



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Internet: ct.gov/csc

DATE: August 20, 2010

TO: Parties and Intervenors

FROM: Melanie A. Bachman *MA B*
Acting Executive Director

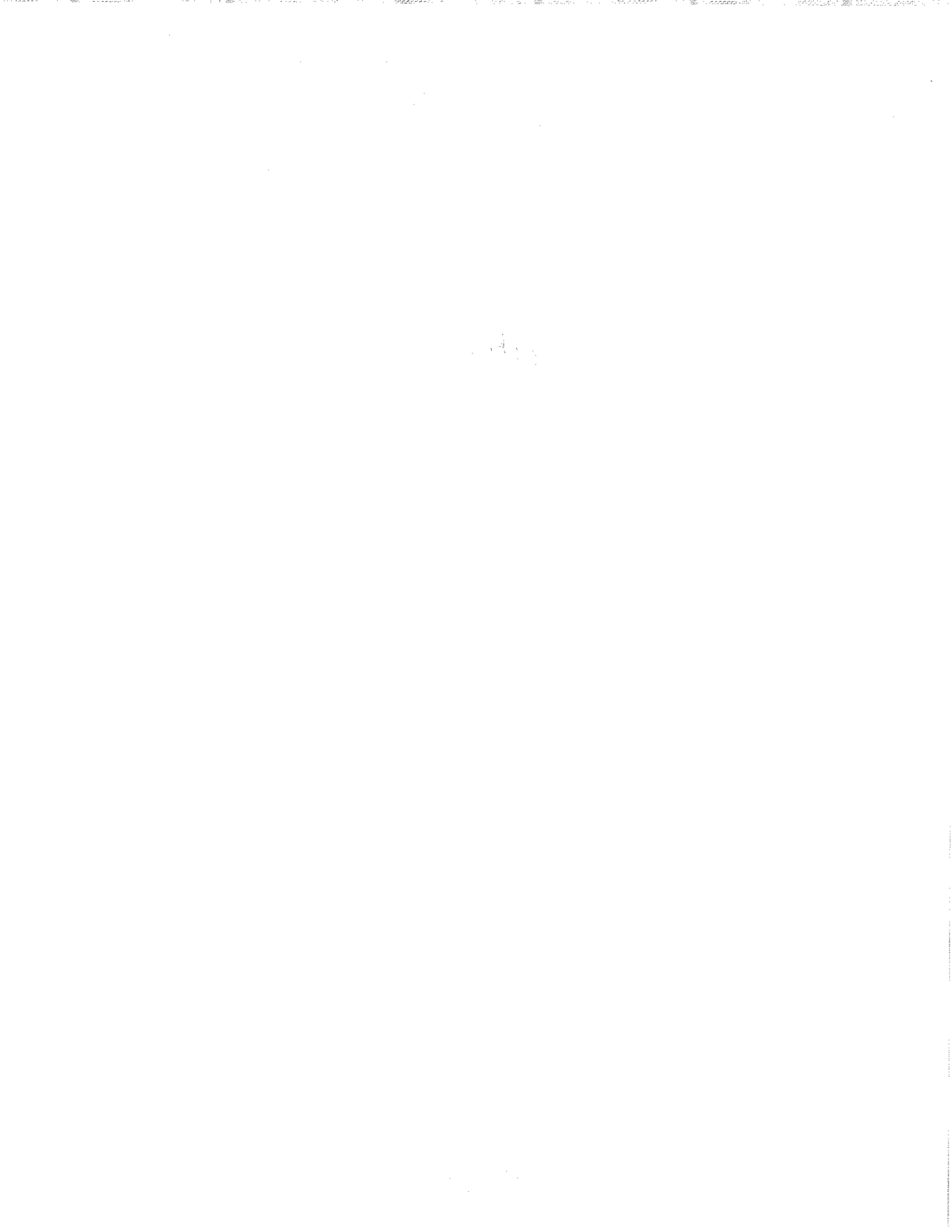
RE: **DOCKET NO. 402** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public need for the construction, maintenance and operation of a telecommunications facility located at 16 Bell Road Extension, Cornwall, Connecticut.

Enclosed please find attachments to the motion filed by intervenor, Frederic I. Thaler on August 16, 2010 and a copy of Mr. Thaler's request to include the attachments that was electronically sent to our office on August 18, 2010.

