um, now, um, in order to, uh, to do that, um, the federal law provides that we simply need to show that it is ineligible facilities requests meeting that we've complied with only the, those provisions of the town code, which are ministerial essentially building code. So, um, if a tower owner can show that, uh, that it meets the building code, um, it is entitled to, uh, to go off without any, without having to come back before this board. So that's, that's this is, I think that is an accurate description of what the federal law says and how it preempts, uh, municipal (inaudible) in this particular case. Now, um, where we are at today, we have an application, we've demonstrated that we need the tower up with specific height and where you guys are sitting, you're considering whether or not that's appropriate at that specific height. And there's a little bit of a conundrum. It's like, well, it's works for this specific height, but how can we tell them the future that, um, that it's not going to be taller, it's not going to be 20 feet taller or are or, or 12 feet taller.

Board member Hext:

Can everybody hear what he is saying?

Chairman Wilford:

Just make sure you speak up.

Board member Hext:

I just want to make sure everybody is hearing what he is saying.

Board member Hukey:

Based on what can you say you did a test at 120 feet; you can go to 140 regardless of what we say once you get an approval.

Mr. Silver:

Again, this is federal law, but yes.

Board member Hukey:

Yeah, I know its federal law. So, um, that, really, test was no good as far as I'm concerned. You should have to do another test with that additional 20 feet because we'll have no control over when something is there. And then we'll base a decision because one of the factors of consideration as expressed in our

zoning is that the effect of the proposed use on other properties in the neighborhood and the enjoyment by the inhabitants of the properties and whether it will materially affect the value of such properties and the use and enjoyment of such properties by the occupants and by any other effect of such use on the health, welfare and safety. So I'm looking at the, uh, the aesthetics and whether and how it's going to look when you're going up 140 feet. So the 120, we have no control over that as you just expressed by federal law.

Mr. Silver:

So when you take in the federal law, there's a little bit of a rationale there that makes sense. So explain at this point. Um, and the FCC has determined that an increase of that height is, um, will not substantially impact, uh, those types of considerations which would be relevant before board like this primarily, um, the, uh, the visual impact. So again, that's the FCC telling, telling us and telling you guys, telling the world that it's not us to attempt to circumvent this board in anyway. Um, so, you know, I was at my office today at a different location, with our client and full knowledge that this board is struggling with the federal law and how to reconcile it with what's happening. One of the proposals we thought it would be if the applicant were to waive some of its federal rights were to, uh, uh, were to acknowledged before this board and, and the resolution that we will not go up more than 10 feet. Uh, then, uh, then it would, you know, notwithstanding the rights the applicant has under, um, under the FCC by the federal government would essentially waive half of its co-location by right, Um, as, as a compromise to the town.

Chairman Wilford:

Okay. So, so you're, you're, you're allowing the board to put a condition on for you to create that contract that you would only go up ten feet.

Mr. Silver:

That's right.

Chairman Wilford:

We'd have to have a condition though and anything that would move forward and then we would ask for that. You understand?

Board member Hukey:

But what they did the test...

Chairman Wilford:

I'm just saying that's, that's how we, that's how we would have to proceed on that.

Board member Hukey:

Can we do that?

Chairman Wilford:

We would make it a condition that that part be added to the contract. That right. That's how they do that. No steps.

Mr. Heller:

When you say the contract, you're talking about; you're talking about your agreement with the village. This would be a condition to the special use permit, not the lease.

Mr. Silver:

I am suggesting that it would be before this board and would be a condition of the special use permit. It would be an acknowledgement of our waiver with respect to the height.

Board member Hukey:

And that can be done over the Federal law? That's not going to be a problem with us doing that?

Mr. Heller:

You have the, you have the right to waive.

Mr. Silver:

Of course, it's a right that is preemptive that can come from the applicant.

Chairman Wilford:

And that wording can be added as a condition that they're waiving that right?

Mr. Heller:

Yes.

Chairman Wilford:

That's what I'm saying. Right. We could almost make a binding contract with that condition.

Mr. Heller:

Right. It would be a condition of an agreement.

Chairman Wilford:

They make that. Okay. Do you guys understand where we stand where we stand on this height situation and what our options are?

Board member Caruso:

Yes

Board member Hext:

I do. So sort of, I just have one question. When the original balloon test was done back in 2013 I think it was done at a hundred feet. It was not done at 120 feet. Um, so I don't know, I'm, maybe Dean can attest to this. I don't know if that was the understanding when the Village Board entered into the contract with ECS, or if there was 120 feet, because it was, if the board was under the impression that it was going to be a hundred feet and you'll go for 120 there's your 10% or you're 20 feet right there. I don't know. I, you know, I know that the balloon test was done at a hundred feet. I know that for a fact,

Chairman Wilford:

Is this the one?

Board member Hext: Not from 2013. This was the one from September, right?

Chairman Wilford: Right.

Board member Hext: This is what I'm talking about. The one back in 2013.

Board member Caruso: Right, right.

Chairman Wilford: Yep.

Mr. Silver: My Client just advises me that really there wasn't much discussion with respect to the height from the town. Um, the balloon flow was done; it was really a preliminary investigation of what it might look like prior to signing the lease.

Board member Hext; But it gave a false impression.

Mr. Silver: But without, without a, without any sort of understanding about what the tower height would be. In fact, 100 feet wouldn't work for a co-locator antenna of this kind for technological reasons. So, um, the lease it doesn't limit us to height. That's a negotiated part of that. It's not an accident that it doesn't, it's the village was aware that this is, um, a project that was going to be driven by the needs of the co-locating tenants and that's, that's how we got here today with the proposal that's here right now.

Board member Hext: Okay.

Chairman Wilford: Okay. Dean

Mr. Whalen: You asked for clarification,

Board member Hukey: Dean, please stop. It's hard to hear.

Mr. Silver: I don't think that works very well.

Mr. Whalen: Sometimes it can be loud. You asked for clarification. And yes, at the time that the village board was considering this agreement, it was represented; I have a copy of that, that it was only a hundred feet. So at the time we were assuming a hundred foot as we entered into the lease. I hope that helps you.

Board member Hext: Alright. I think that's pretty clear. At least in my mind. That's pretty clear that you're not going to, you didn't do the balloon test at 120 back in September and then say we're going to do it

at 140. You would have done it at 140. So I don't, this is just me. This is just my opinion. Um, you know, I, I, my opinion is that it was done at a hundred feet. The agreement with the village is made at a hundred feet. You've added 20 feet plus a four foot lightening Rod. I don't know.

Mr. Silver:

I hear what you're saying, but not to mince words, but it wasn't agreed at a hundred feet because it hadn't been, that would have been in the lease. The agreement was to site the tower. Um, you know, there's really two dimensions to site the tower, where's it going to be and how tall it's going to be. One of those was left blank. And the reason why is because we needed the flexibility to, to listen to the people that want it to be on the tower, to react to their RF coverage maps and get something that was technically feasible at that site. Um, so you know, it wasn't um, an oversight, it was a negotiated term.

Board member Hukey:

Dean was that hundred feet in the minutes.

Mr. Whalen:

You need to be careful here. (inaudible) there is absolutely no height document, one way or the other, 120, 100, 125. However, I believe your point, I disagree with you. This is what was represented to the village for their consideration at the time of going into the lease was a hundred feet. So this is a reasonable assumption on the village boards part at that time and even currently under the current lease negotiation, that this all started at 100 and now it's 120. I disagree with your interpretation.

