

**HARDING TOWNSHIP BOARD OF ADJUSTMENT  
MINUTES  
September 19, 2019  
7:30 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Board of Adjustment Chair Mr. Flanagan, called the meeting of the Board of Adjustment to order at 7:30 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act.

**ROLL CALL**

Ms. Taglairino called the roll. It went as follows:

Ms. Sovolos	Present	Mr. Newlin	Present
Mr. Flanagan	Present	Mr. Maselli	Present
Mr. Rosenbaum	Present (7:52)	Mr. Addonizio	Present
Mr. Symonds	Present	Ms. Chipperson	Present
Mr. Cammarata	Present (7:32)		

Board Attorney, Gary Hall, Board Engineer, Paul Fox, McKinley Mertz, Board Planner, and Board of Adjustment Secretary Lori Taglairino were also present.

**REGULAR MEETING**

**MINUTES**

Mr. Flanagan made a motion to approve the July 18, 2019 minutes. The motion was seconded by Mr. Newlin. On a voice vote all members were in favor of approving the amended minutes.

Mr. Flanagan made a motion to approve the August 9, 2019 special meeting minutes. The motion was seconded by Mr. Symonds. On a voice vote all members were in favor of approving the minutes.

Mr. Newlin made a motion to approve the August 15, 2019 meeting minutes. The motion was seconded. On a voice vote all members were in favor of approving the minutes.

Mr. Flanagan made a motion to approve the September 7, 2019 site inspection minutes with an amendment and a spelling correction. Mr. Newlin seconded the motion. On a voice vote, all were in favor of approving the minutes with the corrections.

**ADMINISTRATIVE**

Mr. Flanagan noted that BOA# 11-19 Lawless was carried until the October 17, 2019 meeting.

**EXTENSION**

<u>Application BOA# 10-17</u>	Brooke Worthington
	224 Lees Hill Road, B47/L2

Mr. Flanagan made a motion to approve the extension. It was seconded by Mr. Newlin. On a voice vote all were in favor of granting the extension.

## **RESOLUTION**

### **Application BOA# 05-19**

New Cingular Wireless  
22 Village Road, B 15/L 1 R-3 Zone

There was a motion by Mr. Symonds to adopt Resolution BOA# 05-19 New Cingular Wireless. It was seconded by Ms. Chipperson. A roll call vote went as follow:

For: Mr. Maselli, Mr. Symonds, Ms. Chipperson, Mr. Addonizio and Mr. Cammarata

A copy of the resolution is appended to the minutes.

## **NEW BUSINESS**

### **Application BOA# 08-19**

Jacob and Rose Moncayo  
4 Baxter Farm Road, B33/L7.08, B-2 & R-3 Zone  
Applicant requesting variance relief for a side setback as per NJSA 40:55D-70(c), an FAR variance as per NJSA 40:55D-70(d)(4), a building height variance as per NJSA:55D 70(d)(6) and an accessory residence variance as per NJSA:55D 70(d)(1).

Presenting:

Rosemary Stone Dougherty, Attorney  
Robert Templin, Engineer

Mr. Templin was sworn in for testimony.

- Ms. Stone-Dougherty presented proposed plans for an addition and a garage with a studio.
- Ms. Stone- Dougherty noted that the property is in split B-2/R-1 zones with a bulk of the dwelling in the B-2 zone thus enforcing B-2 requirements for setbacks, height and FAR.

A site inspection was scheduled for October 5, 2019 at 9:00 am at the property.

### **Application BOA# 10-19**

Carolyn Ferolito  
81 & 87 Village Road, B 16/L14 & 14.01, R-R Zone  
Applicant requesting variance relief for side setback, as per NJSA 40:55D-70(c) and a conditional use variance as per NJSA:55D 70(d)(1).

Presenting:

Simone Calli, Attorney  
Dennis Keenan, Engineer

- Ms. Calli presented proposed plans for a carriage house/garage accessory structure.
- Ms. Calli noted that there was a D(3) conditional use variance and a site plan on this application
- Mr. Keenan explained the existing and proposed elements of the property.
- Mr. Keenan noted that presently the lot is vacant with an existing driveway.
- Mr. Hall noted that there are Harding Land Trust conservation easements on the property.

A site inspection was set for October 5, 2019 at 9:45am.

### **OLD BUSINESS**

#### **Application BOA# 04-19**

Patricia Gargiulo  
595 Van Beuren Road, B5/L8, R-1 Zone  
Applicant requesting variance relief for lot coverage as per NJSA 40:55D-70(c).

Presenting:

Nicole Magdziak, Attorney

Jim Mazzucco, Engineer

Mr. Mazzucco was sworn in for testimony.

Mr. Addonizio recused.

- Ms. Magdziak presented reduced revised plans for the application
- Ms. Magdziak noted that the applicant reduced the lot coverage to 10.7% from the originally requested 12.9%.
- Mr. Mazzucco presented the changes and reductions made on a color rendering of the property.

Mr. Flanagan made a motion to approve the revised application as presented at 10.7%. It was seconded by Ms. Chipperson. A roll call vote went as follows:

For: Mr. Flanagan, Mr. Maselli, Mr. Rosenbaum, Ms. Chipperson and Ms. Sovolos  
Against: Mr. Newlin and Mr. Symonds.

The members who voted yes were all in agreement that the property should have considered the lot coverage of the property prior to building and then requesting relief after the dwelling was built.

Mr. Newlin and Mr. Symonds voted no because they objected to the lot coverage.

#### **Application BOA# 09-19**

Daniel and Eugenia Mezzalingua  
88 Lees Hill Road, B49/L11, RR Zone  
Applicant is requesting variance relief for a front setback, enlarging a non-conforming structure as per NJSA 40:55D-70(c) and NJSA 40:55 (d) (2) expansion of a non-conforming use.

Presenting:

Tom Conway, Architect

Daniel Mezzalingua, Owner

- Mr. Conway presented proposed plans for a renovation on this historic property.
- Mr. Conway noted that the applicant was seeking variances for the enlargement of an existing non-conforming house and a front setback where the existing setback is 15 feet from the road.
- Mr. Conway noted that they are proposing a nanny suite, craft room and recreation room in the basement.
- Mr. Conway noted proposed expansion in roof line height for the main historical part of the house.



- Mr. Conway presented Exhibit A-1, new renderings requested from the site inspection.
- Mr. Conway noted that all the accessory buildings were built before 1945 except for the farmhouse and machine shed. The main dwelling, farmhouse and machine shed all count for lot coverage.
- Mr. Conway noted the changes made to the zoning as a result of the site inspection.
- The revision re-positioned the generator and noted future proposed changes to include a new shed and pool house.
- Mr. Conway presented Exhibit A-2, a series of photos of the farmhouse and its floor plan. There was a discussion to remove one of the living units in the farmhouse.
- Mr. Conway noted that they met with Historic Preservation.
- There was a discussion about the entry gate and paddocks.
- Ms. Mertz inquired about the square footage of the farmhouse. She noted that it exceeded the accessory residence conditions at 1,700 square feet. In addition there is still the question about the nanny suite.
- Mr. Flanagan discussed the location of the addition.
- Mr. Newlin had questions about how much of the existing house will still exist and how much will be new to the property.
- Mr. Conway noted that the façade of the main part of the house would remain. The second floor would be raised and gutted.
- Mr. Maselli questioned whether there would be restoration of the windows.
- Mr. Newlin asked about restoration of the siding.
- Mr. Flanagan asked for clarification of where the historic part of the house is.
- Mr. Flanagan pointed out that the house is very close to the road and that the applicant is proposing a lot more house very close to the road. He would prefer the bulk to be on the other side of the house as not to disturb the streetscape of Lees Hill Road.
- Mr. Flanagan asked if they had considered moving the whole house back from the road.
- Mr. Mezzalingua likes the quirkiness of the house being so close to the road.
- Mr. Mezzalingua noted that relocation the garages would hamper the views of the property from the interior.
- Mr. Flanagan requested to carry the application and for the applicant to consider a revision with more compliance to the ordinances.

Application BOA# 17-18

New York SMSA Limited Partnership d/b/a Verizon Wireless  
8 Millbrook Road, B17/L1, PL Zone

Applicant requesting variance relief for use, per NJSA 40:55D-70(d) for a cell tower.

Presenting:

Richard Schneider, Attorney

Diane Enright, Verizon Wireless Site Acquisition Consultant

Mr. Hall is recused from this application. Mr. Steve Mlenak is counsel on this application.

Rob Simon, Attorney for objectors

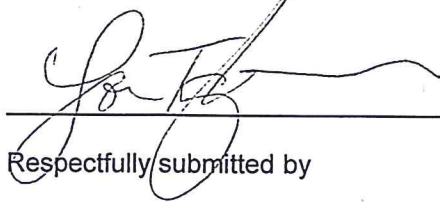
A transcript of the testimony is appended to the minutes.

Mr. Newlin left early at 9:37.

## OTHER BUSINESS

## ADJOURNMENT

Mr. Flanagan adjourned the meeting at 11.00.



Respectfully submitted by

Lori Taglairino, Board of Adjustment

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### HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION

Grant of Amended Use Variance and Site Plan Approvals  
Application No. BOA 5-19 (Prior Nos. 7-03 & 19-00) – New Cingular Wireless PCS, LLC

Village & Millbrook Roads – Block 15, Lot 1  
Adopted September 19, 2019

WHEREAS, New Cingular Wireless PCS, LLC, applied to the Harding Township Board of Adjustment for amendment of site plan and use variance approvals granted by resolutions adopted on December 21, 2000 on Application No. BOA 19-00 and on May 15, 2003 on Application No. BOA 7-03 to request amended use variance relief from Section 225-162 of the Land Use and Development Ordinance, which allows only a single rooftop wireless telecommunications antenna not exceeding a height of 11', and related amended site plan approval, to permit replacement of 2 previously approved rooftop whip antennas and adjustment of the height of 1 existing rooftop canister antenna on the New Vernon Fire House building on property located at the corner of Village and Millbrook Roads and designated on the Township Tax Map as Block 15, Lot 1; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at meetings on June 20, 2019 and August 15, 2019 at the Harding Township Municipal Building, for which public notice and notice by applicant was given as required by law; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary due to the limited scope of the proposed changes to the previously approved rooftop antenna improvements and familiarity with the subject property; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the meeting on August 15, 2019, the Board of Adjustment adopted an oral resolution approving the application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 19th day of September 2019, that approval of the application of New Cingular Wireless PCS, LLC, for amended use variance and site plan approvals is hereby memorialized as follows:

#### Findings of Fact and Statement of Reasons

1. The applicant's predecessor entity, AT&T Wireless PCS, LLC, previously was granted necessary use variance and site plan approvals to install 3 rooftop whip antennas with a height of 12' and related equipment at the New Vernon Fire House on property located at the corner of Village and Millbrook Roads in the R-3 Zone, as set forth in a resolution adoption on December 21, 2000 (Application No. BOA 19-00), and subsequent amended approvals to permit 2 additional antennas as set forth in a resolution adopted on May 15, 2003 (Application No. BOA 7-03). The Board of Adjustment incorporates by reference the findings and conclusions in these resolutions.

