

Town of Leicester
ZONING BOARD OF APPEALS
Washburn Square
Leicester, Massachusetts 01524



Minutes of September 8, 1998

Continuance to the Hearing on the petition of Southwestern Bell Mobile Systems, Inc., d/b/a/ Cellular One, by Ralph Colorusso, of 100 Lowder Brook Drive, Westwood, Ma., for a Special Permit to allow the use of a radio broadcasting and relay station antenna array and tower upon land zoned Suburban-Agricultural, located on Paxton Street a.k.a. Route 56, Leicester, Ma.

Members Present: Laurence Todd; Chairman, Jim Buckley;
Clerk, Linda Finan, Vaughn Hathaway

Hearing called to order at 7:35 pm

Mr. Todd - This is the second continuance of this hearing. We took this second continuance based on a request by the members of the School Committee to review the new revised proposal from Cell One, that we had just received prior to the last hearing. The School Committee did review that and we did receive something in writing back from the School Committee.

Letter from the School Committee was read by Mr. Todd. The Committee stated their comments and concerns on the placement of this tower. Regarding health or other safety concerns and the aesthetics on the placing of the cell tower.

Mr. Todd read this letter from, Ralph Colorusso, Real Estate Consultant for Cellular One. This letter is advising the School Committee that Cellular One will assist in any way possible, if any technical expertise is needed, during their review of this petition.

Mr. Todd read a letter from Attorney James McKenna, representing Joseph Hyland's interests in this regard.

Mr. Todd read a letter from Attorney Alex Parra representing Cellular One's interests. This letter is in response to Attorney McKenna's letter.

Mr. Todd - We shouldn't dwell on the same issues that has been brought up at the previous hearings. I guess to start, we will ask if the petitioner has anything additional they would like to offer. Then if there is any additional information anyone else would like to offer. When I say additional, I mean lets not go back to what has already been

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discussed. It's if there is any new information. Does the petitioner have anything to offer?

Alex Parra; Attorney for Cellular One - The School Committee's recommendation to the board, lists two issues. First being the safety issue. What the School Committee has requested is that testing be done inside and outside the school facilities. We would agree to having an independent testing company take measures, i.e. radio frequency emission, for the schools. We also propose to have the Facility Manager of the Leicester Public Schools select some appropriate locations for this testing, inside and outside of the schools. The second issue was one of aesthetics. The aesthetics modifications, is to put approximately 53 Aphrodisy, to be 10 feet in height. That would help effectively in the screen of the compound. In addition, Cellular One proposed to change the material of the chain link fencing that goes all round the compound. The speck that has been put on the plan, is that it will be galvanite steel, dark green in color. It is hopeful that the combination of these two things will reduce the additional impact, as much as possible. The new fencing materials will help reduce the size of the mesh to one inch. One inch mesh is harder to put a foot in to climb.

Attorney McKenna's correspondence on his proposed concerns, was reviewed. One being that the water district doesn't have the authority to lease the property to Cellular One. The letter states, even if it did, Article 97, of the Amendment to the Massachusetts Constitution, would require 2/3rds vote of the Legislature, in order to operate. It also attaches a Superior Court Decision which addresses us the same claims as in the Town of Littleton.

Mr. Parra - It was expressed at the last meeting, some concerns on the safety of the underground propane tank. If that is a concern to the board, I do have a copy of the State Fire Marshal's Regulations, and will be happy to give a copy to the board.

Frank Lyon; Superintendent, Leicester Water District - In response to Mr. McKenna's letter. This was reviewed by our attorney over a year ago, & we submitted proposals. The Act of Legislature that establishes the district, is the first portions of what the district can do. The district also has to follow the General Laws of the Commonwealth of Mass. The General Laws of the Commonwealth of Massachusetts, gives the district the rights to do what we are asked to do here. The Act of Legislature that established the district is only that, it established the

district. It informs you of the other bylaws of the Commonwealth. It would not appear in the actual incorporation of a district. All of what Mr. McKenna explains, does not follow through with the Massachusetts General Laws.

Mr. Todd - I guess I'm of the opinion that, whether or not there is a question of whether the Leicester Water District can legally lease this property or not. I'm not at all sure that this board has to know the answer to that question, to take action on this petition. What's the Board's opinion.

Mr. Hathaway - I'm comfortable proceeding without the answer.

Mrs. Finan - I agree.

Paul Ravena - I have something that pertains directly to the bylaw. There's a section in the bylaw that talks about all permits must be order, before an application is accepted for review. Massachusetts Regulations stipulates that the Department of Environmental Protection must give written approval for the lease of water supply lands in this state.

Frank Lyon - He is absolutely correct. If there was water supplies on that property, he is correct. The issuance for leasing of that land, comes under the authority of the drinking water regulations. Which would limit the water district to what lands can be used, if there was water supply sources taken from the property. Here there is no water supply. It is owned by the water district. The only source is the water storage tanks. One of the reasons that this portion of the water district property is right for that is because of that. There is no approval from D.E.P. for this type of use.

Paul Ravena - I have some information here that states, any land owned by the water supply company, which is to be leased, has to have approval. Whether or not there is a well there or anything.

Mr. Todd - We could make this a condition. That if such approval is required, that it be obtained. If it is not required, then it's not obtained.

Steven Radzik; Potential Abuttor - I would like to address the Minimal Visual Impact Bylaw, the Town of Leicester has. I have articles here from the Worcester Telegram stating the impact such towers can have on a neighborhood. I have a drawing here showing the visual impact this tower will have to my home. This is a major visual impact.

Mr. Todd - There is not a bylaw that is called the Minimal Visual Impact Bylaw. There is a statement within the bylaw, on Cellular Towers that does say, Minimal Visual Impact. But within itself, it is not a bylaw. It is simply a statement within the bylaw.

Mr. Hathaway - Did Ms. Haskell, the person who wrote the report on the Real Estate Values, did she personally inspect the various sites.

Mr. Parra - Yes. Ms. Haskell has done a number of studies throughout the Commonwealth of Massachusetts. She does have a substantial bank of data, on which she relies.

Mr. Hathaway - I went out and looked at the various sites in her report, and one thing that struck me, were sites in an open field. In fact, three of the houses that were stated in view of the tower, I personally couldn't see them from the tower. My reading of the visual impact in this report, has failed to address that.

Marilyn Hyland - On the statement of protecting residential neighborhoods from adverse visual effect of towers. Thinking of Paxton Street with a 150 foot tower in an open field, painted red and white, with shrubs 10 feet high. I'm going to see it, Spring, Winter, Summer, I'm going to see it. The people who are building homes in that area, they have more affect than any one else. No matter where their house is placed, the tower is in their back yard. Your bylaw says, minimum visual affect. There is no way you can tell me that 150 foot tower, surrounded by 10 foot trees, is going to be minimal visual.

Mr. Hathaway - In my viewing of the other towers, the nearest houses that could see the tower, didn't seem to be as near as the parking lot here. With those houses being where they are, there wouldn't be any impact on property values.

Mr. Todd - I also visited the three towers in that report, regarding the property values and visual impacts. One of the towers had been there for 30 years, I don't think that is a fair comparison. There is another tower in Northboro, there are no houses around. The nearest house I saw, was on the other side the road that ran into Northboro Center. Then the other in Shrewsbury, there must be some property near that you could see the tower from. We drove in through the access we had in the tower area, we saw a commercial building near by. But then went a ways further right before the woods, then we found the tower. My point is that these were towers that we were given information about. I didn't see

anything out in an open field. I didn't see anything next to a house or a school, within 200 feet. I have to assume that an effort was put in, to find sites that are within this kind of area. I see a dilemma here. I see the dilemma between Cell One finding what they feel is the best possible site for their coverage. Frankly, what I see is an inappropriate site to put it. I pointed out at the first hearing, the developer was there first. The plan was in place, before this petition came to the board. I have a real concern about conflicting interests here, compounded by the issue of visual impact.

Paul Ravena - I have a copy of a bill in Congress. There is a sentence in there which says, replacement of commercial telecommunications, i.e. radio or television towers, near homes can greatly reduce the value of such homes.

Dennis Griffin - Cell One, knowing the negative impact with this site, can they research any other sites that were mentioned previously before.

Mr. Todd - I do know that the material that was submitted at the last hearing, included a review of 10 sites.

Mr. Parra - There were 10 existing structures and 2 additional that were looked at for placement.

Discussion regarding some of the alternate locations for placement of the Cell Tower.

Dennis Griffin - The bylaw states minimal visual impact. Visual means your going to see it. That's a fact. Impact, how are you going to determine it's impact. We have to put the tower up, look at it and say, now we have the impact. The board has to determine if it is going to be that. We as residence, put you, to decide, whether you feel that it is going to be a visual impact. What else do you need to hear to decide that it's going to be a visual impact. That is the only part of the bylaw that is going to affect this.