Board member Hext:

Mr. Heller, do you have anything?

Mr. Heller:

Well, I think it's an important thing to recognize is that regardless of what was discussed in 2014 the agreement does not have any height provision at all. So I don't think the applicant is bound by what it discussed back in 2014

Board member Hukey:

Oh we're not bound to do that. We can, we can dictate a height.

Mr. Heller:

You can if you got substantial evidence for your...

Board member Hukey:

It's not a contract, but to me substantial evidence is the fact that they presented a hundred feet because it's not in the contract, does not negate the fact that they came and gave the board the idea that they wanted a hundred feet. So that should be evidence enough.

Mr. Heller:

Well we're talking about two different things, if what you, what you're talking about is whether that hundred, whether they made representation back in 2014 they would limit themselves to 100 foot tower and whether that should be viewed as being incorporated in the lease. That's one question. But whether you're gonna on this application, limit their tower height to hundred feet rather than 120 that's, you know, you need, that will need to be supported with substantial evidence for the board's decision from

Board member Hukey:

When you say substantial evidence, I'm not an attorney, but it's not the fact that they presented the board, they're talking a hundred feet. Because it's not in the contract is the board's mistake did they didn't put that in there, but the fact that they came before the board at a hundred feet, if that's not substantial enough, what would be substantial enough?

Mr. Heller:

Well that might be evidence of that, that one should try to incorporate or view that a hundred feet as being incorporated into the agreement. That's, that's a separate issue that, you know, we could, we could think about. Whether there's a case that can be made that they're bound by a hundred feet because of the representation, but from a planning board perspective, um, whether you're going to limit them to them to a hundred feet really wouldn't be based on typical planning board criteria, the aesthetics, and things of that nature.

Board member Hext:

I guess I'm not really asking for a hundred feet. I'm just, I'm just saying that in my mind, if, I mean this is all hypothetical anyway, um, we haven't made a decision, but if the decision was made to, to allow the special use permit for the cell tower, I would want an agreement or an allowance to say, okay, 120 plus the four foot lightning rod, that will be it. I mean, I don't know if that's a whole heck of a lot to ask, especially since you were already willing to, you know, do the 10 foot, what if, you know, if you had the discussion and you thought you wanted to, you know, you discussed 10 feet. That sounds to me like you already had that planned. I don't know that. I don't want to put words in anybody's.

Mr. Silver:

Yeah, yeah, we did have that discussion. We had anticipated that.

Chairman Wilford:

Okay. So the board is clearly expressed the concern and the potential condition. So there's two things that can happen with it. Um, you can put conditions if they're not willing to go by those conditions, then the applicant can remove it from the shelf and start over. If you put, um, if you don't want to put any

conditions on it or something like that and you can move forward, you know, without that. Um, but the condition would be that they would have to forego that federal law of raising the height without coming before us. It still doesn't mean that you can't have, it allows them to still in the language, yet, they would still have to come before us. So you have time to think about that and it's not something I don't think you're going to digest in the next ten minutes. Um, but, but as far as height, that's, you've heard where we stand?

Mr. Silver:

Yes.

Chairman Wilford:

Yes. Okay. So we can go onto something else. I think that each party might spend some time thinking. Um, so those were the few major things that I had. Also logistics, clarify. Um, Deb and John, you guys brought up the height restrictions for this too, since we're on the height for a second. Okay. I just wanted to show you guys, it's not in dimensional criteria. (The Board then reviewed the Village Code Book). It's in, it's in here and it's under D. It's in their own thing. D 4, which, which is governed by these use standards within this sub segment here, which was okay, I didn't want to make sure we all are, we have to same document. Okay. Cause it sounds, do we understand, do you understand how that's done? Talking about, so under this we ended up coming over here. So the restrictions are, there's like these special use standards and that's what all of your needs are. These are these messages. So this is what governs the hype. Not that. Okay. Um, I have one question I was going to answer from last week that I got the answer to. Um, during the decommissioning phase, it was a question that was brought up. What, what, what's required to be removed on the village contract, it says above ground period. We've also asked the engineer how he felt about the piers being left on the ground. He was okay with that as far as an environmental standpoint and everything else. So there's a clarification on how the decommissioning is above ground only according to the contract. Okay. That was a clarification there. Um, you guys want to share any thoughts or questions, share what else you have come across, things that you want me to talk about? I've pretty much had gone everything here. I have paperwork from SHIPO, Albany County, Barton & Loguidice, the new grading plans, some other files, factors of decommissioning. I've got input from a fire department and our public works. Not this moment, but eventually we will make a motion and have Justin, uh, go through the SEQR when we ready to do that. Um, so at this time I've covered the things that I wanted to talk about. I'd like each one of you to have the opportunity to talk about

anything or whatever concerns you or any other factors that you might have.

Board member Caruso:

I do have one question for you guys. With the ever changing technology that's occurring in cell towers. What is the average lifespan of one of these cell towers in terms of the, you know, having to be taken down, there are no longer suitable as the technology changes or would something be changed on this one as technology changes.

Mr. Silver:

So the towers left on their own and with regular maintenance, regular maintenance things last about 30 years.

Board member Caruso:

Okay.

Mr. Silver:

You know if it's still useful, the tower will be replaced, upgraded during that time, maybe in a very substantial way as technology changes.

Board member Caruso:

So if technology changes, this tower will change along with it at the time or, I mean, I've, I guess maybe I'm not asking the proper questions,

Mr. Silver:

I don't think I answered that. In the event that the technology changed so that it became obsolete, the tower itself became obsolete, but then that would be a condition for a removal of the tower. And that's um, you know, to, to the town's point. Um, we would post a removal bond, which we've done in other towns. I think almost every project I've ever been involved with the posted removal bond, which is the insured by somebody like travelers. How much that costs, I don't know. And so that's what would happen. It would be a determination by the town that if they said, look guys, you've got to, you're not using the tower, you've got to remove it and if you don't, we've got this bond and we're going to execute upon it.

Board member Caruso:

Okay.

Mr. Silver:

Um, so there, the town has some control over, um, you know, a vacant tower sitting there,

Board member Caruso:

So wouldn't sit there vacant.

Chairman Wilford:

its 30 days, if I remember correctly from that time, the decommission must be done in 30 days, If it's not started.

Board member Caruso:

But that's really all I have. The only other question has pretty much been kicked around over and over.

Chairman Wilford:

I just want to make sure. You said two different things. You said technology versus the physical.

Board member Caruso:

Well...

Chairman Wilford:

An erect pole that can be permitted, that stood there holding the technology. So are you talking about it becoming obsolete or is he going to add technology?

Board member Caruso:

Well the question...

Chairman Wilford:

Obviously there's... are you going to add that technology?

Board member Caruso:

Well the question, the question is, that if this tower, the technology changes and what evidentially, and again, I'm certainly not a technological person, but if the technology changes, is this tower going to be altered at all to change with that technology? Or would it become a point where you might have to say, we need to replace this and put something else,

Mr. Silver:

It's hard to say exactly what the future will look like. But I can tell you as we've gone from like 3G to 4G, um, we've, uh, upgraded the antenna so that there's the antenna array and, Uh, the antennas are just swapped out, um, almost always does not require a change that tower. Um, but, uh, that's another one of those things that actually falls within that federal preemption. But to, for us to demonstrate that we're in compliance with federal law, we will provide the town a structural report showing how the loading would look with the new tower arrangement and uh, in the event that it doesn't meet the load requirements, then that there'd be part of, as part of that application, a proposal to reinforce some of those, some of the struts or whatever to make it compliant. Also, uh, there'd be a tower inspection as well. So, uh, at that point, so we'd go out and inspect every kind of thing involved and make sure that they look the way they're supposed to look and corroded or otherwise compromise.