2. Section 225-162 (formerly codified as Section 115-182) allows as a permitted use in any zoning district a single rooftop antenna or antenna array for use in connection with the provision of wireless telecommunications service, subject to a height limit of 11' above the peak of the roof. This provision also allows up to 3 antennas per property if sited on separate buildings. Multiple antennas on a single building are authorized only in the B-2 and O-B Zones as a conditional use.

3. The current proposal requires amendment of the prior use variance and site plan approvals to allow two whip antennas to be replaced with shorter, but wider, canister-type antennas, and also to authorize a canister antenna that was incorrectly installed to be relocated upward to avoid a rooftop obstruction. Two previously approved and installed whip antennas would not be changed. The proposed changes were shown on site plan drawings prepared by Dewberry Engineers, Inc., last dated June 27, 2019, except for the height adjustment for one antenna that will be shown on required revised plans.

4. The present application was consented to by the New Vernon Volunteer Fire Department.

5. The applicant was represented in proceedings before the Board of Adjustment by Judith A. Fairweather, Esq. and Christopher J. Quinn, Esq. of Pinilis Halpern, LLP.

6. Testimony in support of the application was presented by Daniel Penesso, a radio frequency engineer employed by the applicant. He testified that the primary objective is to provide improved service within the existing coverage area, rather than expanding the coverage area footprint. This site needs to be upgraded in order to continue to function as an important component of the service coverage area. This continued role is not altered by the fact that this rooftop antenna site is unusual, since other antennas sites in the area are on towers. Mr. Penesso testified that this site currently utilizes the 700, 850 and 2300 MHz frequency bands and that no frequency band higher than 2.3 gigahertz are proposed by the applicant or being requested for this approval. He also testified that this project will allow future accommodation of 5G service, but 5G service is not currently proposed. Moreover, any 5G services



deployed on this site in the future would operate on the existing frequencies (i.e. 2.3 gigahertz or lower). This upgrade project will result in provision of FirstNet service for use in an emergency situation.

7. Mr. Penesso acknowledged that the need for this site would be eliminated if the pending proposal by Verizon for construction of a nearby tower were approved and constructed with New Cingular Wireless as a co-locator, but he indicated that this possibility represented uncertain speculation at this time and the applicant needs to move forward with the current upgrade project.

8. Mr. Penesso stated that a distributed antenna system involving a series of node antennas would not be an appropriate alternative to upgrade service for the coverage area served by the rooftop antennas at this site.

9. Testimony was provided by Joseph Chiaravallo, who has more than 30 years of experience in radio frequency engineering and is currently employed by Pinnacle Telecom Group. He testified concerning a report submitted to the Board entitled "Antenna Site FCC RF Compliance Assessment and Report." Mr. Chiaravallo testified that the analysis described in the Report indicated that the maximum calculated RF level from the proposed antennas would be 4.0774 percent of the FCC limit or more than 20 times below the limit and more than 100 times below the related New Jersey limit. He testified that the Report addressed a frequency range of up to 2.3 gigahertz and stated that even if 5G service were added in the future, it would use a lower frequency and thus would not alter compliance with the FCC limit. Mr. Chiaravallo confirmed that the analysis was based on the specific proposed rooftop elevation height and proposed operating power levels. Based on the express limited scope of the Report, the Board of Adjustment did not request any testimony about health/safety impacts of higher frequency 5G communications on the surrounding neighborhood.

10. Testimony was provided by Dave Revette, P.E., an engineer with the engineering firm that prepared the site plan drawings. He testified concerning the proposed physical improvements. The current whip antennas are roughly 3 inches wide and 10 feet tall. The proposed replacement canister antennas are 13.9 inches wide and 26.8 inches tall, as shown on Sheet Z-7 of the site plan drawings. He confirmed that the height adjustment for the current canister antenna would match the height for the two proposed canister antennas, and the adjusted canister antenna would require an appropriate attachment for the whip antenna proposed to be retained at that location. Specifics as to this project component will be shown on revised plans.

11. Paul Ricci, a licensed professional planner, presented computer generated overlays of photographs showing the proposed changes to the rooftop antennas. Concern was expressed as to the accuracy of these exhibits, and after discussion of this subject the applicant agreed to withdraw these exhibits. There was a consensus that the elevation drawings included with the site plan drawings provided a better portrayal of the likely visual appearance and also that the actual dimension figures on the plans would govern and could be verified by requiring submission of as-built drawings.

12. Mr. Ricci presented his opinion as a professional planner that all of the requested variance relief should be granted. He stated that the incremental changes were limited and were necessary for continued provision of appropriate wireless telecommunications service by this antenna site.

13. There was discussion of the design of the mounting brackets for the proposed canister antennas and whether an alternative design might be used. This resulted in agreement by the applicant to use and maintain reflective tape to mitigate the visual appearance and also to use a gray color for the rooftop equipment.

14. One neighbor asked questions and expressed concern as to the potential visual impact of the modified rooftop antennas from her residence. No other neighbor or member of the public objected to the application.

15. The Board of Adjustment determined that a site inspection was not necessary due to the limited scope of the proposed changes to the previously approved rooftop antennas and familiarity with the property.

16. The Board of Adjustment takes notice of the fact that the existing antennas evidently have not been perceived as being visually obtrusive as evidenced by the absence of prior public comment or concern.

17. Based on the testimony and evidence, the Board of Adjustment concludes that the applicant demonstrated the existence of appropriate special reasons for the requested amended use variance relief under N.J.S.A. 40:55D-70(d), as follows:

a. The extent of the departure from the use regulations in the Ordinance is limited. Section 225-162 permits 1 rooftop antenna not exceeding a height of 11', and 3 rooftop antennas are permitted on the same property if located on separate structures. Use variance relief previously was granted and subsequently amended to allow 4 rooftop antennas with a maximum height of 12' and a fifth shorter canister antenna. The current proposal to replace 2 whip antennas with canister antennas and adjust the height of the present canister antenna will not result in an appreciable change.

b. This property is particularly suited to the proposed use, since it is centrally located within an existing service area and presently provides telecommunications services.

c. This proposal represents the least obtrusive and most appropriate method for the applicant to continue to provide wireless telecommunications service, which provides benefits to the general public.

18. The Board of Adjustment also concludes that the requested amended use variance can be granted without substantial detriment to the public good and without substantial impairment of the Zoning Ordinance and Master Plan, as follows:

a. As indicated above, the deviation from the zoning use regulations is limited. Overall, the applicant's proposal is substantially consistent with the primary purpose of Section 225-162 of encouraging the provision of wireless telecommunications service through rooftop antennas, rather than through the use of antenna towers or monopoles.

b. The existing whip antennas are visually unobtrusive at their location on the roof of the New Vernon Fire House, and the replacement antennas will also be visually unobtrusive.

c. A report and supporting expert testimony established that the RF emissions will be far below applicable FCC and New Jersey regulatory limits, thus precluding a finding of adverse health effects.

d. It is apparent that the intent of the pertinent zoning regulations was to encourage alternatives to the use of tall cell towers.

19. The Board of Adjustment also concludes that the applicant has satisfied the requirements for amended site plan approval.

#### Description of Approvals

1. An amended use variance is hereby granted from Section 225-162 of the Land Use and Development Ordinance to allow 2 previously approved and installed whip antennas to be replaced with shorter, but wider, canister-type antennas, and also to authorize a canister antenna that was incorrectly installed to be relocated upward to avoid a rooftop obstruction, while retaining 2 existing whip antennas, as shown on site plan drawings prepared by Dewberry Engineers, Inc., last dated June 27, 2019, as required to be revised as a condition of these approvals.

2. Amended site plan approval is hereby granted for the proposed modified rooftop antennas and related improvements as shown on the approved site plan drawings, as required to be revised as a condition of these approvals.

**Approval Conditions**

These approvals are granted subject to the following conditions:

1. Any outstanding technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy for the improvements.

2. The applicant shall obtain a building permit and any other necessary approvals.

3. These approvals are based on and authorize only the specific improvements proposed by the applicant as set forth in the testimony, application and plans, as required to be revised. New or amended approval may be required for any different or additional improvements.

4. These approvals are granted subject to the following express conditions:

a. The applicant shall utilize and maintain in the future reflective tape on the antenna supports to minimize visibility.

b. The applicant shall utilize gray color rooftop equipment to the extent available.

c. The locations, heights, sizes and dimensions of the antennas shall be consistent with the final approved plans.

d. These approvals do not authorize operation of antennas at a frequency of more than 2.3 gigahertz.

e. All antenna equipment shall be removed following cessation of use consistent with criteria in the Ordinance.

f. The reports and plans shall be corrected to address all discrepancies discussed on the record and all approval conditions, subject to review and confirmation by the Township Engineer prior to issuance of a building permit.

g. The applicant shall submit post-construction as-built plans for review and approval by the Township Engineer prior to issuance of a certificate of occupancy.

5. These approvals shall expire unless the authorized construction is commenced within one year from the date of this resolution.

**Vote on Resolutions**

For the Oral Resolution: Chipperson, Maselli, Newlin, Symonds, Addonizio & Cammarata.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Chipperson, Maselli, Symonds, Addonizio & Cammarata.

Against the Form of the Written Resolution: None.