Mr. Todd - Not necessarily. There are other conditions in the bylaw. Visual Impact is just one piece that is mentioned. There are also safety issues mentioned, & so forth. One does not over ride the other. The point of how we are going to evaluate that, two of the board members went out and looked at the other towers that were mentioned. Because, personally, I felt the need to go out and try to get a feel for myself. But I'm only one member of the board and cannot speak for everyone here.

Mr. Parra - What was submitted to this board, was a proposed

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tower that accomplishes our needs. You cannot have a 50 foot tower and co-location. You need 10 feet of space between each dish. This proposed tower accomplishes the objective that you folks set forth in your own bylaw. Cellular One has gone to every effort to try to find a site that provides the coverage and has the least impact. We have tried very hard to meet the requirements of your bylaw. This tower accomplishes that. When you talk in your bylaw, Minimal Visual Impact, you have to look at that in terms of the other requirements of your bylaw.

Mr. Hathaway - In the terms of minimal visual impact, having one tower instead of three, then it is minimized. However, having one tower with a screen hiding that, vs, three towers is how the board has to look at it.

Mr. Buckley - What is the minimum height the tower could be. I see it drop down, the panel antenna to 75 feet.

Alex Parra - The cellular antenna at 73 feet, those are the panel antennas that actually handle the telephone calls you make from your cell phone. Those, the engineers determine, cannot be below 73 feet. The two radio dish antennas are the purpose of providing the one to one communications. Their purpose is that in the event of a power failure, the radio dish antenna pick up the cellular communications and transmit them point to point, through the network. The purpose of these radio dish antenna is to take your phone call and transmit it to the switching facility and then direct it to it's location. This antenna has been determine to need 140 feet. If the board wants us to go back and look and see what happens, if we can eliminate this. We can do that, and make a determination. If it is feasible for us to come back with a lower tower, you have to understand, that means co-location maybe zero, or maybe one or two possibilities. That is the choice your bylaw faces with this. It says in your bylaw, it shall provide for maximum co-location.

Discussion regarding how power is generated to the tower and it's panels & radio dishes, when a power failure occurs, i.e. emergency generator.

Paul Ravena - The bylaw says that it should be a monopole or similar. I asked a communication consultant whether lattice was similar to monopole, he said, not at all. I have a picture here to show how different the two poles are.

Joe Hyland - In the bylaw it says Minimal Visual Impact. I can't think of anything else in this town, that would bring

25% of the Town's population, to see this every single day.

Robert Hyland - In the bylaw it talks about co-location. As I read here it says, to encourage co-location, it doesn't mandate co-location.

Ralph Colorusso - As far as co-location is concerned, this just wasn't Cellular One's interest. Fire Department, Police Department, Emergency Services have all said this is a good site for their use. This structure will accommodate all interested licensed carriers. You could have up to 3 additional towers, to be proposed, in this town, to try to accommodate what Cellular One's tower can in this location.

Mr. Buckley - But anyone else that comes would have to go through the special permit process. That is not definite to say that there would be other towers.

Mrs. Finan - I want to address myself to the question, Minimum Visual Impact. This is for a structure that is allowed in this particular zone. I find it to be contradictory, if you allow this as for the matter of principal, not for the matter of absolute fact. If you allow the possibility of a tower of 150 feet, or 200 feet, or 100 feet. How do you determine what the minimal visual impact of a pole structure that is allowed by a special permit. But, I don't think we can get away with saying, it sticks up out of the trees, or you can see it, therefore it's not a visual impact. Just to see something we don't want to, is not sufficient.

Dennis Griffin - Does the board have to vote tonight. The information received from the residence can be reviewed.

Mr. Todd - If the opinion of the board or the petitioner requests a continuance, and the board agrees to grant it, then we continue. I personally am not of the opinion that there is reason given this evening to continue this hearing further. I would like to ask for a motion from the board at this point.

Dennis Griffin - The information the residence of this town is providing you with tonight, it would be a courtesy of the board to read into that information. It may help you in making your decision.

Mrs. Finan - What makes you think we are not going to consider this material.

Mr. Todd- I believe that of the course of three evenings, the

board has had sufficient time to consider this petition. Two of us went out and looked at other towers, to get a feel for things such as, location and so forth. This is information that was provided by the petitioner. I do not believe that there is any significant information that we are missing at this point. We have a carrier that has a need to locate, they have the ideal spot. We have a conflict of some sort with some of the conditions in our bylaw. People keep coming back to the issue of visual impact. I must say, I have a problem with that myself. Although, the property in question is zoned in an area that would allow this tower. But there are conditions in the bylaw that don't. At this point, I am of the opinion that the board has sufficient information to take action on this petition.

Mr. Hathaway - We keep talking about zones, in which this is an allowed use. Actually, anywhere in Leicester is zoned to allow this. I look at this as, given the board any petition that is more in giving something based on what zone, but actually on what is most appropriate for our community.

Mr. Todd - Do we have a motion from the board, or further discussion?

Mrs. Finan - We have a number of options. The board can motion this petition with a decision, or the board could also motion to conclude the public hearing and to reach a decision at a later date. I am not ready to make a motion, but I am ready to vote, if that is the board wish.

MOTION - Mr. Hathaway - I move that we deny the petition of a Special Permit, to Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One, by Ralph Colorusso, of 100 Lowder Brook Drive, Westwood, Ma., to allow the use of a radio broadcasting and relay station antenna array and tower upon land zoned Suburban-Agricultural, located on Paxton Street, a.k.a. Route 56, Leicester, Ma.. On the grounds that it doesn't satisfy criteria of Minimal Visual Impact. Any tower that will be red and white with a beacon, that needs to be able to be seen by a plane traveling at over 100 miles per hour, cannot have Minimal Visual Impact. When there are not trees to hide it. Roads go nearly 360 degrees around the site. I have looked at dozens of towers, with my reading of our bylaw, I do not see how we satisfy the criteria for granting a Special Permit. I think the bylaw does give alot of leeway in terms of what zones, where we can locate towers. I think the point has been made that this would be an attractive nuisance, being located next to schools. The petitioners did give us information on schools that have towers near them. The thing I noted from that was, only

one school has a tower that's even as close to the furthest school we have located here from a tower. There were 10 other names of which were either Universities, and Private Colleges, or they were pending decisions on whether or not they would be allowed. We were only able to find one that was close to that. Given what I found looking at property values, I did find, even with the information provided to us by Ms. Haskell, that it does demonstrate that there is an adverse affect on property values. In this particular case, this tower is more visible than any other tower that was used in comparison. I didn't find the data where it was talking about comparing Carey Hill to the Leicester Hill Site. Talking about pre sales being equivalent in both of them. I didn't see any break down on what number of those pre sales happen before news of a tower came out, vs, after. I understand Cellular One's position, as far as needing to find a good site. In this particular case the water district did offer the site here. Looking at other sites, I did not get the sense that they were looked at with particularly more than a cursory manor. In Cellular One's defense, if there was a request to put one in an ideal location, it doesn't bother Cellular One to go off and look at other sites, which may be more expensive to develop or less desirable for other reasons. But the fact being, the bylaw does require that other sites be investigated. I did not feel that sufficient proof was given that other sites were investigated. The bottom line, even though the petitioners request does meet a number of conditions that are required for this bylaw, I feel that there are several that aren't. That is why I move to deny Special Permit for this tower.

SECONDED: Jim Buckley - Discussion: Laurence Todd - I agree, I didn't do the extensive research. But I did go out and look at the three sites that were given to us by the petitioner. Frankly, I felt that at least one or maybe two of those were Cell One, and they had made a real effort to locate those towers so that they were not in the type of situation that they would be in, here in Leicester. The problem is that we have a real conflict between a very good site and schools, new development, which preceded the proposal for the tower and all the other issues the people brought. I don't feel that it approaches the intent in the bylaw of minimal visual impact.

Jim Buckley - To me it all comes down to how it affects the property values. It appears that it does adversely affect them. I think there were good points on minimal visual impact. You do have to look at that in context of the bylaw. You talking about decreasing property values, but when you look at the site you have two 40 foot water tanks already there, surrounded by chain links fence with barb wire on top

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with power lines going across it. I know 150 foot tower is dramatic, but those things alone have an impact, although they are already there.

Linda Finan - This has been a troubling petition for a number of reasons. One of the arguments against the tower has been in essence that the first occupier of the site will be the determiner of what goes after. I think there will be loss of property values, which can be compensated by a petition to the Assessors for reduced taxation. I am concerned about the loss of facility for police, fire and ambulance. Yet, when we are asked to consider such conflicting interest as public safety and property values, I find the question very difficult to respond to. I'm not in favor of the motion, but I have no motion that is any better of my own to offer. That again is a problem.

Mr. Todd - The comment about the first occupant is a determine of what goes after, is not the way I put that. I made the comment that, Carey Hill Development was in place before the tower proposal was in front of us. Given the proximity of those two areas that, I didn't feel comfortable in not considering, just as I have to give consideration to the schools which are there.