The Council requests that comments from parties and intervenors on the motion and the attachments be filed on or before August 25, 2010.

SDP/RDM/laf

Enclosure



Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Wednesday, August 18, 2010 5:38 PM
To: CSC-DL Siting Council
Subject: Re: Docket 402 Frederic I Thaler intervenor

Sir,

I see that many submissions of various Newspaper Articles, editorials, and our State Legislator's admonishments to the Chairman are not a matter of record.

TO substantiate my motion, I request that the temper and sense of the community be reflected by including all that I have submitted.

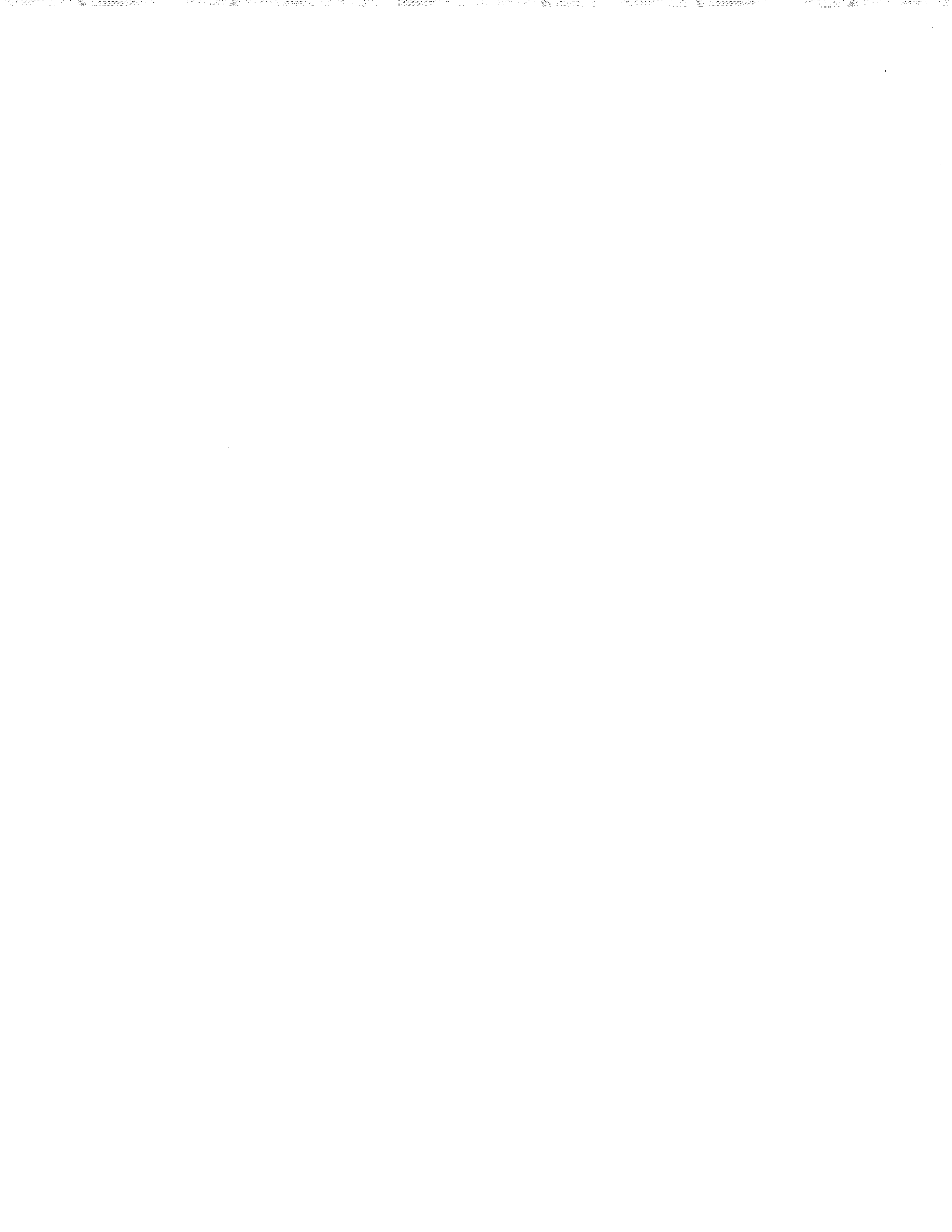
I simply wish that all council members have a chance to reflect on the impact the Whole Council is having on our community.