Board member Caruso:

Okay. Thank you.

Board member Hext:

Okay. So, uh, we are talking technology. 5G technology, which is probably the next 60, that's actually smaller, right? I mean they're, they're not really those huge boom that...

Mr. Silver:

As you switch antennas, um, the loading was getting bigger and with 5G it, it might actually get smaller, but 5G antennas are, you're talking about micro sites and that will work with the cell tower. So there'd be 5G on the Tower, but there also might be a micro site in the village.

Board member Hext:

Right. Like on a telephone pole, something like that.

Mr. Silver:

Um, I don't, I don't think 5G will be here for a few years.

Board member Hext:

Um, I've got to say that ECS has really done its diligence and you know, I appreciate that. You know, we've asked you to do a number of different things. We've asked you to provide it all the Franken pine and so on and so forth. So I do want to say I appreciate that. Um, I appreciate the residents' input. You guys have been great. You've kept us busy, uh, reading. Um, you know, I listened to Paul Miller and you know I was an EMT. I know what it's like to be up the hill and have no signal and the radios, sometimes if there's a major event going on, dispatch gets overwhelmed. You have to use cell phones and if that signal isn't there, if the medic can't call the hospital, let's say, I have to give this patient something, you know, that is not allowed other than by a doctor's orders or somebody could literally die. And there was just a segment on channel 10 news on Thursday. And, uh, Sheriff Apple was commenting, commenting on the need for, uh, additional cell towers and to get rid of the dead zones. And you know Chief Miller kind of talked about that as well. So, you know, 73% right now of all 911 calls come in by cell phones, so in my mind I'm trying, I'm grappling with the aesthetics, which caring about what the community feels. And then on the other hand saying, but what if, what if, one of these phones that were given to a domestic violence person to call 911 didn't work? So, you know, I want everybody to understand that no matter what the decision is today, it's a tough decision. And, you know, sitting here right now, I still don't know what I'm going to do, but, um, that's all I have.

Board member Hukey:

One question, my memory fails me. I didn't remember it being said that the antennas could go larger depending upon the tenant and on the co-locator. I think from the first time they came in to the last time you slimmed on the antennas, I thought you said the booms and you slimmed on the antenna. Then did you not just say by federal law again, we had no control over the size of the antennas?

Mr. Silver:

Um, you know, that's good question. I've never, never seen it applied to the size of the antenna array. Right. Um,

Mr. Silver

I don't, it's a matter of fact the, the federal law, if you're actually, if you read through the initial regulation and it says that non substantial modifications to a tower may be made pursuant to what they call an eligible facility use requests, which is that administrative process that, uh, essentially circumvents this board. And in a, in a subsequent ruling, um, the FCC clarified by saying 20 feet or 10% is not substantial. They don't, there's never been anything that, as far as I know that's addressed the diameter of the antenna array. Right. Um, I don't think we've had any intention of going larger and...

Mr. Biscone:

I don't think the boom will change. I think the antenna might change. Um, so the boom is what holds the antenna there. Okay. And the antenna will change at some point when you do big carriers, they do spot checks, it doesn't mean the antenna will get bigger. It doesn't mean it'll get small. It will be about the same size. I mean, you think about it, if you're at an area where you can see antenna and kind of, I don't think you can see the difference in the size.

Chairman Wilford:

You're saying the antenna won't change. What about the size of the boom?

Mr. Biscone:

The boom will not change.

Chairman Wilford:

The boom will not change because you have to propose or you on the two towers with booms, a max of six feet off the pole and then the Hudson, is that correct? And then the Hudson Valley is 12 feet, which is an 86 foot height.

Mr. Biscone:

Hudson Valley will also be at a six foot boom,

Chairman Wilford:

and that's at 86 feet, that's low. It's much lower in comparison to...

Mr. Biscone:

All carriers who have the six foot boom array. AT&T will be six feet. Hudson's too.

Chairman Wilford:

Okay. So just a slight thing. Alright. That just easier trying all six foot.

Board member Hukey:

I have no more questions to them. I just, when you have some comments, and I have to agree with Deb, we're want to make it a condition to the maximum 120 feet, no more. The other is I think they still have one more co-locating tenant that they can have there. I think we're should mandate that they come before

us before anything is done with that, for another special use permit.

Chairman Wilford: I don't that that we can do that one

Board member Hukey: Alright.

Chairman Wilford: The tenants are under a contract with the village. Nothing in our, in our code that limits as, as they, as long as, they have to submit is that the megahertz in the system are still within the guidelines that are here, but they, they...

Board member Hukey: Theoretically, they can put as many antennas on that.

Chairman Wilford: No, no. That's not the way I understood the contract. There's a limited number of carriers - four. I am going to use that, it was what Ms. Murray said last month. I have that correct. Now there's, what he would have to do is say they're adding something. He's going to have to submit the other report telling us that you've added x megahertz and we're still within that condition. Right? Do I have that correct?

Mr. Silver: Yeah.

Chairman Wilford: It's the megahertz you have to disclose when you add.

Mr. Silver: So that is part of where those administrative reviews that you give to the municipalities, so the municipalities still has review authority over.

Chairman Wilford: Okay. So you do get to review this.

Mr. Silver: About the village, somebody would, it would probably be the building department, and the facilities requests review.

Chairman Wilford: Okay. Then, so, John all he's doing is, says he adds a fourth carrier, he would have to go to the people with the letters that would show the megahertz for that addition being added to it and he would have to go to Lance. Lance would look up in the book and say this meets that requirement. No.

Board member Hukey: Can we put a requirement on the antennas not being any larger than they are now?

Chairman Wilford: Um, well they have agreed to not going further with the booms as far as the style of antenna, the type. So the boom is what holds that antenna on and I believe that they've agreed to

already having only six foot booms. But if you want that written in the language that you certainly can add a condition, even if it, even if it's repeated, it doesn't hurt.

Mr. Silver:

We need a little bit of flexibility with the actual antennas. They are installed by the co-locators. But with respect to the boom that we're, we're happy to agree we will never be more than 6 feet.

Board member Hukey:

I'm sorry, I can't hear.

Mr. Silver:

So we can agree that the boom that would be out larger than six feet. The actual antennas that will be installed. The co-locating tenants, you know they're, they're all pretty much the same but they vary, I mean, even AT&T on the same boom will have antennas by different manufacturers to kind of fill out their spectrum. So we need a little bit of flexibility, especially as technology evolves.

Chairman Wilford:

Here's what they're saying. This part, this boom here, John, this part here to here will be 6 feet. These are from different manufacturers for each company. See how this one's different. See this is single and this is double in the front, in front of this one, the way they've done it, this one comes on the edges. There's an example. That's the part we can't have full control over, from here to here, here to here, and then this part is theirs to add. If that's what they add. And that depends on the carrier.

Board member Hukey:

That's the part I am worried about, right there. If it gets larger...

Chairman Wilford:

Also what they're saying is you can make it condition that keeps it closer, but the style that goes on the outside...

Board member Hukey:

I am not talking about that, I am talking about the physical size, not the style.