Mrs. Finan - Again we turn to the bylaw in restrictions, concerning the distance between a house and a tower. That the house should be beyond the fall zone. It would be more helpful if both the tower and houses to co exist in the same zone with no further comment.

Mr. Todd - But are we left to conclude that as long as a house is outside of the fall zone, that that's an o.k. position.

Mrs. Finan - According to the bylaw, apparently it is.

Mr. Hathaway - I do think we have to go after the intent of what was behind the bylaw. I do interpret the bylaw as providing guidance to this board in making such a decision.

ALL IN FAVOR OF THE MOTION TO DENY - Vote: UNANIMOUS

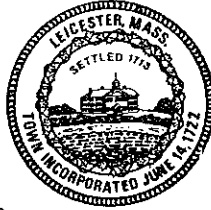
MOTION made and seconded by Linda Finan and Jim Buckley to adjourn meeting. Vote: UNANIMOUS

Meeting adjourned at 9:20 pm

Respectfully submitted,

Barbara Knox

Town of Leicester
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Minutes of August 18, 1998

Continuance to Hearing on the petition of Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One, by Ralph Colorusso, of 100 Lowder Brook Drive, Westwood, Ma., for a Special Permit to allow the use of a radio broadcasting and relay station antenna array and tower upon land zoned Suburban-Agricultural, Located on Paxton Street a.k.a. Route 56, Leicester, Ma.

Continued from June 23, 1998.

Members Present: Laurence Todd; Chairman, Jim Buckley; Clerk, Linda Finan, Vaughn Hathaway

Meeting called to order at 8:30 pm

Mr. Todd gave instructions to the audience present on how the meeting should proceed, & how it will be conducted.

Mr. Todd read the correspondence received regarding this hearing. Received: Letter from Gertrude Lineen of 140 Paxton Street, Leicester, stating she is opposed to this petition. Letter from the Building Inspector stating he sees no danger to the schools and feels there were no adverse effects on health. Letter from the Superintendent of Schools stating that the School Committee voted to allow the erection of a communication tower at the Memorial School, and feels that there should not be a problem with a comparable Cellular One Tower, with the same safety conditions in place. Copy of a letter from sent to Julie Paulpaine; Safety Officer, Cellular One, from the Executive Office of Health and Human Services, stating under Section 105, CMR 122.021, has been granted to maintain a Cellular facility located at 180 Paxton Street, Leicester. Copy of a letter sent to Frank Lyon; Leicester Water Supply District Superintendent, from EMS Director; Mark Wilson, stating that he fully recommends the construction of a communications tower at this site. Copy of a letter sent to Leicester Water Supply District, from Sgt. Joseph Fontaine, Department of Police, stating that they find that this site would be beneficial to the communications networks for the Town of Leicester. Copy of a letter sent to Frank Lyon, from Robert Wilson; Leicester Fire Chief, stating they are in full support for the proposed tower. Minutes of April 28, 1998, Leicester School Committee Meeting.

A package of information each board member received from Cellular One's Attorney. Basically, the package addresses the points that were of concern from the June 23rd Meeting.

Mr. Alex Parra; Attorney for Cellular One - We have supplied here tonight a report from Winthrop Real Estate Advisors, prepared by Deborah Haskel, Certified Appraiser. This is intended to address the property value issues. We have also here tonight, David Maxim; R.F. Safety Officer. We have with this package which is supplied to you, a report from John Osepchuk, who sets forth some of the safety factors, and his conclusions. Unfortunately, John Osepchuk was unable to attend tonight's hearing, so David Maxim is here for him. I would like to spend a little time addressing the standards that are set forth in your zoning bylaw, for this type of hearing. The two sections of the bylaw, related to Special Permits, Section 5.4 and Section 6.2 has some general permit standards. We have tried to address each standard set forth in the bylaw. In attempt to show, we have complied with each of the requirements. Section 5.4 requires us to provide you with a description of the number and height of the antenna proposed. What is proposed is a maximum of 12 cellular panel antenna. The cellular antenna array can be placed at 73 feet above ground level, not at the 150 showed on the plan. Cellular One's intention to have a maximum of 12 cellular panels in triangular formation. The specifications for the proposed antenna panels are set forth in exhibit one. In addition to the cellular antenna, we proposed two radio dish antenna. One will be set approximately 95 feet above ground level. The other at approximately 140 feet. It is proposed that there will be a 150 foot self supporting lattice tower. A permit application has been submitted to the Federal Aviation Administration. We have not received the permit yet, but we anticipate that the FAA will require that the tower will be painted red and white. The two radio dishes, they will be connected to an electronic equipment shelter, with electronic transmission received. The equipment shelter is precast concrete shed. Dimensions are approximately 12 feet wide, 28 feet long, short of 10 feet high. There will be a propane power emergency generator, in case of power failure. That will be fed by a 500 gallon, underground, propane storage tank. Cellular One recommends that it be underground, for additional safety factors. But if the board wants it to be above ground, we can do that. The facility will be surrounded by an 8 foot high chain link fence, surround by 3 rows of barb wire. It will be gated, the gate will be locked at all times. The compound will be monitored by an alarm system. There will be 5 gravel parking spaces, as required by the Planning Board. We suspect that there will be one additional utility pole, to bring electric and telephone.

Access to the site will be provided by existing gravel driveway, with a short extension to the compound. The facility is approximately 350 feet from Paxton Street. There will be some minimal grading. The intention of this project is to provide cellular coverage in Northern and Central portions of Leicester. We are focused on Route 9 and 56.

The Cellular Telephone System works on low power transmitters. So, you need to be geographically close to the target coverage area. In this case, we have additional restraints, by reason of, the proximity of Worcester Airport, the Spencer Airport and the fact that we need to stay away from the AM Radio Antenna, because it will interfere with the signals. With those restraints in mind, Cellular One has evaluated 10 existing structures, in the town, to determine if they would be feasible locations. Exhibit 2A, we provided specific reasons as to why each of these sites turned out to be inappropriate, or simply didn't work. Additionally, the board requested we take a look at two sites, that had existing structures for alternative sites. One, the Town Landfill and the other was the Leicester Rod and Gun Club. The Rod and Gun Club Site, according to the aviation consultant, would have provided an obstruction to the Spencer Airport and would not have been in compliance with the FAA Regulations. In respect to the Landfill Site, it's topography is somewhat lower than the Paxton Street Site. So, to provide the coverage that this required, we would need a substantially higher tower. The bylaw contains some competing considerations, which are difficult to accommodate. The most difficult bylaw to accommodate was to reduce the visual impact. Also, to provide as much as possible for co-location on the same tower. We feel a lattice tower, painted red and white, someone could see through, will have less of a visual impact than a solid structure. In addition, a lattice tower provides the greatest flexibility, in terms of co-location. We agreed to provide Leicester EMS, Police, Fire and Ambulance space on the tower. The height of the tower is dictated, for two reasons, one is to have one of the radio dishes at 140 feet to provide point to point communications. Secondly, co-location requires approximately 10 feet for vertical spacing between the antenna array. Section 5.4 requires, that the facility might interfere with cable television, radio signals, it's a requirement with FCC Licensing, if it were to occur, Cellular One would correct it. There will not be advertising or signage on the tower. The bylaw requires this be surrounded by a security fence. We anticipate that the FAA will require some night lighting on the tower. There will be 2 beacon lights. One on the top, possibly one somewhere down the tower. Otherwise, the tower will not be lit. The bylaw

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requires that Cellular One post a Bond to cover the cost of removal of the facility. Exact amount can't be determine at this time. In addition to Section 5.4, there is Section 6.4. This is located in Suburban Agricultural District. Town Meeting warranted that this is a permitted use in that zone district. It's situated approximately 725 feet from the nearest existing residence. The site doesn't require any water or sewage facilities. The facility is unmaned. We have Mr. Maxim to address some detail on the health concerns and the safety factors, incorporated in this kind of a project.

Mr. David Maxim - Since 1982, I've been involved in analyzing and measuring performance of radio frequency facilities, including radio frequency issue. In 1985 was when the first Safety Standards went into affect. Facilities that transmit radio signals, have to get approval from the Department of Public Health, before they build anything. One of the letters that you heard read tonight, is in fact, the letter of approval from the Department of Public Health. Dr. Osepchuk has been involved, in the last 20 years, in establishing safety standards, that were, in fact, established first in Massachusetts, then within the Federal Government in recent years. I will be filling his shoes tonight and try to explain to you the back ground. In 1996, The Telecommunications Act, instructed the FCC to establish a Federal Safety Standard. They established a rule that if facilities meets the safety standards, then boards like this won't have to accept those as valid. I want to do two things tonight, one is, demonstrate to you that the facility does meet the existing safety standards. For those who don't trust the standard setting process, we'll talk a little bit about the common sense approach.