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HARDING TOWNSHIP  
BOARD OF ADJUSTMENT

IN THE MATTER OF: : TRANSCRIPT

CASE: BOA# 17-18 : OF

New York SMSA Limited Partnership: : PROCEEDINGS

d/b/a Verizon Wireless :  
8 Millbrook Road :  
Block 17; Lot 1; PL Zone :  
X

Thursday, September 19, 2019  
Municipal Building  
21 Blue Mill Road  
New Vernon, New Jersey  
Commencing at 9:46 p.m.

BOARD MEMBERS PRESENT:

MIKE FLANAGAN, Chairman  
ARIC ROSENBAUM  
ALF NEWLIN, (Excused at 9:46 pm)  
RITA CHIPPERSON  
DAN MASELLI  
HUGH SYMONDS  
ELIZABETH SOVOLOS, (Alt#1)  
THOMAS ADDONIZIO  
MICHAEL CAMMARATA, (Alt#2)

ALSO PRESENT:

LORI TAGLAIRINO, Board Administrator  
PAUL D. FOX, P.E., CME  
M. McKINLEY MERTZ, PP, AICP

PRECISION REPORTING SERVICE  
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1 APPEARANCES:  
2 GREENBAUM, ROWE, SMITH & DAVIS, LLP  
3 BY: STEVEN G. MLENAC, ESQUIRE  
4 Attorneys for the Board  
5 VOGEL, CHAFF, COLLINS & SCHNEIDER, ESQUIRES  
6 BY: RICHARD SCHNEIDER, ESQUIRE  
7 Attorneys for the Applicant  
8 HEROLD LAW, PA  
9 BY: ROBERT F. SIMON, ESQUIRE  
10 Attorneys for the Objectors: SGGI, LLC; Harsh and  
11 Nina Bansal; Michael and Susan Koenck; David  
12 McKittick; Lewis Szapocz and Christi Engel;  
13 James M. Carls and Sarah G. Corne; Ted Cotton

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1 CHAIRMAN FLANAGAN: Okay. We're going to  
2 start. For the record, Alf is not able to stay with us  
3 for the rest of the evening.  
4 (Whereupon, Board Member Alf Newlin is  
5 excused at 9:46 p.m.)  
6 So now we're onto Verizon. Mr. Schneider,  
7 welcome back. So we had a month off last month. Mr.  
8 Simon, I hope you enjoyed your Summer. It's the end of  
9 your summer. As everyone is aware we have a new  
10 attorney. Please say hello to Steve. Steve, say hello  
11 to everyone.  
12 MR. MLENAC: Good evening, everyone. Thank  
13 you for having me. For the record, I have reviewed  
14 carefully all the transcripts of all the hearings in  
15 this matter; the application; all the exhibits, and  
16 here ready to go. And thanks for having me.  
17 CHAIRMAN FLANAGAN: Perfect. So, Steve  
18 comes very highly recommended. His firm actually does  
19 a bunch of work, and we discussed this, with the  
20 Township. So Steve, thank you for joining us.  
21 Mr. Simon, Mr. Schneider, welcome back.  
22 Where did we leave off?  
23 MR. SCHNEIDER: Thank you, Mr. Chairman.  
24 Welcome. Hope everyone had a nice summer, as you  
25 indicated. Just one housekeeping item, and then fill

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1 indicate where we are.  
2 I believe we had a new Board Member since I  
3 wasn't here in August. So I guess he was appointed and  
4 sat in August. So I guess my question is whether --  
5 and I respect your decision one way or the other, I  
6 don't know if you were going to go through the  
7 painstaking task of reviewing the transcripts to make  
8 yourself eligible, just so I can assess it from an  
9 eligibility perspective.  
10 CHAIRMAN FLANAGAN: So you are correct.  
11 Mr. Cammarata was appointed and sworn in the last  
12 meeting. I do not believe, Mike, you have listened to  
13 all of the transcripts of the previous meetings? How  
14 many meetings have we had, six or seven?  
15 MR. SCHNEIDER: I don't think it's been  
16 that many.  
17 BOARD MEMBER SOVOLOS: Six or seven.  
18 CHAIRMAN FLANAGAN: It's not that much.  
19 (Laughter.)  
20 BOARD MEMBER CAMMARATA: I've tried to get  
21 through all of them. I'm not -- I'm probably about 50  
22 percent there.  
23 CHAIRMAN FLANAGAN: Oh, good job. So the  
24 rule is, just really quickly, in order to be able to  
25 vote on anything you have to have heard all of the

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1 testimony. You can do that by listening to recordings.  
2 Actually, in this case it's easier because you can read  
3 the transcripts. So it sounds like you're currently  
4 going through and you're halfway through whatever the  
5 proportion is of listening. It sounds as if Mr.  
6 Cammarata's intention is to get up to speed.  
7 MR. SCHNEIDER: And we appreciate that  
8 because we obviously would request as many eligible  
9 members. I appreciate that. It's probably fascinating  
10 bedtime reading. (Laughter.)  
11 CHAIRMAN FLANAGAN: And to be clear, he is  
12 our second alternate.  
13 MR. SCHNEIDER: Understood. But I do thank  
14 you for the efforts that you've made and the commitment  
15 to render yourself eligible, whether you get to vote or  
16 not.  
17 So let me, if I can, just briefly update  
18 where we are and what the intention is this evening.  
19 If you could just give me a couple of minutes. So we  
20 did last appear in July, at which time as the Board  
21 will recall we presented Ms. Diane Enright who is the  
22 site acquisition specialist. The intention that  
23 evening was for her to review the three or four  
24 alternate sites, which at least in part the Board had  
25 suggested that the applicant investigate it consistent

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1 with the applicant's obligation to investigate  
2 good-faith alternate sites.  
3 We did not get much past the issue of the  
4 fire department availability, as you will recall, and  
5 while I'll get to this in a moment, in testimony, and I  
6 don't disagree with anything that the Board did in that  
7 regard, the Board essentially said we don't have a  
8 clear enough understanding of whether the fire  
9 department is or is not committed, and we ask you the  
10 applicant to go back to the fire department, and for  
11 want of a better expression, hone in on whether they  
12 truly are making them the property available.  
13 So we have done that, and Ms. Enright will  
14 in a somewhat significant pertinent development will  
15 review what the somewhat reversal of fortune is  
16 vis-a-vis the fire department.  
17 We will also, Mr. Chairman, members of the  
18 Board, we did not get to the three other properties  
19 that had been discussed, being the two church  
20 properties as well as the Board. We never got to that.  
21 You had asked that we limit it the last time to the  
22 fire department.  
23 So the intention this evening as a preview  
24 is to have Ms. Enright review the recent pertinent  
25 developments relative to the fire department, as well

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1 as the three other alternate sites.  
2 We're aware, obviously, that Dr. Eisenstein  
3 is not available this evening, so accordingly we have  
4 not brought any witnesses, nor is it our intention to go  
5 into any aspect whatsoever, any radio frequency issues  
6 since he's not here and it would be duplicative. And  
7 for the record I've had the opportunity to speak with  
8 your new Counsel, and I certainly have given him a  
9 preview of what we intend to do this evening, and  
10 confirm that we will not proceed with any radio  
11 frequency testimony, which makes perfect sense. The  
12 hope would be that Dr. Eisenstein would then be  
13 available to return at the October 17th meeting and we  
14 can address radio frequency and other related issues at  
15 that time.  
16 So that's a hopeful preview after having  
17 not seen you for two months. So unless there's any  
18 further questions or any housekeeping items I'd like to  
19 recall Mr. Enright.  
20 CHAIRMAN FLANAGAN: Please do  
21 MS. ENRIGHT: Hello. Good evening.  
22 CHAIRMAN FLANAGAN: You were sworn in last  
23 time, correct?  
24 MS. ENRIGHT: Yes.  
25 DIANE ENRIGHT, having been previously

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1 sworn, testifies as follows:  
2 EXAMINATION BY MR. SCHNEIDER:  
3 Q Ms. Enright, I remind you that you are  
4 still under oath from having been previously sworn.  
5 And as I just mentioned, Ms. Enright, when  
6 you testified at the prior public hearing the Board  
7 reasonably asked you to provide some more, or to go  
8 back to the fire department to provide some more of  
9 detailed inquiry as to the confirmed interest of the  
10 fire department as to the potential availability of  
11 that -- of that particular property for the potential  
12 siting of a wireless communication facility; do you  
13 recall that testimony?  
14 A. Yes.  
15 Q And just by way of very, very brief  
16 recollection, marked as Exhibit "A" was your original  
17 proposal or request for the fire department to consider  
18 its interest, and that was -- the Exhibit is A-8 and  
19 that was originally submitted on April 10th; is that  
20 correct?  
21 A. Yes.  
22 Q Okay. And you testified, if you will  
23 recall, and my recollection was that there was a  
24 lengthy time period between April 10th and thereafter  
25 where you had not heard from the fire department,

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1 correct?  
2 A. Correct.  
3 Q And then you had the occasion to visit the  
4 fire department and ultimately made inquiry to someone  
5 at the fire department was my recollection, correct?  
6 A. Yes.  
7 Q Okay. And then you had a series of  
8 communications with Mr. Martin from the fire department  
9 as to the interest or potential interest of the fire  
10 department, am I correct about that?  
11 A. Yes.  
12 Q Right. And as the transcript reflects, Mr.  
13 Martin, in accordance with Exhibit A-9, had indicated  
14 that there was interest by the fire department. And  
15 then further in accordance with A-9 on June 26th you  
16 submitted a financial proposal to Mr. Martin; is that  
17 correct?  
18 A. Yes.  
19 Q Okay. And just for purposes of the record  
20 and to bring the Board up to date and to hopefully  
21 refresh their recollection, the financial proposal that  
22 was contained within Exhibit A-9 sent on June 26th was  
23 the exact same financial proposal that is reflected in  
24 the lease agreement between Verizon Wireless and the  
25 Township of Harding; is that correct?