Chairman Wilford:

Well that would be in turn the style that you could share with them. See how this is a different style down this one and then you look at this, well this one's still drawing and fall, so to speak. Half the size. This will actually look a lot smaller and very single. These are more tight, but with look more full. This one's kind of spread out. So the punch, the tiny little holes in the outside, that's what he can't control. That's, that's allowed in the contract when it comes to the carriers. But just off of the pole, that we have a right to condition at six foot. Did I word that right for you?

Board member Hukey:

I just don't want to be shown a tulip and end up with a cabbage.

Chairman Wilford:

I'm not trying to convince you, do you understand? Okay. That's all that is. To answer your question about that, you can put a condition on that for the 6 feet, they've already verbally agreed to it so you can add in any way as an it condition and then it's just...

Board member Hukey:

As long as it is in the record.

Chairman Wilford:

Exactly, it would be there if you want to put it in as a condition.

Board member Hukey:

And we're definitely agreed on the monopole. That, that's a definite, that's not going to change.

Chairman Wilford:

It's going to be, you know we haven't talked about that yet.

Board member Hukey:

I want to see what they are asking. That was a discussion the last time you showed us both types and I thought you were coming forward saying you wanted to use a monopole.

Mr. Silver:

That's what we're proposing.

Chairman Wilford:

That's the proposal. That's their proposal in the application and again we've looked at, I've looked at all three of the pictures and so of you have and you go through each area and you try to see what has what visual effects. So since we haven't talked to him since last month, I am assuming all of you have slightly different opinions on which one we would prefer if the project moved forward, so we would have to discuss that and then we'd...

Board member Hukey:

I see we have to discuss it. I just want to say that there is no sense discussing something...

Chairman Wilford:

Again that would be for us to say we prefer x and then they would have to come back, but that's for us to start that conversation. That's why I asked them to do two pictures. Plus it gives us the extra 15 feet visibility already built into the other one. So we were pretty close to that other issue. So by asking him to do that, it visually helps us make a better judgment, but they haven't said no to anything in that regard yet because we haven't asked for anything in that regard other than to perform the test. So let's get to the job. What did you think of the pictures? Which one did you think was a little bit more aesthetically problematic in your opinion?

Board member Hukey:

I liked the monopole rather than the tree that looks quite out of place, that tree is going to be higher.

Chairman Wilford:

Monopole. Okay. So we won't be asking for monopine and based on that, so that doesn't really, but it's a good visual thing as far as saying you're absolutely right. I there, there was pictures of where one, there was no vegetation. You just, you know, Brad Grant also had the same conclusion. There's no pine trees right there and there's a few of the pictures that that just basically show a pine tree on top of the forest. So it just looked ridiculous. Um, but again, on a grayer day and other things, the other ones, do tend to anything to hide a little bit better than the monopine.

Mr. Whalen:

Tim, just a point of clarification, you were implying, that I think that the contract has the number of leasee stipulated, that's not correct. I believe it was represented in the application but I may be wrong.

Chairman Wilford:

Okay. Then let's get clarification because that was my understanding that Mrs. Murray said that the contract was for four carriers and then we asked can we have more and she said that's probably unlikely because there's only four major carriers. Deb's question back. You already have Hudson Valley. Ms. Murray hadn't had that information, but she still said that it dealt with four. I can verify the minutes just to see if I understood that. And I could be completely wrong, but let's get a clarification.

Mr. Biscone:

We contracts with three. There's four national carriers. She did not, I don't think she said meant that the lease, that the license agreement with the municipality states how many carriers we can have.

Chairman Wilford:

That's unlimited. Is what you're saying? To your knowledge in the contract.

Mr. Biscone:

In the contract, yes.

Board member Hext:

It can't be any more in the four and two of them are merging, so...

Chairman Wilford:

Those are major carriers. You're still having the college on here. So what would count and just trying to get a good grasp on what that language was.

Mr. Silver: There's only one regional carrier that I know of, the local carrier, Hudson Valley Wireless over here.

Chairman Wilford: Okay, wait, wait.

Mr. Silver: The ones you hear of like Cricket or Boost use the national carriers signal. Yeah. Cricket uses AT&T.

Board member Hext: Boost uses Sprint.

Mr. Silver: So they would, they never put antennas on the tower; they're using one of the three national carriers.

Chairman Wilford: So I may have spoken out of turn on that one, or misunderstood what Ms. Murray had said, so it's not four in the contact, its four major carriers, which limits, which is really what's going to limit you guys, it's that you only have a limited number of choices. And she was expressing four, or it could be a maximum of five with Hudson Valley.

Mr. Silver: But AT&T and Sprint are in the middle of a merger.

Chairman Wilford: I am not going to know that contract, but right now it could be five. Okay. So it's, I mean, I don't know how that's going to go. So I mean the numbers is five and as of right now. Okay, that's a clarification. Well no, he's saying there's four major carriers plus Hudson Valley. So there's five potential in this particular area. Am I getting that? And I keep messing this up.

Mr. Silver: No. The other limitation though is his height, but it sounds like the board is thinking about one or two proposals on how to deal with the federal preemption issue and uh, you know, so if you're at every 10 feet, four carriers down, you're at eight feet, 70 feet. Does it really make sense if we hide, if there was a fifth carrier we used to go higher, then we'd be, we have no uh, privileges under the federal law and we can come back here explaining why. It's just essential that we have this, um, after that, if this did go forward and it would be up to the Board to decide at that point.

Chairman Wilford: Okay. And on the plans, if you look at the poles, they got the top two major carriers, then there's a pretty good space between, all the down the Hudson valley, that's where that other carriers would be going. Okay. And then you're saying basically due to the size of physical monopole, you really can't put another one in without making below the tree line...

Mr. Silver: and then the signal isn't going to go anywhere.

Chairman Wilford: So then they wouldn't be able to get a contract with the carrier because they wouldn't have a signal. No one is going to sign that contract

Mr. Silver: And we'd be back here at because it would be meritorious.

Chairman Wilford: Okay. Does that clarify that misinterpretation?

Board member Hukey: I know it was discussed before. I'm sorry I don't have that information, it's in my briefcase, but where is the next closest tower?

Mr. Silver: Presently? Um, there is the one behind the Father Young Center, but that's for Guilderland Police and Ambulance, the next one up on Route 156 and 157 is just above, um, Thompson Lake Road. There's a Verizon tower there. Uh, you have a tower at 146 at uh, on the National Grid transmission line. I think there's two or three carriers on that. So the closest ones that I'm aware of,

Board member Hext: There's one at 85 and 85a too in New Scotland.

Mr. Silver: But that's, that's pretty far. You have one on Swift Road by the water tank owned by the Village of Voorheesville.

Board member Hukey: The one up by Thompson's Lake Road is that full.

Mr. Silver: From my knowledge Verizon's on it. I'm not sure if AT&T is on it, but that would be it that I know of.

Board member Hukey: So, there are other options besides a new tower here.

Mr. Silver: Verizon is on that one, but they also want to be on this one. They are one of the proposed tenants on the site.

Board member Hukey: I'm sorry, I didn't hear you.

Mr. Silver: Verizon and AT&T, well Verizon is on the tower you were just describing and also proposes to be on this tower because that tower doesn't give it the coverage that it needs and wants to be here.

Board member Hukey: Is there one by Altamont Orchards?

Chairman Wilford: No.

Board member Hext:

No. There are those high voltage transmission lines.