Establishment of the Safety Standards within the State of Massachusetts, and the Federal Government was presented. Report by Full Spectrum Consulting, John M. Osepchuk, entitled "Analysis and Assessment of Environmental Electromagnetic Fields from the Proposed Cellular One Tower in Leicester," together with Mr. Osepchuk's qualifications is fully explained in Exhibit 4, presented to all board members at this Meeting. Mr. Maxim presented this report, in full, to the audience and board members present.

Mr. Parra - One of the concerns the board wanted was on the property values in the neighborhood. We have here tonight, Ms. Debra Haskel, who has prepared the report for you this evening.

Debra Haskel; Winthrop Real Estate Advisors - International

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Organizations that require educational courses, we have tested, who have towers near them, has a very low grade of micro waves emitted. I have been asked to survey the impact on property values on these towers, in urban, rural neighborhoods, residential properties vs. professional properties. We looked at property with the most impact and most concern. We compared values of residential properties near towers and properties that are not. What we found is that there really is not much difference in property value between new residential construction close to towers, and away from towers. There is not a measurable difference in property values and marketing them. There's all kinds of reasons why people will or will not buy residential property. What we found, on a whole, there is no difference in marketability. They sell for similar prices. There is no measurable impact on property values in these towns.

Mr. Todd - Could you describe in more detail the security provisions at the site. In terms of, alarms, fencing, keeping people off the towers.

Mr. Parra - There is an eight foot chain link fence, which will be surrounded by three rows of barb wire, which will surround the compound.

Mr. Colorusso - The alarm hook up reports right back to Cellular One headquarters. There's also motion detectors. There are no ladders on the tower. We have done everything we can to make this area secure.

Mary Hyland - In terms of teenagers, it might be fun to climb an eight foot tower. By the time they penetrate and the alarm goes off, and someone gets out there to try to stop them, it might be too late, and an injury might occur.

James McKenna; Attorney for the Hyland Family - How close is the barb wire to the play ground.

Mr. Colorusso - 360 feet from the Elementary School, 700 feet from the High School, 1350 feet from the Middle School. The playground will be further down from the closest structure to the tower.

Discussion concerning safety of children hiking, sliding, skiing, etc. in that area.

Mr. Parra - Cellular One has provided reasonable facilities, we believe, to secure the compound. If there are other measures the board wants us to take, we would be happy to address those.

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Marilyn Hyland - Having worked at the High School for 26 years. I have an idea of what High School Kids will do. I'm not concerned about Elementary, Primary School kids climbing a 10 foot fence, cutting the wire and climbing a 150 tower. However, being within a school system, it's a challenge, simply because it's there. Is there no other place this can go that is not going to be acceptable to young teenagers, who want to prove that they can do it.

Frank Lyon - If children from the school department that are hiking and using the property that belongs to the water district, they are doing so without permission of the Leicester Water Supply District. The property does not belong to the Town of Leicester, it belongs to the Leicester Water Supply District. Is part of the Zoning Board of Appeals requirements for a Special Permit is to take into consideration safety issues, or implications of esthetic. The issue here is if the applicant has made proper procedures that addresses the Town of Leicester Bylaws.

Mr. Hathaway - The State Zoning Act, it is mentioned that the Zoning Board does have to consider conserving health, and secure the safety of fire, flood, panic and other dangers. To answer the question, it does fall within the jurisdiction of what we are looking at.

Paul Ravina - I'm opposed to this site because of the siting. Why not the Leicester Recycling Center.

Mr. Colorusso - In terms of the Landfill Site, requires an additional 90 feet. The soil condition would not hold a structure such as a tower. We also must satisfy EPA Standards, otherwise we could jeopardize our license.

Steven Radzik - Can't it be anchored at the landfill, there is enough room to be anchored by all sides.

Mr. Colorusso - The Town of Leicester Zoning Bylaws, guided towers are not permitted.

Linda Looft; Leicester School Committee - We have not had a chance to review this particular proposal. There are a numbers of concerns we would like to review.

Dennis Griffin - Was the Leicester Airport area ever considered?

Mr. Colorusso - That area is covered by our tower in Paxton. It would be a redundant signal.

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Dennis Griffin - The landfill site was considered. Would the supports be strong enough, on the height difference increase to get the signal. If the tower was redesigned to meet the structural guide lines to EPA guide lines, could that work?

Mr. Colorusso - Several reasons why we could not use that site. The primary reason is the FAA concerns. The 200 feet in height, the FAA would not permit it. 150 feet at the Landfill, wouldn't accomplish the signal we need to have in order to operate. The secondary reason is the EPA Regulations.

Discussion regarding height of the tower, EPA Regulations, & Worcester Airport, vs. Paxton Street Site and The Landfill Site.

Mr. Parra - Part of Exhibit 2C submitted, explains relative to radio frequency engineering, and providing coverage for the area. The Landfill Site would be redundant to the existing coverage by the tower in Paxton. It would not provide the coverage for the area that presently needs service.

Paul Bottis - How many carriers can use the tower?

Mr. Maxin - It depends on how many carriers are interested. Also, it depends on the size of the dishes of these carriers, on how many will fit on the tower.

Paul Bottis - In the bylaw it states, minimizing adverse impacts of wireless communication facilities on adjacent properties. You can't tell me there isn't going to be an adverse impact on adjacent property values.

Joe Hyland - I can't think of a school who has a tower facility on or near it's grounds. It is only 360 feet from the nearest school. How can this not be a minimal visual impact, it will be affecting 25 % of the total town population.

An article from Worcester Magazine read by Joe Hyland. Article commenting on adverse impact to areas with Cell Towers.

Mr. Maxin - These facilities must comply with the safety standards. This one does. We need to be aware that this board cannot make a decision based on perceived health affects, if these facilities are in compliance with the safety standards. Since they are, that's a topic that's decided already by the Federal Government.

Steve Radzik - I'm a perspective buyer to the house that will be closest to the tower. This is proposed door in the back of my house, which he said was approximately 600 feet away. I look at the plan, it is actually less than 200 feet from my property line. I don't think that is appropriate. This is definitely going to affect my property value. If the board does approve this, I would like to suggest to put on a restriction screening for this.

Discussion on FCC Regulations on cell towers vs. hand held cell phones and it's transmitting power vs. health safety standards.

Dennis Griffin - If this does go up, will there be tests done within the schools and the within the area to verify these health safety standards & regulations hold true? And if they don't hold true, will Cellular One correct it or remove it.

Mr. Colorusso - Based on the State approval, there is no way that it would precede the safety standards. It has to conform to the State Regulations.

Mr. Parra - If a condition is confirmed, Cellular One will correct it.

Tom Brennan; Board of Selectmen - I would recommend that if anybody should receive interference from these towers, there should be some assurance that it would be corrected. The homeowner should not have to fix or replace what this tower interfere with.

Mr. Maxin - I have been called a couple of times on interference that people are pointing to, Cellular Towers. They have never been the Cellular signals. One time it was electrical interference from an ultra sound machine. The other was the fire department interference. The bottom line is that Cellular One called me right away. We looked into the problem and got it figured out within 24 hours and it was resolved.

James McKenna - Why are there safety standards.

Mr. Colorusso - There are safety standards because, you can create enough energy to create injury or harm. What we are looking at here is insignificant by those standards. There is no accumulative affect.

Safety Standards reviewed and discussed again.
Section 7.1.04, Use Regulations, #3. Prohibited Uses,

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Letter P; pertaining to storage of liquid petroleum products, Read by Mr. McKenna.

Mr. Todd - You are talking about the Water Protection Overlay District here.

Mr. McKenna - Yes, I am.

Mr. Todd - Liquid Propane, should there be a rupture in the tank, will not go into the soil. It becomes a gas. Therefore, given the intent of the bylaw, this represents no hazard what so ever.

Frank Lyon - Leicester Water Supply District is not public property, it is not a private entity, it's a public entity. Govern by the General Laws of the Commonwealth of Massachusetts.

Discussion regarding the frequency range of the tower.
Range 800 to 900 megahertz.

Paul Ravina - The bylaws, under Purpose, says that, The purpose of these regulations include minimizing adverse impacts on adjacent properties, including residential neighborhoods. This is going to be an adverse impact on a residential neighborhood. Additionally, a tower shall be monopole or similarly unimposing design. Lattice is not monopole. They do not fulfill that requirement.

Mr. Colorusso - The height of the tower is directly determined to accommodate the Zoning Bylaw, as well as our own needs, on location, dimension and height. This tower is of similar structure. It was not stated monopole only. We submitted a structure that is more versatile, then a monopole design. With a monopole, you have to know exactly what you're going to put on the pole before the design approval.

Paul Ravina - The propane tank they want to put into the ground. I'm not sure that the Environmental Protection Agency would allow that in a water district area. The D.E.P. should be consulted. I don't think that is legal.

Mr. Todd - They also made the offer to put it above ground, if required.

Paul Ravina - The bylaw states, minimal visual impact.