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1 A. Yes.  
2 Q Okay. And since it's a public record we  
3 can indicate that just to put some context into the  
4 testimony that you're about to give. The initial  
5 annual rent is \$31,512; correct?  
6 A. Yes.  
7 Q Okay. There is also a provision for -- and  
8 I think the Board will understand the relevance in a  
9 moment -- whereby, if there's any subsequent  
10 collector, in other words, if another carrier comes on  
11 to the tower in question, in this case the township  
12 receives 75 percent of that revenue, correct?  
13 A. Yes.  
14 Q So whatever -- whether it's T-Mobile, AT&T  
15 Wireless, whoever the case may be, the township  
16 receives 75 percent of that revenue that would be paid  
17 by the carrier to Verizon; is that correct?  
18 A. Yes. Correct.  
19 Q Okay. But the Township only receives that  
20 revenue if underlying "it" three times, and when a  
21 subsequent carrier would come onto the tower, correct?  
22 A. Yes.  
23 Q Okay. So if for whatever reason another  
24 carrier never comes on the township still gets its base  
25 rent but they do not believe the 75 percent of the

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1 collocation revenue; is that correct?  
2 A. Right.  
3 Q And that 75 percent revenue share that is  
4 contained within the agreement with the township was  
5 the exact same proposal that you made to Mr. Martin on  
6 June 26th; correct?  
7 A. Yes. Correct.  
8 Q So your proposal in all material aspects as  
9 to financial proposals was entirely consistent with the  
10 lease agreement between the Township of Harding and  
11 Verizon Wireless; correct?  
12 A. Correct.  
13 Q And while you are certainly not an  
14 attorney, the rent that was determined or contained  
15 within the lease between Verizon and the Township was  
16 not a negotiated rent but was, in fact, the rent that  
17 was set forth in a public bid that Verizon Wireless  
18 responded to; correct?  
19 A. Correct.  
20 Q Okay. Now, when you had the conversation  
21 and exchange of emails with Mr. Martin on or about June  
22 26th was there any response from Mr. Martin as to the  
23 sufficiency of -- or the adequacy of the financial  
24 proposal that was submitted by Verizon?  
25 A. Chris Martin explained that any proposal,

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1 any offer has to be approved by the Board of Governors  
2 at the fire department, but remained interested. They  
3 remained interested in doing a lease agreement for a  
4 structure there.  
5 Q Okay. So they remained interested. And I  
6 think you indicated last time that it was subject --  
7 that the financial proposal was subject to the Board of  
8 Governor's approval?  
9 A. Yes. He had to let me know that it was  
10 subject to approval.  
11 Q Right. He wasn't making the decision  
12 unilaterally?  
13 A. Yes. He made that clear.  
14 Q Which the Board made the point last time.  
15 But in the course of those communications at any such  
16 time during those communications in June Mr. Martin on  
17 behalf of the fire department did not indicate in any  
18 way dissatisfaction with the financial proposal, make  
19 any requested changes to the financial proposal, or  
20 anything similar of that nature; correct?  
21 A. No.  
22 Q Okay. Now, when you appeared -- now, let  
23 me go back. When you had those discussions with Mr.  
24 Martin did they progress to a certain point whereby  
25 there was a discussion in advance to the point where in



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<p>1 fact a location was discussed at the subject -- at the</p> <p>2 subject property? And by subject property I'm</p> <p>3 referring to the fire department property, correct?</p> <p>4 A. Yes. We discussed the location.</p> <p>5 Q. Okay. And you seemingly took that</p> <p>6 discussion as yet another indication of certainly the</p> <p>7 potential interest of the fire department, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And as you recall when we appeared</p> <p>10 before the Board in July there was, as I perhaps</p> <p>11 mentioned for the third time, the Board wanted a little</p> <p>12 more -- or requested some more concrete confirmation as</p> <p>13 to what -- whether in fact the fire department was</p> <p>14 committed to that based on the financial proposal that</p> <p>15 you submitted, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And if you'll recall you had last</p> <p>18 communicated with Mr. Martin, as I understand your</p> <p>19 testimony, on June 26th, but when we appeared at the</p> <p>20 July hearing you had not heard back from Mr. Martin</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And that caused some inquiry from the Board</p> <p>24 as to whether the fire department remained interested</p> <p>25 and or committed to the site.</p>	<p>1 able to get a written financial proposal from the fire</p> <p>2 department based on a Board of Governor's meeting and</p> <p>3 based on what their minimum acceptance would be for a</p> <p>4 financial compensation for a monopoly there.</p> <p>5 So I've made a lot of progress since I was</p> <p>6 here last time, and they were able to share that with</p> <p>7 me. So now I have concrete evidence of what they --</p> <p>8 they're interested in -- their minimum acceptance is</p> <p>9 for leasing that property.</p> <p>10 Q. I'm going to show you what I've just</p> <p>11 preliminarily marked as A-10. I have extra copies for</p> <p>12 the Board.</p> <p>13 Is that the e-mail that you received in</p> <p>14 response to your July 31st e-mail to Chris Martin?</p> <p>15 A. Yes.</p> <p>16 Q. And that's a response from --</p> <p>17 A. Jim Geswell.</p> <p>18 Q. Jim Geswell as to the ultimate financial</p> <p>19 decision of the Board, is that correct?</p> <p>20 A. Yes. He was able to have the Board of</p> <p>21 Governors support that financial decision.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit A-10 was received and marked.)</p> <p>24 MR. SCHNEIDER: I have copies of this for</p> <p>25 everyone on the Board. I'll give Lori the original.</p>
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<p>1 Did you then in response to the Board's</p> <p>2 inquiry have occasion to reengage the fire department</p> <p>3 as to their potential continued interest in the siting</p> <p>4 of a wireless communication facility at the subject</p> <p>5 property?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And can you, with hopefully not me</p> <p>8 initially interrupting you, just provide to the Board</p> <p>9 an understanding of the chronology of those subsequent</p> <p>10 discussions?</p> <p>11 A. Yes. After -- you brought us basically up</p> <p>12 to the point where I reached back out to the fire</p> <p>13 department via e-mail calling Chris Martin. I did</p> <p>14 receive response from Chris Martin. They sent like a</p> <p>15 letter of intent on 7/31 that they would be interested</p> <p>16 in doing a lease agreement for a telecommunication</p> <p>17 structure at the property. On 8/1 they had assigned</p> <p>18 Jim Geswell as the representative of the fire</p> <p>19 department, and from thereon I would work with --</p> <p>20 Q. Jim Geswell is the representative of the</p> <p>21 fire department?</p> <p>22 A. Yes. He was assigned as a representative</p> <p>23 of the fire department to continue discussions with me</p> <p>24 regarding our interest and their interest in leasing</p> <p>25 space at the fire department. And that is when I was</p>	<p>1 I've taken the liberty of marking that as A-10. I</p> <p>2 think there should be copies for everybody.</p> <p>3 CHAIRMAN FLANAGAN: Okay. Thanks.</p> <p>4 MR. SCHNEIDER: And why don't we just give</p> <p>5 the Board a moment to --</p> <p>6 MR. FOX: Is the witness going to advise us</p> <p>7 what the counter offer was?</p> <p>8 MR. SCHNEIDER: Yes, in a moment.</p> <p>9 MR. MLENAK: Right, so before you proceed</p> <p>10 with the question because you mentioned, was this in a</p> <p>11 form of an e-mail or letter that was sent?</p> <p>12 THE WITNESS: That was a letter attached to</p> <p>13 an email.</p> <p>14 MR. MLENAK: This was an attachment to an</p> <p>15 e-mail?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. MLENAK: And the date of that e-mail</p> <p>18 was?</p> <p>19 THE WITNESS: That was 8.1.</p> <p>20 MR. SCHNEIDER: Paul, I'm sorry. I don't</p> <p>21 have an extra copy for you.</p> <p>22 MR. FOX: Oh, I was hoping we just get it</p> <p>23 by testimony. We didn't need written notice.</p> <p>24 MR. SCHNEIDER: And you will.</p> <p>25 MR. FOX: Okay.</p>

5 (Pages 14 to 17)