Chairman Wilford:

Also it should be known that um, Mr. Biscone went through and shows why ECS had reached this particular location, what coverage they were trying to, to reach. Do you remember those maps? So they had gone through this process to pick your location within that and when they found one, they probably looked at multiple choices within those parameters. And then they chose to do this with an agreement with the village. There's, it's not in our parameters to say, oh, go look elsewhere.

Board member Hukey:

Some place, it states, that it is recommended that if there's, if it is necessary, that there are other the sites available. That's why I asked the question.

Chairman Wilford:

And Mr. Grant actually posed that question to Mr. Biscone about moving in westward and a significant amount of coverage was dropped when they moved the tower westward and he showed that on another map. Um, so again, they, they tried to show why this site was more appealing to their clients and why they wanted it and if it was to be moved to say the west or other areas that, um, Mr. Grant had thought might be sufficient enough, uh, actually it would have nullified their contracts with those carriers because they would no longer be able to have the coverage that they're required to try to sell.

Board member Hukey:

That's what bears repeating.

Board member Hext:

Okay.

Chairman Wilford:

Okay. So we are a board member down and you should know that we've talked about a few different conditions and we've talked about a few different things that we might want to put on to the special use permit. Um, we're, we're not required to vote tonight on this. If you wanted to do that. There's no timeline that requires me to close the public hearing and I believe it's 30 to 60 days from that moment that we have. We have one or two more meetings on that timeline of our agenda, I believe. So, we at least have one if not two. Um, so that being said, you guys should think about things.

Board member Hext:

We have to do the SEQR.

Chairman Wilford:

I know. I am not done. Okay. So I know you were just talking about, not sure. Still figuring stuff out. It's entirely up to you guys. If you feel you've got it all figured out and stances and if you choose to put it to a vote tonight, that's entirely up to you

guys. Now that being said, um, Justin, legally can the SEQR does, can it be done tonight and a vote not take place on the, on the SEQR determination or should the determination be done on a different night than say vote for the SEQR.

Mr. Heller: Yes. The SEQR determination should come first.

Chairman Wilford: Yes, of course it has to come first. So we can put the vote off, say it doesn't have to be done tonight and then you can do the SEQR tonight. I want to make sure we didn't miss steps. I wasn't sure if it was all in one process or we could do it.

Mr. Heller: You can do that all the time. Alright. You guys don't have anything else. And uh, I believe we have to make a motion. Um, have Mr. Heller walk us through or be the secretary? I'm not sure the language that's needed for that, but I know there's supposed to be a motion for your, for you, the SEQR.

Mr. Heller: I don't, I don't think so. I'm really, you know, I'm just going to act as a scribe. The Board is going to make the determination.

Chairman Wilford: Yes we are. We have to make our own declaration and so, so there's no motion required for that part of the,

Mr. Heller: No.

Chairman Wilford: Okay. Would you guys like to review the SEQR or do you have anything else you'd like discuss at this time.

Board member Hext: Let's do the SEQR.

Mr. Heller: The suggestion was made that since, you know, the full part one EAF was submitted, it makes sense to go through full part two. So I've got a stack of those (for the board).

Chairman Wilford: We were asked, based on recommendations to go through the long form and we did not anticipate much difference, but I thought it would be in the best interest for the environmental engineer part of that.

Mr. Heller: Right. So let's just stick with the long form of part two.

Chairman Wilford: So in part two, have you guys all had a chance to review part one. Was there anything that you notice, you mentioned Mr. Heller, you, you reviewed part one?

Mr. Heller: I have and yeah.

Chairman Wilford: Yeah, so you did, you didn't notice anything legally that needed to be added.

Mr. Heller: No, I didn't and um, I spoke with the engineer also.

Chairman Wilford: Yeah. Alright.

Mr. Heller: So, so we want to use part two as our guide.

Chairman Wilford: Yeah. We're just using part two. So part one can be set aside for now.

Mr. Heller: Well, you're gonna need it because we have to go to the back and forth, but I would do is just take it in order. Okay. And walk through it. So section one is impact on land. For each section there's this sort of threshold question. Um, uh, the proposed action may involve construction on or physical alteration of the land surface or the proposed site. I think that's a yes. Yes. So that means then you have to go down and do the sub questions and you can see the reference, the relevant part one question.

Chairman Wilford: Okay.

Mr. Heller: That's what we need to find.

Chairman Wilford: Okay.

Mr. Heller: So, it's on, starts on page nine. It looks like we're actually on page 10.

Chairman Wilford: Yes. Right?

Mr. Heller: Yup. Everybody there? So, okay, first question, is the proposed to action may involve construction and land were depth to water table is less than three feet and they refer you to question E(2)D. What is the average depth to the water table on a project site? Average plus or minus three feet. But then the question you're asking me, you know, the question becomes is the possible impact, is there none or small or moderate to large?

Chairman Wilford: Yeah, involving the construction there. The water table is I would say a small impact.

Board member Caruso: I agree.

Board member Hext: Yeah.

Chairman Wilford: John, are you all caught up.

Board member Hukey: Did you say page 11.

Mr. Heller: Well page 11 of the um, yeah, of part one.

Board member Hukey: Okay.

Mr. Heller: Okay. Um, question B, the proposed action may involve construction on slopes of 15% or greater. E (2) F says the slopes are zero to 10% grade

Chairman Wilford: And they say, what that actually means is the slopes actually 15% greater?

Board member Hext: And it said zero to 10.

Chairman Wilford: I would go with small impact. Again,

Board members agreed.

Chairman Wilford: Any objections? Please speak up. We're all on the same page. Okay. E (2) A, what is the average depth of the bedrock on a project. They are asking if the construction on the land where the bedrock is exposed is generally within five feet of uses in the ground surface.

The Board members stated it greater than six feet on the submitted paperwork.

Mr. Heller: Where bedrock is exposed or within five feet of the surface and it says it's greater than the threshold. So, it will be a no.

Chairman Wilford: Does everyone agree?

Board members stated yes.

Chairman Wilford: Okay. The propose action may involve the removal of more than a thousand tons natural material. I don't believe that was at all in their thing. Let's just see. Let's go back up the page to D (2) A. Back to page four and they say no. So there'll be no removal of that size, all right. Does the proposed action involve construction to be continuous for more than one year, on multiple days? I would say no.

Mr. Heller: Page 6.

Board member Hukey: They say three months.

Board member Hext:

It's on page three.

Chairman Wilford:

And they're saying less than three months. Right, so that's a no. Okay. We're on 1 (F) Part 2. The proposed action that can result in increased erosion and whether from physical disturbance or vegetation removal including herbicide. Let's go take a look. E (2) E. It is on page six, right? The language is slightly different but it deals with the runoff directly which I feel we have addressed, not only with these plans but with Mr. Moller and the building department agreeing on that requirement. Um, I still see small impacts, especially with the drainage that's already there and what they would be adding being a small pipe.

Board member Hukey:

So they were saying no?

Chairman Wilford:

Well I think it has a small impact. I think it is an impact that needs to be addressed. And we did address it that is all I'm saying it's, it's got a slope, but that's my opinion.

Board member Caruso and Hext:

I agree.

Chairman Wilford:

John, how do you feel?

Board member Hukey:

I mean it's going to have an impact, but we've addressed it, so if they do what is recommended, it won't have any impact.

Chairman Wilford:

Yeah. The engineers have gone through and they've looked at that and there's already enough drainage. I don't know if you've looked at it as existing drainage that the village has and so on and having Mr. Moller...

Board member Hukey:

Are you saying no or yes. I mean...