Mrs. Finan - Minimal visual impact, does not mean ugly or beautiful. It means exactly what it says. Like a good deal in our bylaws, it is so vague. It is hard to clarify what

the meaning of minimal visual impact is. It's in the eye of the neighbors, more than the eye of the board. But it's the board that is handed the power to interpret or try to understand what the bylaw says, and use that key as part of the puzzle that we have to solve when we eventually move towards a decision on this petition.

Sonya Radzik - I'm a potential resident of the subdivision near the tower. On minimal visual impact, speaking for the 51 units that are going to be potentially built, we are talking 200 to 300 feet away from these residences, in an open field. I would think that addresses the minimal visual impact. To me personally, it is directly 200 feet behind my back yard. With night lights on going every night, directly in my bedroom window. To me, Minimal visual impact is not being addressed.

Robert Hyland read an article from Boston Magazine regarding property values vs. Cellular Towers.

Steve Radzik - Is this an attraction to Lighting Strikes? How about the affect to the propane tank vs. lighting strikes. When lighting strikes down, where does it go, will it go right into a propane tank. Has that been addressed?

Mr. Colorusso - There has never been a lighting strike on a Cellular Tower. But, we ground everything that is involved with electricity.

Mr. Parra - This is all regulated through the State Fire Marshal. It is inspected routinely. The location, type and design of the propane tanks are regulated by the State Fire Marshal.

Robert Wilson; Leicester Fire Chief - In do respect of this, lighting strikes vs. propane tanks, there is no. affect.

Frank Lyon -The Leicester Water Supply District has a 250 lb. propane cylinder sitting next to their building, which is about 20 feet from the water tanks. The cylinder shuts down on lighting strikes, lighting storms. It does not have an adverse affect. Those cylinders have been there since 1978. We have had no trouble.

Mr. Hathaway - One of the issues that has been raised repeatedly is, whether or not we adequately studied other sites. Cellular One has put a lot of effort in putting this together. One thing surprises me on the material that was enclosed, regarding the town landfill. Reasons that were given to that site being inappropriate.

I found that an RFP has to be issued. That seems to me that this board does not have to be concerned with that. Environmental concerns, & constructual concerns, I'm not sure that there was diligences in studying that site as an appropriate site. The landfill itself has 10 acres or less of land. I would like to know how much effort was put into studying that site. Including the FAA concerns, it says extended study required. That does not seem like a reason not to use that site. Bottom line, I would like to understand better the process that was used to eliminate that site.

Mr. Parra - Some of the reasons for choosing any site is, will it serve a function, will it serve the purpose, will it serve the geographic area we are trying to pull in. Cellular One has been filling in their net work, and there are gaps to be filled in. One of the gaps is this area in North and Central Leicester. The first thing when you look at a site, is can you fill the gap adequately, & are you duplicating coverage that already exists. If you are going to put up a tower in a location, and all that is going to do is give you cellular coverage where you have already got it, then it does not serve much purpose. The primary consideration, in determining whether the site was a good site, was whether it would meet the needs, whether it would fill the gap. I think the answer to that is no. Mr. Colorusso went back to Cellular One and consulted with the RF Engineers. He has to consult with the person that Cellular One has responsible for environmental concerns. When he brought the Landfill Site to that person, it was indicated that Cellular One would have considerable concerns, both regarding EPA Regulations and regarding the structural stability of a landfill site. Cellular One was asked to look at this site, after the June 23rd hearing, Cellular One had not done the soil boring studies on the site. I think that's just a reflection, the initial consideration, being that, it really doesn't apply the coverage. The site was also submitted to an Aviation Consultant. Cellular One had these consultants, who looked at the site and tried to determined and predict to Cellular One, what the FAA response would be to an application to put a tower in that site. At a certain elevation, that elevation being determined by the RF Engineers. The response that they got, was that this would not be a routine permitting with the FAA. That's what the extended study means. If that site was submitted, the FAA would look at this in great detail, and they would require the tower height to be taken down.

Mr. Hathaway - They may not.

Mr. Parra - They may not. The preliminary evaluation, with respect, your bylaw requires us to look at existing

structures. We have done that with a number of structures. We have looked at other sites but, you can't do an in depth study of 50 sites in the Town of Leicester. It doesn't serve the purpose.

Mr. Hathaway - An observation I made, for the other places on existing properties that were rejected, half of them were rejected because they were inappropriate locations. Inappropriate locations would be easy to eliminate quickly. How diligently you looked at other sites, is something that puts a concern to everybody.

Mr. Parra - The process starts with identifying a geographic area that requires service.

Mr. Colorusso gave a review on how the RF Engineers conduct the process of identifying an area that requires Cellular One Service.

Mr. Todd - This is the first hearing we've held under a new bylaw. Someone made a comment tonight that, if you put up a 150 foot tower, you've got a 150 foot tower. It's not something we put up and in a week we say, that wasn't such a grand scheme. It's certainly demonstrated through the concern of people here that, it's a matter of impact. There have been all kinds of expressions of some impacts that are most unlikely, and some, the visual impact, being one that, for better or worse it is going to be there. Our bylaw does address that. We had a request earlier from a member of the School Committee that they be allowed the opportunity to review the material that we've received. Given the proximity of three schools in this town, I would feel that the board would be wise to allow the school committee the opportunity to look at this and to have some input into this process.

Mrs. Finan - I agree

Mr. Buckley - I agree also.

Mrs. Finan - One of the most important things, no matter what we decide on this hearing, there will be someone who is not happy. But, I think that one of the best things that we can do, to insure as many people as possible, to have an opportunity to view the material that is here. Does the petitioners agree to this continuance?

Mr. Parra - The statute sets forth the limitation on when you have to open a hearing, which you've done. Then it sets forth the limitation on when you have to make your decision after you close the hearing. The board has the right and

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opportunity to continue the hearing, if it feels it would like to hear additional comments and other concerns.

Donna Bottis; School Committee - We will be meeting on Monday Night, and it has been put on the agenda. So we will be voting on it Monday Night, and will forward our comments and concerns to the Zoning Board.

Sonya Radzik - A couple of times it has been brought up, the potential failure of the tower. I'm not clear what that means.

Mr. Colorusso - Potential failure is more what the town wants to see for safety features.

Sonya Radzik - So if it were to fall?

Mr. Colorusso - We have never had a tower fall. If it were to fall, it would fall within the fall zone, that is required by the Town of Leicester Zoning Bylaw. It does not leave the site zone. Also, they are designed to fall inside themselves. They don't fall out, they fall down.

Mr. Todd - O.K., we will be continuing this hearing. Let's pick a date.
This hearing will be continued to Tuesday, September 8th, at 7:30 pm.

Hearing adjourned at 11:30 pm

Respectfully submitted,
Barbara Knox

Town of Leicester
ZONING BOARD OF APPEALS
Washburn Square
Leicester, Massachusetts 01524



Minutes of June 23, 1998

Hearing on the petition of Southwestern Bell Mobile Systems, Inc., d/b/a/ Cellular One, by Ralph Colorusso, of 100 Lowder Brook Drive, Westwood, Ma., for a Special Permit to allow the use of a radio broadcasting and relay station antenna array and tower upon land zoned Suburban-Agricultural, located on Paxton Street a.k.a. Route 56, Leicester, Ma.

Members Present: Laurence Todd; Chairman, Jim Buckley;
Clerk, Vaughn Hathaway, Linda Finan

Meeting called to order at 7:35 pm

Laurence Todd - This hearing was originally scheduled for Monday, June 15 at 7:30 pm. It is now June 23 at 7:30 pm. I'm just going to read the Notice to this hearing. I'm only going to read the Notice. I've received some correspondence regarding this, which I want to read. I am not going to read all the material submitted by the petitioner, because there is a considerable amount.

Notice read. Correspondence received: Leicester Fire Department, stating that they are in support of this petition; Leicester Police Department, stating that they are in support of this petition; Leicester's Emergency Medical Service, stating that they are in support of this petition; Leicester Planning Board, an Order of Conditions. Letter from Gertrude Lineen, 140 Paxton Street, Leicester, stating that she is opposed to this petition.

Ralph Colorusso; Real Estate Consultant, Cellular One - I would say, looking at your zoning, when we initially applied, there was nothing yet regarding wireless communication facilities. Since the application has been made, the town has approved the wireless bylaw in it's zoning. We have worked hard to address that amendment, as well as, the zoning for the radio broadcasting. We feel that we have sufficiently addressed both in order to comply. Cellular One is a subsidiary, they do business as that name. They are part of Southwest Mobile System, Inc. They hold the license for the Worcester area to broadcast a signal. They have a FCC license. They are a radio station in that regard, we broadcast a signal. We also are a relay station, that we take in a signal and send a down line to another station. We don't do the kind of broadcasting such as an AM or FM station, where they only broadcast a signal out and receive

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it from your home radio or car. We broadcast a signal that we can return back to the station. That's a voice signal. So you have basically a wireless telephone. The wireless zoning amendment talks more to mobile radio systems and we are that as well. We have addressed all the different points that have been brought up in the Zoning Bylaw, in regards to safety aspects for a fall zone. You have to be able to include the co-location of other carriers upon the structure, if approved. We are offering to build a tower that will sufficiently co-locate all of the town's equipment that they are interested in, as well as five other carriers. It states in the bylaw that we have to color the tower an appropriate color, unless some governing body tells you otherwise. We have petitioned the FAA for approval. The approval has not yet come, it's pending. We have hired an consultant, that has told us that we will have to light and paint the tower, which we will do. It is red and white bands, which are required by the FAA, due the proximity of the Worcester Airport. We are in compliance with being able to do that.