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<p>1 BY MR. SCHNEIDER:</p> <p>2 Q. Diane, the Board has a copy of the e-mail,</p> <p>3 but --</p> <p>4 A. I have to correct myself. On 8/1 I had a</p> <p>5 conversation with Jim. 8/12 that was sent.</p> <p>6 MR. SCHNEIDER: So it was 8/12, Council.</p> <p>7 Q. And can you review what has been marked as</p> <p>8 A-10 for the Board?</p> <p>9 A. Yes. So the Board of Governors, as I said,</p> <p>10 was able to get together and decide upon what the</p> <p>11 minimum rental amount would be if they were to lease</p> <p>12 space at the fire department. I can -- do you want me</p> <p>13 to read the whole --</p> <p>14 Q. It's short enough. Why don't we read it</p> <p>15 into the record for the members of the public.</p> <p>16 A. "My name is Jimmy Geswell. The Board of</p> <p>17 Governors of the New Vernon Volunteer Fire Department</p> <p>18 has authorized me to discuss the terms of the cell</p> <p>19 tower proposal at the fire department at 22 Village</p> <p>20 Road, New Vernon.</p> <p>21 "I reviewed the proposal and list the</p> <p>22 following requirements: The tower would be a flagpole</p> <p>23 type and no exterior antennas visible on the outside</p> <p>24 similar to the pole at the Green Village Firehouse just</p> <p>25 at the other end of Village Road, except it would be</p>	<p>1 giving me that explanation.</p> <p>2 And then again we have confirmed on 8/21 I</p> <p>3 got an e-mail from Jim, and again I just wanted to make</p> <p>4 sure confirming that's your minimum acceptance and they</p> <p>5 said yes.</p> <p>6 Q. And in the course of your subsequent</p> <p>7 discussion to Exhibit A-10 did you come to understand</p> <p>8 that that "guarantee" \$110,000 was nonnegotiable?</p> <p>9 A. Yes. I understand that as being</p> <p>10 nonnegotiable. Yes.</p> <p>11 Q. Based on your experience that you testified</p> <p>12 to previously have you ever, whether for Verizon or any</p> <p>13 other carrier -- let's limit it to Verizon. Are you</p> <p>14 familiar at all whereby there's a lease situation where</p> <p>15 a carrier such as Verizon guarantees a rent to a</p> <p>16 landlord for future collocators?</p> <p>17 A. No.</p> <p>18 Q. Is the \$110,000 minimum required rent by</p> <p>19 year three in any way, based on your extensive</p> <p>20 experience, consistent with prevailing market rates?</p> <p>21 A. No.</p> <p>22 Q. Not even close?</p> <p>23 A. No.</p> <p>24 Q. Okay. And in making that determination you</p> <p>25 in part presumably are relying on the market rate as</p>
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<p>1 150-foot tall. We would need a minimum of \$110,000 in</p> <p>2 base rental and collocation revenue by the beginning of</p> <p>3 the third year of the lease with a three percent</p> <p>4 increase each year.</p> <p>5 "In other words, we would like assurance</p> <p>6 that there would be collocation rentals guaranteed and</p> <p>7 that there would be more income than just the base</p> <p>8 lease.</p> <p>9 "Please feel free to respond directly to me</p> <p>10 with a copy to Chris. Jim Geswell."</p> <p>11 Q. And they used specifically the phrase</p> <p>12 "guaranteed," correct?</p> <p>13 A. Yes. I understood what they meant by that</p> <p>14 letter.</p> <p>15 Q. And in view of your prior communications</p> <p>16 with Mr. Martin what was your reaction, at least your</p> <p>17 initial reaction, to this financial counter proposal</p> <p>18 when received?</p> <p>19 A. I called him. That was my initial</p> <p>20 reaction, and we did discuss on August 19th to make</p> <p>21 sure this was -- I was to understand what the fire</p> <p>22 department's position was. And Jim did make it clear</p> <p>23 that for the fire department it really would not be</p> <p>24 worth their time for anything less than that and it was</p> <p>25 a joint decision by the Board. So I appreciated him</p>	<p>1 set by the public bid process; is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And, in fact, the way I described</p> <p>4 how the collocation revenue works there is a mechanism</p> <p>5 that if there was collocators the fire department would</p> <p>6 receive a significant portion of that revenue but that</p> <p>7 would only be if and when a collocator ever was</p> <p>8 accommodated on that tower, is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And let's put aside whether the</p> <p>11 Board decides that they want the flagpole design.</p> <p>12 Let's take that completely out of the equation.</p> <p>13 And you had no further discussions with the</p> <p>14 fire department once they indicated that this</p> <p>15 "guaranteed" rent of \$110,000 is nonnegotiable;</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Now, if I can segue. In addition to</p> <p>19 the fire department there were, with the Board's</p> <p>20 frankly cooperation, they provided some guidance as to</p> <p>21 certain sites that they thought might be potentially</p> <p>22 appropriate for consideration as an alternate site for</p> <p>23 the siting of a wireless communications facility as</p> <p>24 distinct from the DPW property. And the first one was</p> <p>25 Church of Christ the King, correct?</p>

6 (Pages 18 to 21)

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<p>1 A. Yes.</p> <p>2 Q. Can you review for the Board your efforts</p> <p>3 and inquiries relative to the potential siting of a</p> <p>4 wireless communication facility for Church of Christ</p> <p>5 the King?</p> <p>6 A. Yes.</p> <p>7 Q. Just keep your voice up.</p> <p>8 A. I sent a proposal to Father Sullivan on</p> <p>9 April 12th. On May 3rd we discussed the proposal. He</p> <p>10 understood that we were interested in putting a</p> <p>11 free-standing antenna structure at the church. Would</p> <p>12 they be interested in leasing the space.</p> <p>13 He gave it careful consideration, but on</p> <p>14 July 18th he made the decision and the church, you</p> <p>15 know, with anybody else at the church that he spoke</p> <p>16 with did not think that that would be something they</p> <p>17 would be interested in. So they rejected our proposal</p> <p>18 based on non-interest.</p> <p>19 Q. And did they memorialize that decision to</p> <p>20 -- that confirmation to writing?</p> <p>21 A. Yes. He sent a letter of rejection to our</p> <p>22 proposal.</p> <p>23 MR. SCHNEIDER: I have extra copies for the</p> <p>24 Board. I mark that as A-11.</p> <p>25 (Exhibit A-11 was received and marked.)</p>	<p>1 through those, that chronology?</p> <p>2 A. Yes. On April 12th the proposal went out</p> <p>3 to Matthew Speller, who is the Superintendent of</p> <p>4 Schools, the Harding Township Board of Education.</p> <p>5 Matthew reviewed the proposal. Had me come in and meet</p> <p>6 with him and a couple other Board members to discuss</p> <p>7 the proposal, answer questions, talk about the antenna</p> <p>8 structure where it would go on the property and whether</p> <p>9 or not they would be interested in it.</p> <p>10 They received a lot of information about</p> <p>11 this site to bring to the Board of Education. So the</p> <p>12 whole proposal was brought to the Board of Education</p> <p>13 around 5/28. And he informed me --</p> <p>14 Q. Let me just take a step back. You had a</p> <p>15 series of communications. My understanding, correct me</p> <p>16 if I'm wrong, that you actually had a visit at the</p> <p>17 elementary school property?</p> <p>18 A. Yes. Well, I met with him in person at his</p> <p>19 office so we can discuss the proposal and answer</p> <p>20 questions.</p> <p>21 Q. Were there any other members of the Board?</p> <p>22 A. Yes. There were two other members of the</p> <p>23 Board with him, Richard Bruno, and Mr. Singh.</p> <p>24 Q. So there were members of the Board as you</p> <p>25 understood the Board, in addition to Mr. Speller?</p>
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<p>1 MR. SCHNEIDER: It's a very brief letter.</p> <p>2 I can read it into the record, Mr. Chairman, if that's</p> <p>3 okay, just in the interest of time.</p> <p>4 CHAIRMAN FLANAGAN: Please do.</p> <p>5 MR. SCHNEIDER: My voice may still be</p> <p>6 holding out. It's signed by Reverend Brian C.</p> <p>7 Sullivan, it is dated July 18, 2019.</p> <p>8 "Dear Mr. Enright, as you requested I'm</p> <p>9 writing to verify our communications regarding Verizon's</p> <p>10 proposal to lease space at the Church of Christ the</p> <p>11 King's property for the purpose of constructing a</p> <p>12 140-foot monopole and telecommunication compound.</p> <p>13 After carefully reviewing your proposal, and in</p> <p>14 consultation with parish leadership, it was decided to</p> <p>15 decline Verizon's proposal. We wish you every success</p> <p>16 in identifying a suitable location at another site."</p> <p>17 Q. One of the next properties that the Board</p> <p>18 reasonably asked us to consider was the Harding</p> <p>19 Township Elementary School property. Are you familiar</p> <p>20 with that?</p> <p>21 A. Yes.</p> <p>22 Q. And did you -- and as I understand it</p> <p>23 there's a rather very cooperative but somewhat lengthy</p> <p>24 chronology as to your efforts to potentially site a</p> <p>25 facility at the elementary school. So can you take us</p>	<p>1 A. Yes. So the whole proposal had to go</p> <p>2 before the entire Board of Education Board. And it did</p> <p>3 make it to the Board of Education Board. And on 5/28</p> <p>4 Matthew Speller sent me an email saying he and the</p> <p>5 Board decided -- the Board of Education decided it</p> <p>6 wouldn't be something they would be interested in.</p> <p>7 Q. And I'm going to show you what I've taken</p> <p>8 the liberty of marking A-12. That is a series of</p> <p>9 e-mails between you and Mr. Speller, as they relate to</p> <p>10 setting up the meeting, the potential interest, and</p> <p>11 ultimately resulting in a -- the following. If you</p> <p>12 don't mind I'll read it for the record. It's an e-mail</p> <p>13 from Mr. Speller to Mr. Enright dated Tuesday May 28th</p> <p>14 at 8:07 a.m.</p> <p>15 "Our Board has decided not to pursue the</p> <p>16 proposal any further. We appreciate you presenting to</p> <p>17 our facilities and finance committee, but the Board was</p> <p>18 concerned with possible safety issues and the height</p> <p>19 and footprint that the site would require.</p> <p>20 Please let me know if you have any</p> <p>21 questions or concerns."</p> <p>22 I have a series of e-mails that I've marked</p> <p>23 as A-12.</p> <p>24 (Exhibit A-12 was received and marked.)</p> <p>25 CHAIRMAN FLANAGAN: Let me just ask you</p>

7 (Pages 22 to 25)