Mr. Heller:

No, it's small or no.

Chairman Wilford:

I think small is right.

Board member Hext:

I agree, because they referred us to Q.

Chairman Wilford:

Um, there's no sort of the coastal hazard area for G. That's a no.

Mr. Heller:

If that's a no, you just go down to the next one.

Chairman Wilford:

Okay, other impacts. There's nothing listed there. So I am done with one, are you guys ready for two yet?

The Board members stated they were. They reviewed thoroughly and held a lengthy discussion on part two of the SEQR.

Mr. Silver: Could I make a recommendation since I have been through this in the past.

Chairman Wilford: Sure.

Mr. Silver: So, typically, the Board would come up with some sort of written statement addressing that item that has a moderate impact, and here it relates to, let me see, It's inconsistent with the natural landscape, so there would be discussion about the efforts that the applicant has made to mitigate, for example, we have brought in the boom, we have analysis the height, we um, screened the base of the facility to the best of our ability and then based on those factors, there could be a determination on whether or not it creates a significant impact.

Board member Hext: Thank you.

Chairman Wilford: Right. Does everyone concur?

The board members stated they did.

Chairman Wilford: So, um, that part we can write in the SEQR or do we discuss it and rewrite it in this proceeding?

Mr. Heller: You would discuss it now and then I would write it up and then we look at ...

Chairman Wilford: And then the next time making the declaration final, whatever it is?

Mr. Heller: No, you wouldn't wait, you would look at it and it's reflected your reasoning then you would be authorized to sign it.

Chairman Wilford: Got It. Okay. Alright, so you guys want to break down the conversation on, uh, on that one a little bit further because that's the only one that I had.

Board member Hext: That's the only one.

Board member Caruso: That's the only one.

Chairman Wilford: What about you, John?

Board member Hukey: That's the only one.

Board member Hext:

I guess if it comes down to making recommendations, you know, I'm saying moderate based on the possibility of going over a hundred, we'll say 124 feet. Um, if we could come to some agreement that it would not at any point in time without coming back before the board, then you know, I would say that although it might be moderate, that is not significant. If that makes sense.

Chairman Wilford:

It's all us.

Board member Hext:

I know, I'm sorry; I'm just throwing it out there.

Chairman Wilford:

Steve?

Board member Caruso:

Um, if there was a way to be able to do that. I totally could agree with that. 123 feet or 124.

Chairman Wilford:

Okay.

Board member Caruso:

I think that is a legitimate request.

Chairman Wilford:

Okay. But keep in mind our determination based on that at this particular moment. Alright? So ...

Board member Caruso:

So that's going to be the recommendation.

Board member Hext:

That would be our recommendation to mitigate it being a significant impact.

Chairman Wilford:

Okay, let's hear it man.

Board member Hukey:

And you know it says the natural character of the existing natural landscape. Part of landscape are two big ugly tanks.

Chairman Wilford:

I know. And there is a tower right across.

Board member Hukey:

Well, I know there's a tower. I still say it's small.

Chairman Wilford:

There's a tower right above it. There are towers all along the escarpment.

Board member Hukey:

I don't see where it's a moderate to a large impact.

Chairman Wilford:

It's a tough call. It's an opinion and that's why we're discussing it. And you're right; it's a utility use of that parcel. It's not, it's not used in the light that others would or your impact is directly related to that. I also would have to agree with what

Mr. Grant was saying about having, having a part way up the hill actually does have a benefit. He was saying visually, if you were to put it anywhere else, so it had to be much taller and then still impacted. That is that very significant?

Board member Hukey:

Sure.

Mr. Heller:

Um, maybe, perhaps I could just offer a little input that might be helpful because the statue provides guidance when you are trying to think about what would be a significant adverse impact and they offer criteria. These criteria are considered indicators of significant adverse impacts on the environment. And so they're really just examples. It's not an exhaustive list, but just to give you a sense of the types of things. So a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, the removal or destruction of large quantities of vegetation or Fanta, the impairment of the environment, the characteristics of a critical environmental area, the creation of a material conflict where the community's current plans or goals as officially approved or adopted, the creation of a hazard to human health. And it just gives you a sense of the scale that's contemplated when they talk about significant impact.

Chairman Wilford:

As I know, the language is tough because we have a small area. It's, it's written in such a broad stroke that some impacts seem more than...

Mr. Heller:

Well that's why the exercise here is to go what you identify as a potentially moderate impact to evaluating whether that might be a significant adverse impact. That's, you know, that's, that's what's before you.

Chairman Wilford:

Now whether or not it's actually a small, we can't change that line on that too small.

Mr. Heller:

If it is a small....

Chairman Wilford:

We don't know. I mean, I think we had that conversation. We're talking it out. So if it went back the other way, because we're, we're using those tools,

Mr. Heller:

Well then you get to the same place. In other words, if you'd assign it, that it is small, then what you ultimately decided it does not have, it would not be a significant,

Chairman Wilford:

And then you wouldn't write on the other.

Mr. Heller:

Right.

Board member Caruso:

Listening to Justin talk like that and bring up some of this in a more real aspect, the more I think about it, I am kind of changing my opinion, going more towards what John was saying because you know, the, right now we're looking at this as the vegetation is at the level, that there's nothing on the trees around it. So it's going to become much more visible than it is, um, as the trees grow more in the season and as it goes on. So I, I, I'm beginning to, I think I'm going to probably say that I, I'm not necessarily sure that it is moderate. I think I would like to see it go back to being just a small impact.

Chairman Wilford:

Okay. How about you Deb? Thoughts based on the scope and I understand your, your other concern and that that might fall into it. That might add to increase your impact. I get what you're saying.

Mr. Silver:

I am sorry to jump in, I know I am out place but there's still opportunity to have that discussion after SEQR.

Board member Hext:

That is what my mind is saying now. Okay, I would be, I would agree it go back to making it a smaller impact, but I would still like to have the conversation about the height.

Chairman Wilford:

Oh, that is important and we will discuss the height.

Board member Hukey:

That goes without saying.

Chairman Wilford:

Those are conditions we talked about. I have at least three, probably four that we took broad strokes. Some of what the board specifically discussed but in terms of the SEQR...

Board member Hext:

I'm good.

Chairman Wilford:

Are you sure?

Board member Hext:

Yes, because you know, I just have concerns that we will address in a few minutes.

Chairman Wilford:

No, I get it. I get it. I just had, it's a, it's a very difficult form.

Board member Hext:

So we can change that.

Chairman Wilford:

So if that's changed, then...

Mr. Heller:

Then you're dispensing with part three, right?

Chairman Wilford:

Yes,

Mr. Heller:

Then you are going back and amend the SEQR.

The Board determined that they don't have to do the Part Three.

Chairman Wilford:

Now we would make the declaration if I have that correct?

Mr. Heller:

Yes.

Chairman Wilford:

And we have to make the declaration within a motion?

Mr. Heller:

Yes. Make a motion to make a declaration. And again, I'll write it up for everybody to look at.

Chairman Wilford:

But I don't have the part that I sign.

Mr. Heller:

Yes but you'll see it later because you're going to sign it after the fact.

Chairman Wilford:

I got it. Does everyone understand?

Mr. Heller:

It has to be has to be.

The Board members stated they did.

Chairman Wilford:

Would one of you like to make that motion?

Board member Hext:

For a negative secret? Is that what you were saying?

Mr. Heller:

That's a negative declaration.

Chairman Wilford:

A negative declaration of the New York state secret form.

