



Daniel F. Caruso  
Chairman

# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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August 19, 2010

The Honorable Andrew Roraback  
State Senator, 30<sup>th</sup> District  
The Honorable Roberta Willis  
State Representative, 64<sup>th</sup> District  
Legislative Office Building  
Hartford, CT 06106-1591

RE: **DOCKET NO. 402** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public need for the construction, maintenance and management of a telecommunications facility located at 16 Bell Road Extension, Cornwall, Connecticut

Dear Senator Roraback and Representative Willis:

I am in receipt of your letter dated August 5, 2010, in reference to the hearing held July 20, 2010 in connection with the above-referenced proceeding. Thank you for bringing your concerns to my attention.

I am saddened to learn that such inaccurate reports would reach you and cause such an unfortunate letter. Indeed, contrary to such narratives, the nine members of the council, from various parts of this state, including one of your constituents, from various professions, a variety of backgrounds and considerable experience, share your commitment to ensuring that the public's views are heard and properly respected in all forums, including public hearings of this agency. More importantly, we did so at that hearing, and we regret that legislative business elsewhere prevented you from observing this first hand.

As to our hearings in general, I always begin with a review of the restrictions under which we are bound by law. I indicate how these also prevent members of the public from asking questions of others, while at the same time protect them from being subject to cross-examination themselves. I also invite those who choose not to speak and for the benefit of neighbors and friends who could not be there, but who wish to have their voice heard, that they might let us know their thoughts in writing, within 30 days from the hearing date.

As important, I always remind those present that: "the Council does not presume to know all of your concerns. We ask you to consider that you may not be aware of all of your neighbors' concerns. This portion of the hearing allows us to listen and weigh the issues that might not otherwise have occurred to you or to us. And therefore, we ask each person making a statement to confine his or her statements to the subject matter before the Council."

The state and federal laws under which we must operate prevent our hearings from being freewheeling discussions, which sometimes requires the chair to intervene to prevent such occurrences. Moreover, it is my paramount concern that all who wish to be heard shall have that opportunity. To ensure such participation, it is a prudent chairman's duty to prevent others who wish to speak from being precluded by lack of time or through concerns as to the reaction of others in attendance.

To fulfill our obligations sometimes requires that the chair ask those reading statements of multiple single typed pages to summarize their materials to ensure that a reasonable time remains so that those others might be heard. Additionally, when speakers run too long, I encourage the presenters to complete their thoughts and summarize their remarks rather than to terminate their speech by way of time limits enforced by such means as the kitchen timers used in legislative committees.

In addition, as Chair I must from time to time ask speakers whether the documents to which they refer are part of the record so that those who cannot attend but wish to read the transcript, may have a fuller understanding and easier time for their efforts. At other times, I must act to help incorporate into the proceedings those documents that may properly come before us.

Moreover, a formal tone does not signify a dismissive attitude. Such not only results from the regulatory requirements but is also designed to avoid the appearance of a partiality. This is especially necessary for your constituents who might wish to present views contrary to the vocal preferences often exhibited by a majority in the ordinary hearing. Such an atmosphere often results when those on one side choose to follow their supporters' remarks with applause, which is not conducive to a fair hearing for all, and for which reasons, I always immediately call upon the next speaker, giving no recognition to any applause, or lack thereof, accorded a prior speaker.

Notwithstanding, I note that to accommodate the town and its people, upon learning that the First Selectman would be unable to join us for the evening's public hearing, the Council extended the afternoon session so that he might both cross-examine the applicant and to make the town's case out of order. Such accommodations ultimately delayed the start of the public comment session, and these same accommodations apparently are actions for which we are now criticized.

I regret that the First Selectman was not on hand to introduce members of the Board of Selectmen or otherwise indicate that some might be attending the evening session. What we did know was that he was not there, and that he had not authorized anyone to act on his behalf, for which reason I correctly observed that the town was not present to cross-examine the evening's witnesses. I do not ordinarily, nor is it generally prudent, to acknowledge the rare instances of shouts from the back of a hall, especially in contested, on the record proceedings. Nevertheless, when voices were heard emanating from the crowd, from unidentified persons, including some claiming to be on the Board, but without known authority, I inquired of the unidentified members of the crowd whether the town had any cross-examination, an offer which was declined. Moreover, I, myself, took the liberty to ensure that all of the town's evidence became part of the record despite the First Selectman's absence at the evening hearing.

Not only did the Council members and I listen to the comments of your constituents made during the public hearing, but I also summarized the concerns they expressed and subsequently put those questions to the applicant.

Additionally, despite the lateness of the hour following the public hearing, the Council chose to resume the cross-examination of the applicant. I made this decision so that we might allow Mr. Thaler and Ms. Mooney, and Mr. and Mrs. Daifotis to proceed on that day, rather than to recess, which would have required them to join us on a different date in New Britain. Additionally, I decided to continue the proceeding so that those who raised certain issues in the public hearing might hear the answers given by the applicant likewise without joining us later in New Britain.

I will not belabor you with detailed answers to all of Mr. Thaler's assertions to you, especially as this matter is now pending before us. Suffice it to say that I reject them. Specifically, please be advised that Mr. Thaler chose not to avail himself of the pre-hearing conferences available to help him understand the

procedures under which he, as do all choosing to become interveners, must operate. Indeed, our staff went out of its way in an attempt to brief him on such matters. Regrettably, had he availed himself of these opportunities, he would have been fully aware that our proceedings are governed by statutes and acts which prevent us from being the idealized "New England town meeting" he seeks.

In addition, from time to time during the hearing, I was required to stop him to ensure that the Council understood his points clearly and to ensure that his evidence was introduced and allowed. Moreover, I exercised my discretion to assist him to advance some direct testimony during what is lawfully only to be used for cross-examination purposes. Nevertheless, I could not allow him to "wax –poetically," as he requested. I took these steps, for which I am now criticized, in a methodical and patient manner to ensure that his concerns were heard and became part of the record.

More specifically, a fair reading of the transcript will also disclose that my use of the phrase, "get while the getting is good," was made upon the conclusion of the opportunities others had to cross-examine him and his assertions. As anyone who has been cross-examined knows, the opportunity to escape the other side's attempts to pick apart the witness or the witness's arguments and evidence is certainly generally considered a blessing not to be overlooked, and that the sooner one is not subject to cross-examination, the more successful one may hope to be. It is regrettable if he interpreted my comments as anything other than an acknowledgement of his good fortune.

Finally, I might note that few hearings may be considered as so oppressive or inhospitable when interrupted with laughter more than six times in its concluding hour.

The Council always listens and only acts after all parties and fact are heard. I thank you for the opportunity to provide you with them. I hope that you will be able to join us and observe our proceedings yourselves should any future hearings bring us to your district.

Very truly yours,



Daniel F. Caruso  
Chairman