Site Plan set up and viewed.

Mr. Colorusso - This is the site plan that has been approved by the Planning Board that we submitted to them. It shows three parcels of land, that is owned and controlled by the Leicester Water Supply District. This parcel here, is where we will locate on. A second parcel is a finger entry that goes up to the water tanks, a third parcel is behind it. Initially, in looking from the town in the search area, the fire engineers, they have targeted a gap in the system where there is no coverage. This would be a primary location. We look at these water tanks, their height is insufficient. In looking at the zoning, we decided we could build a tower here that would meet all the requirements of your zoning bylaws. What we have here is the tower itself is triangular structure, it would be 150 feet tall. A shelter next to it, a generator for emergency back up power, and a underground 500 gallon propane tank, to fuel the generator. The circle here indicates the fall zone. For any reason the tower is to fail, right at the base, right at the legs, it would not go further than this zone right here. It would touch nothing other than the fence of the water supply district, and an overhead utility wire. No other structure would be touched. We are requesting this with a backup generator and propane tank because, Cellular One does what they call truly, wireless system. This generator and propane tank allows Cellular One to operate for as much as a week, without having any electrical power to the site what so ever. It is for this reason that both FEMA and MEMA, both use Cellular One service. We sited this tower on one parcel of land, kept

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the fall zone within that one parcel. Addressed all the setbacks, that are required by Zoning. And not really disturbed the topography or the nature of the site, in it's natural state. Before we chose this site, we did look extensively at the town. We have been looking at the town for over a year and a half. We looked at existing structures first. The last thing we want to do is put a tower up. Economically, it's not that cost effective. There was nothing that we could find, that would support our needs. Currently, Cellular One's system is indicated by the red, either they operate or sending off. They are in Paxton, Spencer, Oxford, Worcester, North Worcester, Holden and Millbury. The white is where we are not. If we add this to it, it will fill in the gap. Police, Fire, any kind of safety organizations, that would access the service or locate their antenna on this tower, would benefit from this. The Shelter is 28 feet long, 12 feet wide, 9 feet 10 inches tall. It's concrete, modular construction. It will hold all the equipment we need to operate, and there will be space available for Police, Fire, Ambulance, if they need it as well. The tower indicates an antenna array of panel antennas on top and a couple of radio dishes. Radio dishes are direct line of sight to other towers that hold the signal in the net work system. If the telephone lines are knocked out for some reason, these can operate, you won't lose telephone service for the wireless. We are going to have an eight foot fence, with barb wire for security purposes, to prevent intrusion or curiosity seekers hanging around. The system is alarmed in various ways for intrusion. It's alarmed for fire, smoke, the shelter is alarmed for heat. The shelter has no windows, there is no way to gain entry easily.

Mr. Todd - Is there a ladder on the tower.

Mr. Colorusso - No. This is a three legged lattice tower, it's self supporting.

Mr. Hathaway - How are repairs done to the tower, if there is not a ladder there.

Mr. Colorusso - If there is something with a cable, they have to call a cable climber, that will climb up the legs. They would also bring a bucket truck. They don't put ladders on it, because if someone, somehow, penetrate the compound, we don't want them climbing up easily.

Mrs. Finan - Is there going to be a light on the top.

Mr. Colorusso - Yes, it's called a beacon. The tower will be painted within FAA specifications. There is a light at the

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shelter. But that light will only operate by motion sensor.

Mrs. Finan - Your alarms, are they central stationed to the Police Department?

Mr. Colorusso - No, they go back to Cellular One.
In turn, they will notify the Police.
They are silent alarms.
Their will be sufficient on sight parking.

Mr. Buckley - How often would technician have to go to the sight.

Mr. Colorusso - Typical maintenance is twice a month.
We are using the same road that leads up to the water tanks.
We are right off of that.
We need the height to accommodate the zoning bylaw, to allow co location. Also, we need some height in order to get direct feed on the dishes, down range to the next sight.
That is the reason we chose the 150. We need that to accommodate our needs as well as to comply with the zoning board's requirements. With this facility here, we are covering Northern and Central Leicester.

Mrs. Finan - Would there be any interference from the signals, accepted and transmitted by this device, with any problems with telephones, radios.

Mr. Colorusso - No. We operate on different bands.

Mr. Buckley - You said the underground tanks are going to be propane. This is in the overlay district. Can you address that.

Mr. Todd - What would happen if there was a leak from your propane tank.

Mr. Colorusso - It becomes a gas. As soon as it leaves the tank, it becomes a gas. A gas does not mix with underground water. It will seek it ways out of the earth up into the atmosphere.

Mr. Todd - We do have someone here from Planning, would you like to make a comment?

Ms. Deborah Freedman; Planning Board - Mr. Colorusso has submitted a site plan. He submitted it with all of our recent communication bylaws in mind. Has sufficiently covered anything we require. Everything we require is put into the order of conditions that was given to them.

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A lot of the things that were addressed here tonight are already in the order of conditions. We do require that they will bond the tower, so if they should abandon it five years from now, there will not be this abandon tower. They are required to take it down within a year from the time that it is abandon. If it is not taken down, the bond then will be used to remove the tower. These plans have been submitted to the Town Engineer, Cullinan Engineering, and all of their plans met with the approval of Cullinan Engineering.

Mr. Hathaway - When you held up the map of similar towers in the area, one of the things I noticed that most of the towers of this type, are located near highways, away from residential areas.

Mr. Colorusso - What you are seeing is all the carriers where they locate to get the most benefit for their dollar. They locate near the highway, where people are using their phones, primarily. We are now filling in the gaps from the roadways in between. We are locating very close to Route 9 and 56. We are constantly filling in and improving the network.

Mr. Hathaway - One thing I did observe is that, where there are towers I didn't see any houses in the immediate vicinity.

Mr. Colorusso - We try to stay away from homes. This site, currently, does not have that many houses around it right now. I now there is something planned for the future, but it may never happen.

Mr. Jeffrey Pike - I would be the closest abuttor. Does this have any bearing on property values?

Mr. Colorusso - I have no proof to that, do you?

Mr. Pike - It would be a visual eye sore for the people living around it.

Mr. Colorusso - I would look at it more as a safety issue. You are going to improve the safety of the community. If there was a way to make it more visually attractive, we would do that.

Mr. Robert Hyland - I think his statement is true, that it will decrease property values. If someone who is an abuttor and owns property who is concerned with it, in his eyes, that's proof that it will devalue property.

Ms. Marilyn Hyland; 67 Whittemore Street - The towers you

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have in adjoining towns, have any of them ever been penetrated?

Mr. Colorusso - Not to my knowledge.

Marilyn Hyland - You are building on the hill, the High School, the Primary School and the Middle School, are directly underneath it. Sometimes you can put up a tower and it's there just for the asking. Working with High School Students, with the football field that is going to be right behind the high school, I can vision, even with a barb wire fence, someone deciding that we had a great victory, let's post it on the highest point in Leicester, and put up a flag. I can see it, it may not ever happen, but it's there. It's sort of like an invitation on top of this hill, to let everybody know that Leicester is here and here we are. Is there any guarantee, that nobody would get up on that.

Mr. Colorusso - There is no guarantee. The existing bylaw asks for a 6 foot fence, we made it 8 foot.

Marilyn Hyland - You could still make a 150 foot tower and somebody will get to it. It's right there where we have three schools. It's an open invitation.

Joseph Hyland - Every couple of years, the water towers, which are 40 feet, they are written on, spray painted every other year. There is a fence around those. These towers are going to be 4 times the height of the water towers. You can't build these near schools. There are going to be a thousand kids every day exposed to these cellular towers. This land was taken by Eminent Domain from the family, it was purchased. Is the water district going to be in the process of putting in their Charter, leased land. Can you lease land like that as a water district. Mr. Blair has had 59 subdivisions, he never once didn't finish one. He has 14 houses sold. The first house in that field, directly behind that, is \$210,000. If you build this tower, it will cost the town money. He is going to build a \$120,000 house, because the people who paid \$210,000 aren't going to buy it with a tower in their back yard. What are the tax revenues on 50 houses, if you decrease the value by 20%. It is certainly going to eat up any rent that is paid to the water district.