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<p>1 before we move off of this. What actual or what exact</p> <p>2 site did you discuss with the Board of Ed?</p> <p>3 THE WITNESS: We were talking about going</p> <p>4 on the school property and that's located --</p> <p>5 BOARD MEMBER MASELLI: What part of the</p> <p>6 school property?</p> <p>7 THE WITNESS: Well, any part that they</p> <p>8 would be interested in leasing to us.</p> <p>9 CHAIRMAN FLANAGAN: All right. So I think</p> <p>10 last time --</p> <p>11 THE WITNESS: So it's 34 Lee's Hill Road.</p> <p>12 CHAIRMAN FLANAGAN: All right. But the</p> <p>13 last time we discussed putting it in the center of a</p> <p>14 circular drive, I think? I don't know if that was just</p> <p>15 used by way of example, but when you discussed this</p> <p>16 with the Board of Ed did you propose or suggest that</p> <p>17 you needed a specific area on their property, or was it</p> <p>18 left to the Board to decide if there are any areas on</p> <p>19 the property they can use?</p> <p>20 THE WITNESS: We did discuss that it would</p> <p>21 be better closer to the street, but it would all be</p> <p>22 contingent upon a site visit. But I did say -- I said</p> <p>23 that would be better for coverage to be closer to the</p> <p>24 street. We did talk about that in our meeting.</p> <p>25 CHAIRMAN FLANAGAN: Was the possibility</p>	<p>1 Thomas Ludwig and several people from the Church May</p> <p>2 3rd to discuss the installation. It would be a</p> <p>3 free-standing antenna structure. They understood what</p> <p>4 the proposal was and that that it would be located in</p> <p>5 anywhere that they would have available.</p> <p>6 They carefully looked at that proposal and</p> <p>7 on May 14th Mr. Ludwig informed me that they would not</p> <p>8 be interested in a new antenna structure at the church,</p> <p>9 but if the steeple worked they would open up to us</p> <p>10 evaluating the steeple of their church.</p> <p>11 Q. So you understood the position of the</p> <p>12 Church to be that they would not consider a</p> <p>13 free-standing structure but that they would potentially</p> <p>14 consider the siting of a wireless communication</p> <p>15 facility, potentially in the cupola or the steeple?</p> <p>16 A. Within the cupola or steeple.</p> <p>17 Q. Okay. I'm going to show you -- I thought</p> <p>18 you had said May 4th, but I'm looking at an e-mail</p> <p>19 dated May 1st. Does this refresh your recollection?</p> <p>20 A. We had the first -- that's one -- yeah. On</p> <p>21 May 1st they sent the rejection letter.</p> <p>22 Q. But they indicated the potential of the</p> <p>23 cupola?</p> <p>24 A. Yes. And on May 14th we were still</p> <p>25 discussing the non-interest in existing antenna</p>
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<p>1 left open that this site or the compound would be</p> <p>2 further from the street?</p> <p>3 THE WITNESS: There was property available</p> <p>4 back there, so what I said was if the Board's</p> <p>5 interested I'll come back with my engineer to look at</p> <p>6 that, but we never made it to the Board was interested.</p> <p>7 CHAIRMAN FLANAGAN: Okay. So it was</p> <p>8 discussed as a possibility that it would be placed in</p> <p>9 the field back behind the school and --</p> <p>10 THE WITNESS: Yes. He was talking about</p> <p>11 that area. We did discuss that area as well.</p> <p>12 BY MR. SCHNEIDER:</p> <p>13 Q. Let me turn your attention to, if I can,</p> <p>14 the New Vernon Presbyterian Church. Was that site --</p> <p>15 strike that.</p> <p>16 Did you have occasion to make inquiry to</p> <p>17 representatives of the New Vernon Presbyterian Church</p> <p>18 as to the potential siting of a wireless communication</p> <p>19 facility at that property?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And in the interest of time can you</p> <p>22 take us through the chronology of how that unfolded and</p> <p>23 what their potential interest, if any, there was?</p> <p>24 A. Yes. The proposal went to Mr. Thomas</p> <p>25 Ludwig on April 5th. I had a conference call with</p>	<p>1 structure on the property, but the interest in the</p> <p>2 cupola or the steeple.</p> <p>3 MR. MLENAK: If I might ask, you mentioned</p> <p>4 a conference call on May 3rd. Is that an accurate</p> <p>5 date?</p> <p>6 THE WITNESS: Yes.</p> <p>7 MR. MLENAK: So the rejection letter came</p> <p>8 before the conference call?</p> <p>9 THE WITNESS: I'm sorry. I had the</p> <p>10 conference call on May 1st. And May 3rd is when they</p> <p>11 sent back that e-mail that you're showing. And we've</p> <p>12 been in continued discussions since then, so it was --</p> <p>13 the conference call was May 1st.</p> <p>14 BY MR. SCHNEIDER:</p> <p>15 Q. So your understanding was, to put a concise</p> <p>16 summary on that, that the Church, the New Vernon</p> <p>17 Presbyterian Church, was not interested in the siting</p> <p>18 of a free-standing communications tower, but would</p> <p>19 potentially consider a facility that could be located</p> <p>20 within the cupola or steeple, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And interestingly, did they at that time</p> <p>23 provide you with any additional documentation or</p> <p>24 exhibits by some other carrier that might have</p> <p>25 previously considered that particular structure?</p>

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<p>1 A. Yes. They provided me with the T-Mobile</p> <p>2 exhibits when they once evaluated the steple.</p> <p>3 Q And they provided to you that exhibit.</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 MR. SCHNEIDER: I'm going to mark that --</p> <p>7 I'm sorry. Are we up to 13?</p> <p>8 (Exhibit 13 was received and marked.)</p> <p>9 MR. SIMON: What's 12? I don't have any</p> <p>10</p> <p>11 MR. MLENAK: The Board of Education emails</p> <p>12 SECRETARY TAGLIAIRINO: E-mails to the Board</p> <p>13 of Education</p> <p>14 BOARD MEMBER ROSENBAUM: You can have mine</p> <p>15 MR. SIMON: Thank you</p> <p>16 BY MR. SCHNEIDER:</p> <p>17 Q And these exhibits, Diane, go back all the</p> <p>18 way to August of 2009, correct?</p> <p>19 A. Yes.</p> <p>20 Q And is it your understanding that</p> <p>21 Omnipoint, now known as T-Mobile, for reasons that</p> <p>22 you're privy to, never proceeded with any further</p> <p>23 consideration of the -- of the steple, whether it be</p> <p>24 for technical or other reasons, correct?</p> <p>25 A. Correct.</p>	<p>1 site?</p> <p>2 MR. SCHNEIDER: Well, I'll make two</p> <p>3 caveats. The first is, out of fairness to you I'm</p> <p>4 prepared to address the adequacy or lack thereof or the</p> <p>5 issues associated with the cupola, but not at tonight's</p> <p>6 meeting, because Dr. Eisenstein wasn't here, there was</p> <p>7 no -- and my position, to be clear and straight forward</p> <p>8 as I'll try to be, certainly the Board of Ed and Church</p> <p>9 of Christ are in our position not available. And our</p> <p>10 further position to be very clear is that</p> <p>11 notwithstanding the initial interest of the fire</p> <p>12 department we are very clear that the demands of the</p> <p>13 fire department, which is solely within their right, is</p> <p>14 not in any way closely remote to being reasonable.</p> <p>15 And, therefore, it's our position that it</p> <p>16 is not "available" as would generally be defined under</p> <p>17 case law, which I'm sure your new counsel can review</p> <p>18 for you. So that's hopefully a concise summary of what</p> <p>19 you've been asking for.</p> <p>20 CHAIRMAN FLANAGAN: All right. Let me ask</p> <p>21 just one question I had. We discussed the firehouse</p> <p>22 and they asked for \$110,000 starting in year three.</p> <p>23 Presumably you offered them \$31,500, which they would</p> <p>24 accept in year -- the first three years, or until year</p> <p>25 three, right?</p>
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<p>1 Q. You have no knowledge. So when you got the</p> <p>2 conclusion -- when you got the determination that they</p> <p>3 were not interested in a free-standing structure but</p> <p>4 would potentially consider the use of the cupola or</p> <p>5 steple as the case may be, did you at that time refer</p> <p>6 that exhibit to Verizon Wireless for further</p> <p>7 consideration?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And did you, in addition to</p> <p>10 referring it to Verizon Wireless, thereafter conduct</p> <p>11 with other design professionals and experts an actual</p> <p>12 design visit at the facility?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And I'll leave it there. The</p> <p>15 results of that site visit would be the subject of</p> <p>16 further testimony by design professionals and or radio</p> <p>17 frequency presumably to be presented at the next</p> <p>18 meeting, correct?</p> <p>19 A. Yes.</p> <p>20 MR. SCHNEIDER: Mr. Chairman, that</p> <p>21 concludes my direct testimony of Ms. Enright on the</p> <p>22 consideration of alternate sites.</p> <p>23 CHAIRMAN FLANAGAN: All right. So I guess</p> <p>24 the ask of this Board is to consider any or all of</p> <p>25 these or none of these sites as a potential alternative</p>	<p>1 BOARD MEMBER MASELLI: I think the third</p> <p>2 year has to do with collectors.</p> <p>3 BOARD MEMBER CHIPPERSON: I have a</p> <p>4 question.</p> <p>5 CHAIRMAN FLANAGAN: It says, "We need a</p> <p>6 minimum of \$110,000 in base rent and collocation</p> <p>7 revenue by the beginning of the third year."</p> <p>8 So as I read that it sounds like they want</p> <p>9 something less than that, but at the beginning of the</p> <p>10 third year they want to get \$110 grand.</p> <p>11 BOARD MEMBER CHIPPERSON: My question is</p> <p>12 the base rental annual. It doesn't say that, or is it</p> <p>13 for the first three years?</p> <p>14 THE WITNESS: They wanted a guarantee that</p> <p>15 by third year they're getting -- it's not going to</p> <p>16 be worth their time unless it's \$110,000. So we had to</p> <p>17 guarantee \$110,000 in the third year.</p> <p>18 CHAIRMAN FLANAGAN: All right. So in your</p> <p>19 one you stated they would presumably get \$31,500?</p> <p>20 THE WITNESS: I guess presumably, yes, they</p> <p>21 would make.</p> <p>22 CHAIRMAN FLANAGAN: So then when is it</p> <p>23 customary -- or forget that.</p> <p>24 In -- your experience what would you expect</p> <p>25 the value of a collector to be? How much would they</p>