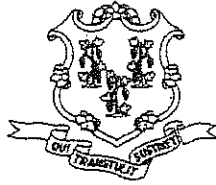
Public comments and editorials alike.

Thank you for all considerations.

Sincerely,

Frederic I. Thaler





State of Connecticut
GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

August 5, 2010

Honorable Dan Caruso, Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Dear Chairman Caruso:

We wish to communicate to you our serious concerns with respect to the conduct of the Siting Council hearing held in Cornwall on the evening of July 20, 2010 in connection with the proposed siting of a cell tower at 16 Bell St. Extension in Cornwall. While we were not present at the hearing, we have heard from several sources that members of the public, who are our constituents, were treated in a manner which was discourteous and highly unsettling to them.

It is our strong belief that citizens participating in the public hearing process, particularly those for whom this may be an unfamiliar experience, are entitled to be treated with dignity and respect at all times. Confidence in the important and difficult decision making entrusted to the Siting Council can only be achieved when Connecticut citizens are assured their concerns are fully heard and considered.

We ask that you and all members of the Council insure that all future public hearings are conducted giving every member of the public the courtesy they deserve.

Sincerely,

Andrew Roraback,
State Senator, 30th District

Roberta Willis,
State Representative, 64th District

CC: Honorable M. Jodi Rell, Governor
Gordon Ridgway, First Selectman, Town of Cornwall
Fred Thaler

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Friday, August 13, 2010 8:27 AM
To: CSC-DL Siting Council
Subject: For the Public Record Docket 402
Attachments: I am Frederic I.doc

Sirs,

Please find attached the words I had written to be spoken by me on July 20th 2010.

I am submitting what I was not able to say for the Public record.

Sincerely,

Frederic I. Thaler

I am Frederic I. Thaler.

I reside at 66 Popple Swamp Road in Cornwall Bridge CT, with Kathleen my wife and Sam my son 12, Emily 19 is in college home for the summer and Lucia 22, is now living in NYC and is a college student. This property has been in my family for 32 years.

I am grateful to be here and hope to give and receive information and understanding.

My property is situated downhill, downstream from the new construction and along the entire length of the access road. Indeed I presume have a right to access all along my adjacent property using this road.

I have read the documents, and I am impressed.

But I need to know what impact it all will have on the downhill, the downstream, the adjacent property.

Being a retired teacher, a counselor, and now an active antiques dealer I know I don't know what my rights are and what I must do for this hearing. I have consulted with counsel, and am looking forward to learning more here.

Robert Fisher, of Cramer and Anderson, Kathleen and I met July 12th for a consultation, and we came up with a few important questions and a few observations, and I might add a subjective consideration.

My questions are formed as statements.

AS in:

There is no A2 survey on file in the Town for the Gulliver property.

The survey that is A2 shows that my property crosses onto the road.

Is this OK. Is this legally questionable.

There are easements indicated for some of the proposed road.

Are there agreements/easements with Collins as well as Haller?

There is no documentation indicating whether new or old agreements/easements exist.

In one section of the proposed construction, a wetland is to be filled. One thousand feet of fill. The plan indicates that the fill is up to my property line. I assume, though not an engineer, fill to a property line might have an impact on the drainage pattern. If so I do not see that addressed in the plan.

Do I need to hire an engineer to deal with this possible run off? Do I need to hire an engineer to let me know if there will be that possibility? Do I need to hire an engineer to let me know if it is a probability and that other like probabilities.

This past Wed July 14th a soil scientist and an independent soil engineer were invited by the town to examine the soils and proposed roadway, along with members of the town government and various town commissions.

According to old maps and surveys there was a seasonal brook that crosses the old highway, the current driveway. There is indicated, as well a seasonal pond. The soil scientist this last Weds commented that it is probably a vernal pool. But, if it is and if it contains endangered species an examination in early spring is necessary.

And finally I will indulge in a subjective consideration.

I understand that the CSC to adjudge whether a site, this site is necessary, allowable, and doable.

In particular, this site is adjacent to State Forest, and is in the Housatonic Historical District.

These areas were established to preserve areas with certain aesthetics in mind. We are the custodians of these areas of preservation.

That the proposed tower is to be built so that it would not be seen in the Forest preserves, is notable.