Board member Caruso:

Um, I'll make that motion in favor.

Board member Hext:

I'll second it.

Ms. Best:

Board member Caruso – in favor, Board member Hext – in favor, Board member Hukey – in favor, Chairman Wilford – in favor.

Chairman Wilford:

Okay. So Justin, you'll create the document for me to sign to fulfill that paperwork.

Mr. Heller:

Exactly.

Chairman Wilford:

And you guys don't have to sign.

Mr. Heller:

But it should be, it should be circulated.

Chairman Wilford:

Of course everyone should see it. But I'm the only one that has to fill it out.

Chairman Wilford:

Do you want to discuss the special use permit factors?

Board member Hukey:

I want to talk about number 8, when it talks about the effects on the adjoining property in the neighborhood. It definitely does and it's my feeling that if we're going to give an approval, I want it a 120 feet, to supersede what the FCC says. I think that if there's only four or a fourth location then anymore added it be mandated that have to get it approved.

Board member Hext:

You are saying another co-locator.

Board member Hukey:

Yes.

Chairman Wilford:

Is that all you have to say about the factors? I am just going to have you, each one of us, you're, you're looking at these factors.

Board member Hukey:

Yes.

Chairman Wilford:

And that's your only concern? Do you any other concerns?

Board member Hukey:

No, just number eight. That is the only one that I have a concern about.

Chairman Wilford:

And for those reasons that you listed, right?

Board member Hukey:

For those reasons.

Chairman Wilford:

Okay, great. Steve?

Board member Hukey:

This is hard. You have to keep in mind, the police department made the comment at the last meeting and the fire department made a comment.

Chairman Wilford:

Do you guys see anything else?

Board member Hext:

Do we want to read these?

Chairman Wilford:

Well, as John was pointing out, many of these do not apply to this application. Actually a majority of them.

Board member Caruso:

That's correct. Well, I mean other than the height of it, and John has explained that really well. I can't think of really anything else that's...

Chairman Wilford:

It appears that it is a sticking point in our conversation. Okay.

Board member Hukey:

What's that?

Chairman Wilford:

It's the height. It has been brought up multiple times. It looks like we're at that part of the compensation.

Mr. Silver:

Can I speak to that?

Chairman Wilford:

Sure.

Mr. Silver:

The applicant and I have had a lot of time to discuss this monster. I am saying that we have heard the board's concerns. And uh, you know, we'd be willing to waive the tower extension, uh, rights that are granted to us by the FCC, and by the federal government. So, um, the, the one caveat is even then also gives us certain rights where co-locators that come in without power extensions. There's tremendous utility there. So if somebody were to come in, I'd say 80 feet or 90 feet, um, we'd like to reserve our Federal rights there to work with the building department to confirm that the tower, the tower has the capacity, But, um, and then to come back before the Board, which is granted to us by federal law, we'd like to reserve that right, but waive the other provision which allows us a tower extension by any amount. We would be willing to do that based on the board's comments tonight.

Chairman Wilford:

So that would be a condition put on that the applicant would waive with federal rights for any change in height without coming back for another special use permit. Does that sound what you guys were looking for?

Mr. Silver:

Yeah, that's accurate.

Chairman Wilford:

Justin, that legally holds them to that height unless, they would have to come out here for a special use permit to try to increase this height now.

Mr. Heller:

But I think the right that they would have under the federal statute would be waivable.

Chairman Wilford:

They're willing to waive it. I can add that in the condition.

Board member Hext:

So there wouldn't be a height increase.

Chairman Wilford:

There wouldn't be. That ends that conversation. They agreed to that. They're listening to us.

Board member Caruso:

But they have a right to go lower.

Chairman Wilford:

He's saying they have a right to use...

Board member Caruso:

I am saying they have a right to use, I mean if you wanted to put somebody else at 80 or 90 feet, you can do that.

Mr. Silver:

Right now, you have Verizon, AT&T and Hudson Valley. The next one is probably going to go here. (He point to a place on the tower).

Board member Hext:

In the middle, okay. Where that little gap is.

Chairman Wilford:

And what he's saying is he has to submit, and correct me if I'm wrong, is the way the frequencies have to be divulged to the village, not us. You would just submit the paperwork. Is that right, when you add to a tower?

Mr. Silver:

There's a packet of, there's a packet that we submit to the building department and they say, yes, this meets the regulations.

Chairman Wilford:

Yeah, that it is still within the allowable range. Everyone understand how that works. We wouldn't see them when they add that additional carrier; the building department would make sure that its goes through all the same stipulations.

Board member Hukey:

We would want a caveat in there that they acknowledge that they will notify and work with the building department when they want to put another co-locator on. That we're not going to do nothing, don't take it wrong, we're not just going to have them say they heard us and accepted it. We have to back it. We will say they will notify and work with the building department prior to doing any work on it.

Board member Hext:

I think they have to anyway

Chairman Wilford:

I think they have to but there's nothing wrong with you solidifying the condition that you're concerned about. John, you know if you want to do that and you want to write those up, we can. Okay. So what was that?

Board member Hext: Any new co-locator would have to go through the building department.

Board member Hukey: Thanks Deb.

Board member Hext: It takes a village to that.

Chairman Wilford: Okay. So here's the four things that I have. I have any additional co-locators must submit paperwork through the building department for approval. Applicant agrees to waive FCC regulations in regards to a change in height pertaining to this special use permit. Applicant would have to reapply for special use permit for any change in height beyond 120 feet with exception to the lightning rod.

Mr. Silver: I would change that from FCC regulations to Federal As of Right tower extension.

Chairman Wilford: That's the language for that law.

Mr. Silver: Yeah. Because yeah, I'll take any federal As of Right.

Chairman Wilford: Applicant agrees to waive Federal As of Right tower extension of monopole. Okay. The other thing I have is, and they've already mentioned it also is the planning board can require a bond for the decommissioning based on section 355 33 (i) and I don't know what's in the contract, so they might have something there. But my recommendation would be a bond.

Board member Hext: They don't have anything in there?

Mr. Heller: I would have to see.

Mr. Whalen: There is a stipulation that they must remove above ground.

Mr. Heller: As Tim mentioned earlier, the agreement has a requirement that they removed but no escrow.

Chairman Wilford: I would like to see a bond. They've done it a million times or several times before. They're well aware of it. So yes, a bond should be set up for the decommissioning to protect the village of Altamont.

Board member Hukey: Who determines that, the amount?

Chairman Wilford: The amount to be based on estimates that you've had from decommissioning in the past.

Mr. Silver:

So what we've done in the past has provided, uh, a removal estimate from a construction company to the building department and then the building department looks at and says, okay, give me a bond for that amount. And so we work it out between the building department and the office.

Chairman Wilford:

So that's the other one I have there. And the other one would be, uh, drainage and the pad alterations to accommodate Altamont public waterworks for the vehicles, um, be approved by the building department and the public waterworks, Mr. Moller.

Board member Hext:

That's the pad, the turn around there.

Chairman Wilford:

There are four conditions that I've noticed in our conversation. Does anyone else have anything else they would like to consider and add? Any other thoughts? Now it's entirely up to you. The conditions can be written up. We can go through our minutes and have a legally written up and have our SEQR. We can vote on it based on those conditions. If you guys see fit, if you feel that you'd like some time to think about it, you have the time to do that, you also would have five members instead of four or four would be a negative declaration on the product application with a 2 to 2 vote. Um, so why don't you guys think about whether or not you would like to vote on this special use permit this evening or wait until our March meeting?