Mr. Frank Lyon; Superintendent, Leicester Water District -The Water District, in light of the vandalism that does occur on the tanks occasionally, for the graduating class of such. The last year that we had vandalism on the tanks, was 1987. Since that time, we have improved our gate system, and we have not had any problems on any of the tanks since that

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time. We heightened and cut out some of the sections, so they were not able to climb those tanks. As far as the land purchase, it was purchased almost 20 years. It was purchased right after the town took the land for the Primary School by Eminent Domain. At that time, we approached Mr. Hyland to see if he was interested in selling any of the land at that point. He agreed to sell whatever land we chose to purchase from him at that time. We chose not to purchase all of the property from him, but only that section which locked our tanks, and gave us access to the tanks that we own, which was parcel number 2 and 3.

Joseph Hyland - Was there a statement of purpose with that Deed recorded at the Court House.

Mr. Lyon - Absolutely.

Joseph Hyland - For public safety municipality type of water district.

Mr. Lyon - No. It was purchased by the water district for it's purposes. As to whether the Water District has a right to lease or sell their land, yes, they can lease or sell their land or whatever they choose to do by vote of the district or by authorization of their directors. In this case it's the Board of Water Commissioners. They have the right to do what they deem necessary for the business of the water district.

Joseph Hyland - If the town vote is \$4,000 to purchase this land for the Leicester Water Supply District, how can they justify going over here and leasing it to a power, it has nothing to do with the water district.

Mr. Lyon - The water district is a separate entity from the Town of Leicester. It is not the Town of Leicester. It is a separate corporate charter within the Commonwealth of Massachusetts.

Joseph Hyland - The statement of purpose had to say it was for public safety.

Mr. Lyon - What is the statement of purpose.

Joseph Hyland - When the water district and the money for the \$4,000, where that came from.

Mr. Lyon - What \$4,000.

Joseph Hyland - What was paid for the property.

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Mr. Lyon - No sir, it was \$2,000 an acre. It was 6 acres. The actual purchase was \$12,000. There was no stipulations on the sale of that property to the water district.

Joseph Hyland - The town or the water district funded that purchase.

Mr. Lyon - That's right.

Joseph Hyland - How, as a water district, can they say a Cellular Tower has anything to do with a water district.

Mr. Lyon - The Board of Water Commissioners of the Water District have a right to lease or sell on any of their properties for their purposes. They have a right to collect revenues, and that's exactly what's going to happen here. The revenues collected from the lease of that property to Cellular One, we'll apply it back to the water district as a rate structure, in order to off set any rate increases that may take place.

Alex Para; Attorney for Cellular One - If this issue on the ability of the water district to lease the property is a concern to the board, we can provide you with the Superior Court Decision. In which the court says, that issue has nothing to do with the board ability to issue a special permit or deny a special permit. It is a separate issue all together.

Ms. Karen Burcume; 312 Rawson Street - I am a Cellular One customer, I do find it quite handy. My concern is this is the wrong place. There are three schools, that are very close, the data is not in. The data is still not in on high intention wires on the health risk.

Mrs. Finan - How long do you suggest that the technology wait. How many decades, until you feel you would be satisfied. We have had high tension wires going through Leicester since I was a small child.

Karen Burcume - Right, and you can't build houses near them any more.

Mrs. Finan - I guess what I am trying to say is, you like and have a Cellular Phone and like using it. That never comes without some liability. And we don't know if it is a risk.

Karen Burcume - Why put it in an area that is so close to three schools.

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Mrs. Finan - I don't know whether we are going to put it anywhere. But they have determined this is the proper and best location.

Nancy Sanco; 254 Rawson Street - I am a cancer survivor. This is not worth the risk. You can say that you have not gotten cancer and that you live by high tension wires. I've lived it, and I'm not willing to let my children live it. You don't know.

Sue Lewandowski; 14 Pine Ridge Drive - A question on one comment on, how many centuries or decades do you want to wait. I'm insulted by that, because if you have a 5 year old, 10 year old, 8 year old, we just don't know. That is an issue that there is nothing proven. My other question, does our ambulance, and emergency technicians, and police department have absolute lack of those area. How much of a benefit are we, Leicester, going to have with this circle of white turning red. Are our communications that bad in the police department or any of the emergency services? What kind of gaps do you have over the water.

Mr. Mark Wilson; EMS Director - We do want space on that tower to improve our communications system. We have made a site search on this type tower here. The test we did gave us 200% better coverage in all the areas of town. Right now, we cannot communicate with the dispatcher in certain areas. My department primarily uses portable radios to sign on the air on medical emergencies. This Paxton Street site greatly increases communications for emergency services in this town. We don't know about EMF's and waivers. There is more data showing that there is more damage through EMF's through high tensions, then Cellular problems. I would not recommend this, my children are in the Leicester Public School System, if I didn't feel that this was not safe. I'm in the safety business. The three AM towers on Leicester Hill cause more hassle to my department, in regards to radio transmission and telephone calls.

Charles Flagg; Rochdale - I'm concerned on the statement of the underground tanks, as a propane gas, stored as a liquid. As a private pilot flying in and out of Worcester, the topography of that hill, with a 150 foot tower, is 50 feet higher than Worcester Airport. If you put another 150 foot tower on top of that hill, it makes it almost 200 feet above the landing service of the Worcester Airport. I'm not sure if you have had this approved by the Airport Commission or not, but I don't think you have. In regards to communications, I fly from Springfield and back, I pick up alot of Cellular Phones litter. I don't want to fly into

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to communicate with the tower and listening to somebody talking on a cellular phone. I would like an answer on the Airport Commission.

Mr. Colorusso - The Airport Commission is not identified as having to have notification. The City of Worcester Planning Board has been notified about this hearing. The FAA has been notified back in April. The maximum height we can build a tower is 167 feet, we are asking for 150. It is not in a flight path. It is in close proximity to the Airport.

Mr. Todd - You said the maximum height you could build is 167 where does it say that.

Mr. Colorusso - That's the FAA would allow at this location.

Robert Hyland - Regarding the height, would it be possible to build this tower in another location to increase the height.

Mr. Colorusso - Perhaps.

Robert Hyland - I think until we exhaust every location in town, check in impact on people in the town, children, residents, then make a decision, on whether or not this is the most appropriate site.

Robert Hyland read an article from the Worcester Telegram, Thursday, June 18th. Regarding the building of a tower in Oxford, in a residential area.

Rocky Hyland; Whittemore Street - I've done some research, and there is nothing proven that there are no long term health issues. There are warnings, Country Wide, against installation of these towers in residential areas and any where near schools. Also, I would like to present to the committee, if a tower is to be a fact of necessity in the town, that the Leicester Rod and Gun Club maybe an ideal site. The club is located on one of the highest elevations in town. It owns almost 200 acres of undeveloped land. In all the sites where these towers are near residential homes, the values of the houses went down.

Nancy Sanko - What is the town getting from this.

Mark Wilson - We have checked all the sites in areas that would give us possible coverage. This site tested the best.

Joseph Hyland - Could we petition the Selectmen to bring this to a town vote, instead of just the zoning board.

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Mrs. Finan - You can't petition the Selectmen, the Zoning Board is the correct avenue.

Mary Hyland - Considering this hearing is on a special permit, includes the use developed as a possible adverse affect on the neighborhood. I think that is what we are addressing here.

Mrs. Finan - That this would have an adverse affect on anyones health, is a very difficult question to answer. Much has been written on either side.

Mr. Para - Cellular One would be happy to bring someone in, an expert, to at least explain the power of the antennas and units. Give information to the public, so that they can make a more informed evaluation. The Teller Communications Act takes the authority away from your board, with respects to health issues, Section 704. With respect to health issues, the Federal Government pre-empts your jurisdiction, and you don't have the authority to turn down a tower application, on that basis.

Mr. Todd - I would find it very hard to believe that, that opinion from Federal Government applies, as a blanket, regardless of how, where, or when. We wouldn't have a special permit process here, if we weren't concerned with this specific circumstance of this particular petition. There is a development in that area, the proposal pre dates this petition. I have a concern that given there is a development going on, and this proposal, whether or not we are in fact dealing with an issue of an adverse affect.

Frank Lyon - With my conversation with the developer, he tells me that they chose not to oppose this issue. One of the things they looked at was whether or not that they could sell homes in the area with one of these towers in there. Their answer to that is, with the two water tanks in there, didn't create any devaluation to the property. They did not feel that they would oppose this.

Robert Hyland - I also spoke with the developer, and they are against this tower. But, they also need the support of the water department. It would be a conflict of interest.

Mr. Todd - Having not received any communication, I can't guess as to what other people are thinking.

Mr. Hathaway - I'm not sure how we as a board could try to make a decision based on what future owners of homes being built are.

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Mrs. Finan - I agree. We would be guessing as to what somebody would think. As far as these uses being non compatible, our bylaw allows and makes residential houses and a number of other things, all within a Suburban Agricultural Area.

Karen Bercume - This is just not the right fit for that area, that is just common sense.

Marilyn Hyland - This tower would have an adverse affect on whether or not you want to buy a house in that neighborhood.