But in conversation, this petitioner has indicated that five towers were thought needed to cover the Cornwalls. If for example ATT cannot piggy back on to this tower do they build their own tower? Do we then have a possible six towers, this a town of 1400 residents. Do we become the area in the state that has greatest number of towers for the fewest in population?

I know that our town has tried to engage in a dialogue to solve the problems of our special and specific location. Cellco is interested in

building towers not in solving the problems that are specific to this area. There are hills and valleys, streams and rivers that present engineering challenges.

The Siting Counsel is concerned with the legalities of it, questions important, is the site necessary, allowable, and doable, the logos. But we function with understandings of ethos and pathos, what is ethical and what is aesthetically pleasing. Rhetoric, the study of how man conveys meaning and persuades is understood to be a fuller experience than simple justice, "just logos."

Can these other considerations be included? What plan is fashioned for this particular town with its unique place, location, and sense of preservation of nature and the natural state, in and for this State.

Thank you.

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Friday, August 13, 2010 8:37 AM
To: CSC-DL Siting Council
Subject: Docket 402 Newspaper article for the public record

An article from This weeks Lakeville Journal August 12, 2010

http://www.tcextra.com/news/publish/cornwall/Circling_the_wagons_in_wake_of_cell_tower_he

From TCEXtra.com

CORNWALL

Circling the wagons in wake of cell tower hearing

By KAREN BARTOMIOLI

08/12

CORNWALL — Residents are still stinging from what they feel was questionable treatment of those who participated in a July 20 public hearing before the Connecticut Siting Council on a proposed Verizon cell tower off Bell Road Extension.

A small crowd attended the Aug. 2 Board of Selectmen's meeting to appeal for help and to offer help, in hopes that the town's concerns will be heard.

The deadline for submitting public comment on the proposed telephone tower is Aug. 19 — not a lot of time to organize a committee, as suggested, but one local couple advised the selectmen they had already set the groundwork for that, and for consultation with a local expert.

"It was the most appalling experience to go through," said Meg McMorrow of the hearing. "There was such disregard and disinterest. It was such an example of undue process."

Her husband, Brad Harding, called the behavior of council Chairman David Caruso "totally objectionable, belittling and sarcastic."

They urged the selectmen to help them move forward with their expert to look at the proposal from a legal viewpoint by checking regulations, environmental impacts and issues related to a tower's proximity to homes and schools.

"Everyone wants cell coverage," McMorrow said. "But no one wants health problems or their real estate investment decreased. Let's try to do it in a sensible way."

Options unclear

First Selectman Gordon Ridgway said earlier this week the transcript of the hearing is under review by the town attorney. He expected to have a letter for the Siting Council by week's end. It will deal with the way the hearing was conducted, as well as what town residents feel was a lack of attention to substantial issues.

Ridgway said it remains unclear if the town has the option to demand further studies and surveys by the applicant, or to extend the process. He noted the applicant can go to court if the decision deadline is not met.

"Part of the issue is that they are talking about putting up four, five or six more towers in town. We need to look long-term and be proactive. There needs to be a joint effort that includes the Planning and Zoning Commission looking at where towers could go."

State officials chide council

The board passed along public concerns to state officials. An Aug. 5 letter sent jointly from state Sen. Andrew Roraback (R-30) and state Rep. Roberta Willis (D-64) to Caruso noted they had received complaints from several sources.

"It is our strong belief that citizens participating in the public hearing process, particularly those for whom this may be an unfamiliar experience, are entitled to be treated with dignity and respect at all

times," the letter said.

"Confidence in the important and difficult decision-making entrusted to the Siting Council can only be achieved when Connecticut citizens are assured their concerns are fully heard and considered."

The Cornwall Planning and Zoning Commission submitted a formal objection based on a violation of zoning regulations. A switchback driveway up the steep hillside to the tower site exceeds at times the 15-percent maximum grade.

Although half of the remaining public comment period had already elapsed by the time of the Aug. 2 selectmen's meeting, a full transcript of the hearing had yet to be delivered to Town Hall even though it had been promised by the council —and even though it was received at the Siting Council office on July 29.

The 180-day deadline for a decision on this application expires Nov. 2. A draft finding of facts is scheduled for Sept. 9, and a draft decision Sept. 23.

All application-related information is posted at ct.gov/csc. Click on pending applications and docket no. 402.

Confusion over road

A twist on the whole issue came when the board received a letter from the law firm of Herbst & Herbst, representing Matt Collins. The letter requested a review of the status of Old Poughkeepsie Road, which may be the existing dirt road that Verizon would use for a portion of its access road.