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<p>1 pay?</p> <p>2 THE WITNESS: It's comparable. It would be</p> <p>3 comparable to what you pay. And then usually there's</p> <p>4 each carrier would pay about the same and there's</p> <p>5 usually a revenue split with the owner.</p> <p>6 CHAIRMAN FLANAGAN: So does that mean that</p> <p>7 if Verizon were paying \$31,500 you'd expect that next</p> <p>8 year in the lower would also pay \$31,500?</p> <p>9 THE WITNESS: It's a good possibility.</p> <p>10 CHAIRMAN FLANAGAN: And you'd divvy up that</p> <p>11 money however you would divvy it up with the township,</p> <p>12 the DPW would get 75 percent. So -- I got you. Okay.</p> <p>13 That's my question.</p> <p>14 BOARD MEMBER ROSENBAUM: I'm sorry. Are we</p> <p>15 just clear that the \$110,000 that is in section two is</p> <p>16 per annum as opposed to per the aggregate?</p> <p>17 THE WITNESS: Annual. So I spoke with Jim</p> <p>18 a couple of times, twice we have confirmed. So I</p> <p>19 understood their position. And their position really</p> <p>20 was that it's not worth it to them unless they're</p> <p>21 bringing in \$110,000 per year. So that was what the</p> <p>22 Board collectively --</p> <p>23 MR. SCHNEIDER: The Board being the Board</p> <p>24 of Governors?</p> <p>25 THE WITNESS: The Board of Governors they</p>	<p>1 information. And if you look at this one from your</p> <p>2 e-mail -- I'm just curious.</p> <p>3 THE WITNESS: It was attached to the</p> <p>4 e-mail. I can provide that e-mail that it was -- no,</p> <p>5 that was a follow-up e-mail. It was attached to</p> <p>6 another e-mail. That's the way he gave it to me.</p> <p>7 BOARD MEMBER CHIPPERSON: What about this</p> <p>8 one? This is clearly an e-mail, because it says</p> <p>9 there's something attached.</p> <p>10 MR. SCHNEIDER: We can provide that.</p> <p>11 BOARD MEMBER CHIPPERSON: Were there other</p> <p>12 e-mails with the fire department other than these two?</p> <p>13 THE WITNESS: Once Jim Gesweli was -- I</p> <p>14 was working with Jim Gesweli there were two or three</p> <p>15 e-mails.</p> <p>16 BOARD MEMBER CHIPPERSON: Can you provide</p> <p>17 all those e-mails?</p> <p>18 THE WITNESS: Yes. I can provide them to</p> <p>19 you. That was the confirmation e-mail and this</p> <p>20 proposal e-mail. I think there was really two.</p> <p>21 MR. MLENAK: That e-mail that you</p> <p>22 referenced that I was going to ask you about is \$21,</p> <p>23 and that was the one that I think you testified that</p> <p>24 that was where I guess there was a commitment and the</p> <p>25 terms were nonnegotiable?</p>
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<p>1 supported that financial amount. And they all agreed</p> <p>2 that you would have to guarantee the collectors.</p> <p>3 BOARD MEMBER ROSENBAUM: Got it.</p> <p>4 BOARD MEMBER SYMONDS: Quick question. Was</p> <p>5 the school and the church, did you actually talk</p> <p>6 financial terms with --</p> <p>7 THE WITNESS: Yes.</p> <p>8 BOARD MEMBER SYMONDS: You made them --</p> <p>9 THE WITNESS: Everybody got an offer.</p> <p>10 BOARD MEMBER SYMONDS: You made them an</p> <p>11 actual offer with a dollar figure involved?</p> <p>12 THE WITNESS: Yes. I actually had the</p> <p>13 lease, the same exact lease.</p> <p>14 MR. SCHNEIDER: Mr. Symonds, if I may just</p> <p>15 clarify one thing legally. If the church -- strike</p> <p>16 that. If the Board of Ed was truly interested it would</p> <p>17 have to be by public bid.</p> <p>18 BOARD MEMBER SYMONDS: I just wanted to</p> <p>19 make sure that they have -- you know, it wasn't just a</p> <p>20 no, we don't want a lower. That they had money to, you</p> <p>21 know, they were balancing their position.</p> <p>22 MR. SCHNEIDER: Understood.</p> <p>23 BOARD MEMBER CHIPPERSON: I have a couple</p> <p>24 of questions. Is this a cut and paste from an actual</p> <p>25 e-mail? Because there's no time or header or</p>	<p>1 THE WITNESS: 8/12, 8/19 and 8/21 are the</p> <p>2 three times I spoke with Jim Gesweli. I communicated</p> <p>3 with him about the proposal. So on 8/12 I got that</p> <p>4 proposal, 8/19 I spoke with Jim. He confirmed and</p> <p>5 gave me a little bit more understanding as to why, you</p> <p>6 know, how that number came about and how the Board</p> <p>7 discussed it. And they realized, you know, they had</p> <p>8 something to give up. They don't have a lot of space</p> <p>9 there and anything else. So they collectively thought</p> <p>10 it would be worth their time if they give it for that</p> <p>11 amount that he gave me.</p> <p>12 Then on 8/21 again I spoke with Jim. I</p> <p>13 asked him to send me an e-mail confirmation, because I</p> <p>14 said the Board likes to have something in writing. So</p> <p>15 we got an e-mail confirmation. So the fire department</p> <p>16 they'll give me a lot of legal formal documentation in</p> <p>17 writing. But we went back in forth with the emails and</p> <p>18 we had good conversation, and that made me very clear</p> <p>19 as to what their position was and why.</p> <p>20 CHAIRMAN FLANAGAN: Can I just ask: So</p> <p>21 8/10 I believe you previously testified that was sent</p> <p>22 on 8/21?</p> <p>23 THE WITNESS: That was the letter of intent</p> <p>24 from Chris Martin. Chris Martin had sent a letter</p> <p>25 of intent, and that was -- didn't have the offer. It</p>

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<p>1 didn't have the financial information in it.</p> <p>2 CHAIRMAN FLANAGAN: So 8/10, what was the</p> <p>3 date you received or --</p> <p>4 BOARD MEMBER CHIPPERSON: But you</p> <p>5 originally said it was 7/31 that you got a letter of</p> <p>6 intent from the firehouse, and on 8/1 Jim Gesweli --</p> <p>7 THE WITNESS: I can just go through this</p> <p>8 real -- let me see if I can. On 7/31 the e-mail was</p> <p>9 sent to Chris Martin requesting that the fire</p> <p>10 department provide some additional information in</p> <p>11 connection with the letter of intent that we previously</p> <p>12 received.</p> <p>13 On 8/1 Chris Martin left a voicemail</p> <p>14 directing me to talk with Deputy Chief Jim Gesweli.</p> <p>15 Jim was assigned as my point of contact. On 8/1 I</p> <p>16 spoke with Jim Gesweli at Chris Martin's discretion.</p> <p>17 He advised that the fire department was interested in</p> <p>18 leasing to three carriers or more, and that they were</p> <p>19 interested in a lease agreement that would be at</p> <p>20 minimum \$110,000 per year and he would provide a</p> <p>21 written offer -- he would provide that to me in</p> <p>22 writing.</p> <p>23 On 8/12 I received that in writing from Jim</p> <p>24 Gesweli, and that's what you have in front of you.</p> <p>25 The \$110,000 based on their Board of Governors meeting.</p>	<p>1 But if we can provide it for you --</p> <p>2 MR. SCHNEIDER: I can mark as A-13 -- I'm</p> <p>3 sorry.</p> <p>4 SECRETARY TAGLIAIRINO: No, A-14.</p> <p>5 MR. SCHNEIDER: A-14, it doesn't have the</p> <p>6 attached date stamped e-mail, but what Diane was</p> <p>7 referring to on 8/21 this e-mail will confirm that the</p> <p>8 terms outlined in our e-mail of August 12th, which I</p> <p>9 did provide to you, and during the conversation with</p> <p>10 Jim Gesweli, is the position of the New Vernon</p> <p>11 Volunteer Fire Department relating to the placement of</p> <p>12 the cell tower at 22 Village Road, and is -- I don't</p> <p>13 want to say signed. It's from Heston Albano, Delegate</p> <p>14 to the NVVFD B of G, the New Vernon Volunteer Fire</p> <p>15 Department Board of Governors. And we'll provide the</p> <p>16 accompanying e-mail.</p> <p>17 (Exhibit A-14 was received and marked.)</p> <p>18 BOARD MEMBER CHIPPERSON: Because the way I</p> <p>19 read this e-mail, the way it reads to me, I'm assuming</p> <p>20 you pay your lease on the first day of the year.</p> <p>21 correct? So you pay in advance for the upcoming year?</p> <p>22 MR. SCHNEIDER: You pay monthly.</p> <p>23 BOARD MEMBER CHIPPERSON: Oh, you pay</p> <p>24 monthly. Okay. I mean, it literally reads we need a</p> <p>25 minimum of \$110,000 by the beginning of the third year.</p>
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<p>1 On 8/19 I spoke with Jim Gesweli and I</p> <p>2 wanted to confirm as to why, was there any flexibility?</p> <p>3 And he gave me a very good description of what the</p> <p>4 Board wants and what was their minimum acceptance based</p> <p>5 on what they have to give up for the leasing.</p> <p>6 And on 8/21 I also asked for another</p> <p>7 written -- that was this e-mail confirmation that the</p> <p>8 Board's position still remained the same. Because, you</p> <p>9 know, there's at least ten days there that they -- was</p> <p>10 there any change? And the answer was very clearly that</p> <p>11 that's what the minimum amount was. That it wouldn't</p> <p>12 be worth it to the fire official --</p> <p>13 MR. MLENAK: I believe you just pointed to</p> <p>14 an e-mail that I don't think was entered --</p> <p>15 THE WITNESS: We're going to provide them.</p> <p>16 If this is the e-mail --</p> <p>17 MR. SCHNEIDER: That's the 8/21?</p> <p>18 THE WITNESS: This is the confirmation from</p> <p>19 8/21. But the way they write their e-mails sometimes</p> <p>20 they gave like a copy of it attached. But -- if you</p> <p>21 give me a minute I may have it here.</p> <p>22 (Witness reviews documents.)</p> <p>23 MR. SCHNEIDER: Is that 8/21?</p> <p>24 THE WITNESS: That was their confirmation</p> <p>25 from 8/21. That's what they attached to the e-mail.</p>	<p>1 For me that means for two -- I guess if you're paying</p> <p>2 monthly that you would break that down to two years.</p> <p>3 So \$55,000 per year, which would actually be fairly</p> <p>4 cheap if there was a collector on there. So --</p> <p>5 THE WITNESS: No, no, no. When we had</p> <p>6 discussed it that's not what they meant. It's got to</p> <p>7 be done no later than that third year. They wanted it</p> <p>8 right away. So as soon as the collectors come they're</p> <p>9 going to get that money.</p> <p>10 BOARD MEMBER CHIPPERSON: But what --</p> <p>11 that's not my issue. What is, I don't read this to be</p> <p>12 that they want a minimum of \$110,000 per year. It says</p> <p>13 they want a minimum of \$110,000 by the beginning of the</p> <p>14 third year of the lease. It sounds cumulative to me.</p> <p>15 So I just want to make sure --</p> <p>16 THE WITNESS: When we discussed it --</p> <p>17 BOARD MEMBER CHIPPERSON: Did they tell you</p> <p>18 how many collectors they wanted? Were they expecting</p> <p>19 \$110,000 just for Verizon, or were they looking for</p> <p>20 three collectors? Because \$110,000 is</p> <p>21 approximately --</p> <p>22 THE WITNESS: Well, as many collectors as</p> <p>23 it takes. They want a minimum of \$110,000. But most</p> <p>24 people when you're talking about collocation you're</p> <p>25 talking about the three main carriers -- AT&amp;T, Verizon,</p>