Jeff Pike - I did not know about this tower at all. I am a prospective buyer of one of those houses. I have put a deposit on this house. I chose that area because it is very scenic. This is going to be an eye sore, and it's going to ruin the property values.

Leonard Gabrila; Leicester Water Supply Commissioner - The issue of safety, there is a direct line to the police department. If anyone should climb the tanks and tower, the alarm system will be activated and go directly to the police department. The other issue is the fence with barb wire, maybe trees, surrounding it. Something is needed as a permanent nature that would go 15 to 20 feet high.

Robert Hyland - Cellular Towers, how long have they been around?

Mr. Colorusso - 10 years in this area.

Robert Hyland - How old are these bylaws that allow these towers.

Deborah Freedman - They were voted in at May Town Meeting 1998.

Mr. Hathaway - Seeing that this was applied for prior to May Town Meeting, wouldn't we being hearing this based on the prior.

Ms. Freedman - If this passes the Attorney General, which it should, you should hear it based upon our regulations.

Residential Zones with large lots and Suburban Agriculture Zones explained by Ms. Freedman.

Mr. Colorusso - There have been alot of concerns about health issues, I would like to present to the board, approvals from the Massachusetts Executive Office of Health and Human

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Services, Department of Public Health. This is the approval for Cellular One to utilize the site, under their criteria, in regards to health standards.

Cindy Garabedian - How many other towers that you pin point on that red map you showed us. How many of those are near schools.

Mr. Colorusso - I have no idea.

Charles Flagg - Doesn't the fact that this underground storage gas facility concern anyone here, as far as health hazard. Doesn't this conflict with any local area laws?

Mr. Todd - It's liquid propane, but if it leaks it turns into a gas. It doesn't leak down, it leaks up.

Charles Flagg - Gas settles.

Mr. Todd - This liquid propane, at normal air pressure, becomes a gas, it doesn't become a liquid.

Frank Lyon - It has been an issue with the water district also. It's like the fuel that was supplied to the generator. It specifically states that, within the resource district that the underground storage is not allowed, for liquid fuels. Meaning, any fuels that could contaminate the ground water sources. In the case of liquid propane, once it's release into the atmosphere, it does not become a hazard to the ground water sources.

Mr. Hathaway - We are hearing this based on the article that was passed at the Town Meeting. I would like to read one of the comments which is: The applicant shall successfully demonstrate to the satisfaction of the Board that the proposed facility will have minimal visual impact. Which is an interesting twist then what we are hearing.

Mrs. Finan - Perhaps the Chairman from the Planning Board would like to comment on this.

Deborah Freedman - It also says that it's required not to be painted a color that would impact the area. But, because it's within the FAA Zone, we don't have any control over that. Their requirements go over any of the bylaws that we have. If it was someplace else, that didn't fall under the FAA Regulations, we could say what it would be painted.

Mr. Hathaway - But the clause regarding Minimal Visual Impact, is not tied to the FAA Regulations.

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Deborah Freedman - Minimal Visual Impact, as far as the type of structure, this is basically one that will have Minimal Visual Impact.

Discussion regarding other possible areas in Leicester, such as The Rod and Gun, & The Landfill Area.

Mr. Todd - I still have a concern. The words in our bylaw are, possible adverse affect on the neighborhood. I see a possible adverse affect.

Mr. Buckley - I agree. That is what I've been focusing on, the possible adverse affect.

Mr. Todd - Given that there is a development that is in the works up there, it's going to happen. If there is concern now, and we are developing more residential in that area, I can't see the concern lessened.

Mrs. Finan - The word, possible, opens up alot of gray areas. This requires us to have no factual content, what so ever. The petitioner did say that they would be willing to come back with an expert, to explain to us and discuss, at length, the possible or not possible, dangers of this type of micro wave emissions.

Mr. Todd - If the petitioner were to come to this continued hearing, with an expert, I would not be surprised if somebody of interest here, decided to find their own expert, who might present something with a different point of view. I agree with you, I would like to have some nice solid facts here.

Mr. Para - Even if the bylaw uses the word possible, you as a board, under the zoning law, and under the Telecommunications Act, have to act on factual evidence. I don't think you can take the word, possible, from the bylaw, and say, there is some undefined adverse affect there. I think the board needs to identify it's concerns. Here the concerns of the abutters, and give the applicant a chance to submit evidence relevant to those issues. We have indicated on two occasion tonight, that we're willing to come back, with additional evidence, to address the concerns that have been made known to us tonight. I think in fairness to the applicant, it ought to be given a chance to address the concerns, that were raised tonight.

Mr. Todd - O.K. I think there are a few peak concerns. The fact that there has been a development approved and in the works in the same area. Could there be a possible

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economic impact? I think possibly, yes. The whole health issue has been raised by a number of people. Someone had asked, how many towers are in this close proximity to schools like this.

Mr. Para - We would like the opportunity to address these questions.

Mr. Todd - Are you requesting a continuance?

Mr. Para - Yes, I am.

Mr. Hathaway - If we move to have a continuance, do we want to outline a set of questions now, that we want to have answered.

Questions to Research: Health Issues. How many towers are near schools. Property Values. The distance from the point of broadcast, to the closest school. How close are houses to this site.

Mrs. Finan - Are there any specific questions, in regards to the health on the microwave issue? Would anyone like anything specific the petitioners can give to their consultants for an answer.

Mary Hyland - I would like them to take the possibility to research and look at the other sites that were recommended tonight.

Mrs. Finan - I would like this board to send a letter to the school department, and ask them if they would choose to comment on this proposed site.

Mark Wilson - Seeing we are dealing with the health concerns, it should be everyone, including adults, along with the children. If they do look at the other sites, what would the population of the new development going to be. What is the total at the Recycling Center on a weekly basis. How many people are really being exposed, by the tower, on any of the sites. If you are going to look at health concerns, it should be looked at for the whole population.

Mr. Hathaway - I have a list of questions I would like answers to. I would like to run through them now:
The population density within a half mile radius of other towers.

Effects on house values.
Proximity of these towers to airports.
Distances of towers from schools.

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The number of towers, with no trees, within 300 feet radius of the towers.

Joseph Hyland - I would like to know how many of these towers are located near major highways, i.e., Route 20, Route 128, as opposed to rural areas, residential.

MOTION: Linda Finan - to continue this hearing, as requested by petitioner, to Tuesday, August 11th, at 7:30 pm.

SECONDED: Jim Buckley - Discussion - There will be a posted notice at the Town Hall of this continuance.
Vote: UNANIMOUS

MOTION made and seconded by Linda Finan and Jim Buckley to adjourned hearing.

Hearing adjourned at 9:50 pm

Respectfully submitted,

Barbara Knox

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GENERAL MINUTES

MOTION made and seconded by Linda Finan and Dennis Hennessy
to approve minutes of January 5, 1998, Exxon Corp.
Vote: UNANIMOUS

REORGANIZATION OF THE BOARD

Chairman - Jim Buckley
Vice Chairman - Laurence Todd
Clerk - Dennis Hennessy

MOTION made and seconded by Linda Finan and Dennis Hennessy
to approve Reorganization of the board.
Vote: UNANIMOUS

Send letter to school department requesting a comment on the
Cellular One Hearing. Also request for someone to try and
attend the continuance.

Send letter to the Building Inspector requesting a comment
and asking if he would attend the continuance.

MOTION made and seconded by Dennis Hennessy and Linda Finan
to adjourn meeting. Vote: UNANIMOUS

Meeting adjourned at 10:10 pm

Respectfully submitted,

Barbara Knox

Town of Leicester
ZONING BOARD OF APPEALS
Washburn Square
Leicester, Massachusetts 01524



Minutes of June 15, 1998

Hearing on the petition of Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One, by Ralph Colorusso of 100 Lowder Brook Drive, Westwood, Ma., for a Special Permit to allow the use of a radio broadcasting and relay station antenna array and tower upon land zoned Suburban-Agricultural, located on Paxton Street, a.k.a Route 56, Leicester, Ma.

Members Present: Laurence Todd; Chairman, Vaughn Hathaway, Linda Finan

Meeting called to order at 7:30 pm

Mr. Todd - We are unable to hold a hearing this evening, because we do not have the minimum number of members of this board present. We have only have 3 members. Two members are absent, neither of whom will be able to make it this evening. We did not know this until five minutes ago. What we would like to do, is reschedule this hearing for this Thursday. We called and confirmed that, we will have enough members on Thursday. That is Thursday of this week, same time, 7:30 pm. Is that agreeable with the petitioner?

Alex Parra; Attorney - Yes

Mr. Todd - We will not be doing any mailings to people. So, for those of you present, Thursday, June 18th, at 7:30 pm.

Hearing adjourned at 7:40 pm

Respectfully submitted,

Barbara Knox

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GENERAL MINUTES

Discussion regarding 101 River Street

Send letter to Selectmen regarding the need for new members

Adjourned at 8:00 pm

Respectfully submitted,

Barbara Knox