Board member Hukey:

What did you say about there's four of us?

Chairman Wilford:

So there's four people, uh, so when there is four and a 2 to 2 vote, it would be a tie and it would automatically be denied.

Board member Hext:

I prefer to vote tonight. You know, I think we've extended this long enough. Um,

Board member Caruso:

I agree. I'd like to vote as well. I'm not sure there's really any other information that we're going to get that's going to change whichever way we happen to think, so...

Board member Hukey:

So they're 20 pounds of letters, evidence and everything else.

Board member Hext:

But you know that, yeah. That being said...

Board member Hukey:

I agree.

Board member Hext:

We have considered, so what do you think?

Board member Hukey:

It is not going to be any easier.

Chairman Wilford:

Or you can, I just want to make sure we have the right language for those conditions and uh, we can make a motion based on those conditions if that's what you guys want. And you guys can eliminate, add whatever you want and when you guys are...

Board member Caruso:

So what you're, what you're saying is, is that this would lead do you think we really need to have this written up before we vote so we understand this

Chairman Wilford:

I think the language is pretty well covered. I think that I did all right. I mean it doesn't, Justin, do you see anything wrong with the language I was using in those conditions that would have to be changed?

Mr. Heller:

No, I mean if I had my druthers, I'd give it a chance to type it up.

Chairman Wilford:

Okay. But we're still, you feel that the conditions and the language was using does the job of what our intent is behind those conditions?

Mr. Heller:

Yes.

Board member Hukey:

Based on that, it might be better to have them written up, tighten them up, like you said, get them out to the members, vote at the next meeting and there'll be a full board.

Board member Hext:

Uh, I don't agree, I think we've got to get this done. I think what we have here suffices, this is my opinion. You know, if Justin wants to put the legalese to it, we can certainly do that.

Board member Caruso:

Well let me say, I mean if we put it off to the next meeting, we've closed the public comment. Does that pretty much indicate, you know, the correspondence and a lot of that stuff, um, you know, is no longer going to be given to us or is that, you know,

Chairman Wilford:

Um, I'm not sure about that part.

Board member Caruso:

I don't know that we certainly can't stop people from giving us their opinions. And that's the last thing I want to do.

Chairman Wilford:

No, no, I certainly don't want to allow, I don't know that that that would take place. I guess if you were considering waiting is a few reasons to consider. And then there's a few reasons like Deb said.

Board member Caruso:

Sure. So I agree with that.

Chairman Wilford:

So as far as the public's concern, they have had three months. We showed them, uh, we had a visual assessment redone. It's kind of, we have actually heard very, very little comment on those reassessments we had done from the public quite honestly. Um, we, we being the board, the law allows the vote to have five people. Alright. It also allows another person to come in like Wayde or uh, Connie, and just voice an opinion that we may have missed, which is something we really feel about strong about.

Mr. Heller:

I mean, I think, you know, in two minutes. I can, I mean if I'd take a look at your notes, let me read them and if I have anything to add I can add them. So don't let my desire to look at the language slow this down.

Chairman Wilford:

This'll is for you all, if you feel that you would like more input from the other board members. Like Justin said, don't worry about the legal part. I believe we did pretty good on our language. If it is not great, Justin can help clean it up.

Board member Caruso:

Well I guess I really don't think that there's really anything earth shattering or anything that's going to come forward. That's going to, that anybody could bring to us at this point. I don't know.

Board member Hext:

They have been getting all the emails. They have and you know, we do and I don't remember the exact verbiage, maybe Justin, you do, but we do have a timeframe, uh, after the application is submitted to make a decision and there's 62 days is in my head. But, I don't know.

Chairman Wilford:

After we close the public hearing, the clock has started.

There was some discussion about time frames.

Chairman Wilford:

What about you, John? Do you think we could make a vote tonight?

Board member Hukey:

It would be nice to have a full board, but on the other hand, as Steve said, I don't know what; I don't know what can change. I've read everything that's come through, every letter that was sent to us. Okay. I've read the zoning 355 over and over again. They've answered my questions and I pretty much stayed in my own reservations.

Chairman Wilford: Okay.

The Chairman just reviewed the conditions with the Village Attorney.

Chairman Wilford: Can someone make a motion to add the following conditions to the special use permit and then you can vote on the special sue permit from that. How do you guys feel about that order?

The Board was okay with that.

Chairman Wilford: We like to make a motion to add conditions to the applicant's special use permit. 1. The applicant waives all rights under federal law to extend the tower height. Any change in height would require a second or additional special use permit. 2. The applicant would submit a bond for the decommissioning process of the tower once it's done, the amount to be coordinated with the building department. 3. Drainage, site review and additional blacktop to be approved by the Altamont public waterworks and building department, and 4. All co-locator carriers that are added must submit paperwork to go through the building department. Four conditions to be added to the special use permit. I make that motion now.

Board member Hukey: I will second.

Ms. Best: Board member Caruso – in favor, board member Hext – in favor, Board member Hukey – in favor, Chairman Wilford – in favor.

Chairman Wilford: Now you guys would like to make a motion to vote on the special use permit with those conditions and you can vote on it.

Board member Caruso: I will make the motion to vote to approve the special use permit with those four conditions for the applicant.

Chairman Wilford: Thanks Steve. We are waiting for someone to...

Board member Hukey: I was waiting for Deb. You want to add something?

Board member Hext: I do. I, you know, I will, I will. I will second that. But you know what I'm saying. I'm approving this, I discussed some of these things before, but the board, we've received all the information. We've done independent studies. Um, we understand the possible health concerns, but like what's been discussed here a number of times, the Federal Communications Act of 1996 tells us we can't use that. There's been two balloon tests, two visual resource tests, both with foliage and no foliage with the monopine and no monopine. Um, ECS has contacted safe site, a

site safe and they've approved the RF emissions that they're in compliance. The interior fish and wildlife agrees they're in compliance. ECS has worked with us to reduce the size of the booms from 12 feet to six feet. It's not going to be accessible by the public. There's going to be a, and I forget if it's a six or eight foot fence around there. And really the concern of fire police and EMS is, is huge for me. So based on these conditions, I do second the motion to approve the special use permit.

Ms. Best:

Board member Caruso – in favor, Board member Hext – in favor, Board member Hukey – in favor, Chairman Wilford - I am in favor and just a few comments. I completely agree with every resident that the Village Board I feel could have done a better job, learning more about the rules that we are face with and other things. I also have to believe that they feel this was a good interest for the village and it was a benefit. There's lots, it costs money to keep up this nice area. So I'm sure they were in a difficult situation. But you wouldn't know it because very few people go to their budget meetings. And I have to agree with Deb. The fact that the first responders are very much reliant on these technologies today is a big factor for me too. So I also vote in favor.

Mr. Silver:

Thank you everybody.

Chairman Wilford:

Thank you. So you guys want to approve the minutes.

Board member Hukey:

I'll make a motion we approve the December and January minutes.

Board member Caruso:

I'll second that.

Role call:

All in favor.

Board member Hukey:

I make a motion to adjourn the meeting at 9:55 pm.

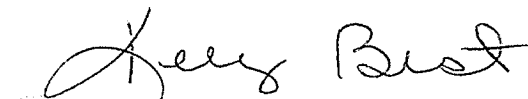
Board member

I second that motion.

Role call:

All in favor.

Respectfully submitted,



Kelly Best