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<p>1 T-Mobile. Because T-Mobile is now Sprint. So most</p> <p>2 people are thinking in terms of the three. But I did</p> <p>3 call him to confirm and clarify, because the way that</p> <p>4 was written, you know, it can be written a little bit</p> <p>5 better. Eventually a lease would be a lot more</p> <p>6 clearer, but that was clearly the intent. What their</p> <p>7 Board wanted is \$110,000 per year. We'll give you to</p> <p>8 year three to get the collectors, but they want</p> <p>9 Verizon to guarantee that we will get the collectors.</p> <p>10 And we can't really speak for other carriers or speak</p> <p>11 for future tenants, and we certainly can't guarantee</p> <p>12 it. So that was a challenge as well.</p> <p>13 BOARD MEMBER CHIPPERSON: And where did</p> <p>14 that number come from, you don't know?</p> <p>15 THE WITNESS: The Board of Governors.</p> <p>16 BOARD MEMBER CHIPPERSON: No, I mean, did</p> <p>17 they tell you how they calculated \$110,000?</p> <p>18 THE WITNESS: No. They did not tell me how</p> <p>19 they calculated it. They said that's what they thought</p> <p>20 would be worth their time.</p> <p>21 CHAIRMAN FLANAGAN: All right. Anybody</p> <p>22 else on the Board have any questions?</p> <p>23 BOARD MEMBER ADONIZIO: What is the most</p> <p>24 that you've seen rental for Verizon or anybody else?</p> <p>25 What's the most that you've seen?</p>	<p>1 have more than 15 minutes, certainly. So, you know, I</p> <p>2 don't want to hold up the Applicant certainly, but it</p> <p>3 may be more efficient if you take care of your business</p> <p>4 and when we come back we start with this witness.</p> <p>5 I obviously was not aware of the testimony</p> <p>6 she was going to provide tonight, not to say that</p> <p>7 that's prejudicial because I still have some questions,</p> <p>8 but certainly it may be more efficient if coming back,</p> <p>9 reviewing my notes, seeing what she said, reviewing</p> <p>10 these extra e-mails that I guess they're going to</p> <p>11 provide us that they haven't provided us yet.</p> <p>12 MR. SCHNEIDER: I would really like to move</p> <p>13 it tonight so I don't have to bring Mr. Enright back,</p> <p>14 but I'll defer to you, Mr. Chairman.</p> <p>15 CHAIRMAN FLANAGAN: I think I need to give</p> <p>16 Mr. Simon the opportunity to ask questions. And I know</p> <p>17 I still need to ask the public, which I'm going to do</p> <p>18 now, but I would suspect if I did not give Mr. Simon</p> <p>19 the opportunity to ask questions it would be an issue</p> <p>20 for somebody. I'm not sure who, but it would be an</p> <p>21 issue.</p> <p>22 So I don't feel, at least at this point,</p> <p>23 that I can say no. What I am going to do, though, it</p> <p>24 does make sense and I think you would agree, why don't</p> <p>25 we get a -- start off with Mr. Simon when we come back</p>
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<p>1 THE WITNESS: I mean, it's usually the</p> <p>2 market value of the area that you're in. The agreement</p> <p>3 that we have with the DPW is actually generous</p> <p>4 considering what most leases are now. That's a</p> <p>5 generous lease. So, you know, I think that even if you</p> <p>6 pulled out the highest rent you ever saw in Rockefeller</p> <p>7 Center it wouldn't really change the situation at all.</p> <p>8 In New York City you'd see the highest.</p> <p>9 CHAIRMAN FLANAGAN: All right. Mr. Simon,</p> <p>10 I don't imagine you have any questions tonight.</p> <p>11 MR. SIMON: Let me just check my paper.</p> <p>12 CHAIRMAN FLANAGAN: So let me say, and</p> <p>13 apologies. It took a little longer than 15 minutes, in</p> <p>14 fairness. We have a budget -- Lori, do we have to pass</p> <p>15 that budget tonight? Are we out of time on this thing?</p> <p>16 SECRETARY TAGLIAIRINO: Well, no, it was</p> <p>17 supposed to be done in May. No, our budget was done.</p> <p>18 You were given licenses -- the Board of Adjustment</p> <p>19 annual report is what we're waiting on.</p> <p>20 CHAIRMAN FLANAGAN: All right. What</p> <p>21 happens if we don't get that done tonight?</p> <p>22 SECRETARY TAGLIAIRINO: I don't know.</p> <p>23 You're got to ask -- I'll get Gary.</p> <p>24 CHAIRMAN FLANAGAN: Go ahead.</p> <p>25 MR. SIMON: I'm pretty certain I'm going to</p>	<p>1 next month. I mean, tell me if you disagree with</p> <p>2 anything I'm saying.</p> <p>3 MR. SCHNEIDER: I guess if Rob -- I'll</p> <p>4 defer to you. I mean, I would like to get her</p> <p>5 testimony finished and completed tonight, but if you</p> <p>6 have other business I'll respect that. I'm going to</p> <p>7 defer.</p> <p>8 CHAIRMAN FLANAGAN: Here's the question:</p> <p>9 If I give Mr. Simon --</p> <p>10 MR. SIMON: I'm not saying I'll be done in</p> <p>11 15 minutes. Whatever the Board wants I'll do.</p> <p>12 CHAIRMAN FLANAGAN: If I say 15 minutes is</p> <p>13 it, is that fair amount of time for -- to ask his</p> <p>14 questions? Or have I given Mr. Simon enough</p> <p>15 opportunity to ask his questions?</p> <p>16 MR. SIMON: I just want to add that if I'm</p> <p>17 not done I'd like to continue and I'll give the old</p> <p>18 college try to get it done, but I can't promise.</p> <p>19 CHAIRMAN FLANAGAN: And I know you well,</p> <p>20 and I also know that you ask, excellent questions and</p> <p>21 you ask lots of them. So I don't think there's any</p> <p>22 chance we're going to be done. Not to mention I'd like</p> <p>23 to get in -- five minutes I'd really like to get this</p> <p>24 other thing done. So I'm going to ask you to bring</p> <p>25 your witness back next month. I would have loved to</p>

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1 have been done with this.	1 in October. And my intention was to bring back Ms.
2 Let me ask this, though. Do any members of	2 Boschulte, because I don't believe Mr. Simon had the
3 the public have any questions? This is your one and	3 opportunity to certainly complete his -- she's being
4 only opportunity to ask this witness questions.	4 the applicant's RF engineer. So the hope and the
5 UNIDENTIFIED PUBLIC VOICE: It's not for	5 expectation would be that we could -- and I make this
6 the witness.	6 plea, make substantial progress on hopefully completing
7 This is only questions for the witness.	7 her testimony in October, if we can somehow be given a
8 All right. Nobody? Fine. Mr. Simon, then as soon as	8 reasonable amount of time in October. And then the
9 we come back next month Mr. Schneider --	9 game plan would be, if we're successful and Rob doesn't
10 MR. SIMON: And just to confirm that date	10 have three hours worth of questions, that in November
11 next month is October 17th?	11 we could -- the game plan would be to proceed with
12 CHAIRMAN FLANAGAN: It is third Thursday.	12 planning testimony in November. That's kind of trying
13 I will look at my calendar right now.	13 to look two months ahead.
14 MR. SCHNEIDER: It is.	14 I would like also, we had, I think, a very
15 MR. MLENAC: While the calendar's being	15 cooperative dialogue early on in the application, and
16 confirmed, and correct me if I'm wrong because I of	16 I'm committed to this. We're willing to do a variety
17 course, only had the pleasure of reading six	17 of different visual analysis, photo sims in terms of
18 transcripts before coming here tonight.	18 different designs, if you recall. I don't want to get
19 MR. SCHNEIDER: You're one ahead or a	19 into that now, but I think in October we'd like
20 couple ahead.	20 realistically what you may want us to consider.
21 MR. MLENAC: Yes, but through review it	21 So just give that some thought in the next
22 does look like we may need a shot clock extension.	22 month. I pledge that I would do whatever is
23 MR. SCHNEIDER: Sure. As long as mutual.	23 reasonable, but I don't want to do a visual analysis
24 I don't have a problem. So we don't have to go through	24 that the Board doesn't have any real interest in
25 this every month why don't I extend it through	25 potentially considering.

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1 CHAIRMAN FLANAGAN: We did. We scheduled	1 CERTIFICATE
2 it. But nonetheless, so despite my reluctance, Mr.	2
3 Schneider, to help you I --	3 I, IRIS LA ROSA, a Notary Public and Certified
4 BOARD MEMBER CHIEPPERSON: I just have one --	4 Shorthand Reporter of the State of New Jersey, do
5 CHAIRMAN FLANAGAN: I really need to keep	5 hereby certify that the foregoing is a true and
6 moving.	6 accurate transcript of the testimony as taken
7 BOARD MEMBER CHIEPPERSON: I just have one	7 stenographically by and before me at the time, place,
8 quick comment while we're talking about timing. We did	8 and on the date herebefore set forth.
9 spend a fair amount of time going over the same	9 I DO FURTHER CERTIFY that I am neither a
10 information we went over last time, and because these	10 relative nor employee nor attorney nor counsel of any
11 meetings are so tight -- because the beginning of the	11 of the parties to this action, and that I am neither a
12 presentation I had all of that in my notes, and I think	12 relative nor employee of such attorney or counsel, and
13 if we could avoid that in the future we could pick up	13 that I am not financially interested in the action.
14 more time and we might have gotten a little bit further	14
15 tonight. So I don't know if the Board found it	15
16 helpful, but I didn't really need a summary of last	16 IRIS LA ROSA, CSR, RPR
17 meeting and I think if we can cut that out we'll move	17 Certificate No. 30XT00162800
18 on a little bit.	18 Dated:
19 CHAIRMAN FLANAGAN: Fair enough. And we	19
20 need to move this along, because we have to go to this	20
21 next topic. Mr. Simon?	21
22 MR. SIMON: I just want to remind the Board	22
23 and maybe get some clarification, that I believe that	23
24 between some comment that Mr. Schneider made or the	24
25 witness made about that testimony is going to be	25

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