Collins' adjoining property on Popple Swamp Road was originally considered as the tower site, and remains an option. The Bell Road Extension site was deemed to be the better of the two.

Collins wants to be able to access the rear of his adjoining property over the tower road. The issue could become problematic, Ridgway said, given that the road situation and even property boundaries need to be clarified in that area.

Old Poughkeepsie Road was abandoned by the town at a public meeting in 1866. Ridgway said it connected Pierce Lane to Popple Swamp Road, and may have included a portion of the current Poughkeepsie Road.

But it is unclear if it is the same place as the access road will be. No survey has been done in conjunction with the tower application. Ridgway mentioned this at the July 20 hearing.

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Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]

Sent: Friday, August 13, 2010 8:48 AM

To: CSC-DL Siting Council

Subject: Re: Docket 402 for Public Record Lichfield County Times August 11, 2010

Legislators Address Siting Council Actions

Published: Thursday, August 12, 2010

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By Max Wittstein

CORNWALL—The town's Board of Selectmen and two state representatives are joining neighbors of the site for a proposed cell phone tower in criticizing the conduct of the Connecticut Siting Council—particularly that of Council Chairman Daniel Caruso—at the council's July 20 hearing in Cornwall. During the session, the council heard concerns from the public about a controversial tower on Popple Swamp Road.

In accordance with the Federal Telecommunications Act of 1996, the Siting Council has final authority over the placement of all telecommunication equipment in the state, with preemptive power over the land-use regulations of town governments. The council is prohibited from regulating towers on the basis of any environmental or health effects of radio frequency emissions, to the extent that such towers and their equipment comply with the FCC's regulations concerning such facilities.

Drainage Runoff

The concerns about the chairman's behavior were brought to the state representatives by Cornwall residents Richard Thaler and Kathleen Mooney, who applied for status as intervenors because their Popple Swam Road property abuts the proposed tower site. Mr. Thaler said that he had hoped to voice concerns about drainage runoff from the construction affecting his property and the surrounding wildlife, as the area contains a vernal pool, streams, wetlands and ponds. But he was not given a chance to read his statement and was instead told to ask specific questions.

"I had thought that [being an intervenor] meant that I could ask about the impact it would have on my property, which adjoins the road downstream from where they will be placing this," he said. "What I came away from that meeting understanding is that the council can do what it wants, and that was it."

The written transcript of the evening hearing, during which Mr. Thaler spoke, has numerous instances of Mr. Thaler and Chairman Caruso attempting to speak over each other, and several instances of Mr. Caruso warning the intervenors not to interrupt him, as it would make it difficult for their secretary to type up the transcript. In response to a comment from Ms. Mooney that she felt the council had tunnel vision to allow construction of a tower on this particular site, Mr. Caruso interrupted her, saying that "a cooperative dialogue is not served" by such words.

In particular, Mr. Thaler was put off by a comment that Mr. Caruso made toward the end of the hearing, that he and his wife should "get out while the getting is good."

"I was being very polite and was flabbergasted about how rude, argumentative and disdainful he was," said Mr. Thaler. "I'm used to a New England town hall government, where we give everyone the courtesy of speaking what's on their mind. I came there to understand the process and left understanding that he was the chair, this was his chair room, and he could say and do what he wanted."

In an Aug. 5 letter to Mr. Caruso, State Sen. Andrew Roraback (R-Goshen) and State Rep. Roberta Willis (D-Salisbury), neither of whom attended the meeting, ask the council to ensure that proper courtesy is extended to those who attend future public hearings.

"It is our strong belief that citizens participating in the public hearing process, particularly those for whom this may be an unfamiliar experience, are entitled to be treated with dignity and respect at all times," the letter reads. "Confidence in the important and difficult decision making entrusted to the Siting Council can only be achieved when Connecticut citizens are assured their concerns are fully heard and considered."

Mr. Roraback elaborated Tuesday by saying that he believed the opinions of town officials and zoning regulations should be given greater weight in the decision-making process.

"In this particular case, I know for this tower, the road being used to access it would not be allowed under Cornwall's zoning regulations because it's much too steep," he said. "The fact that the council can pre-empt and disregard local land-use policies is troubling, but the industry has enormous power both in Washington and in Hartford."

Cornwall Selectman Richard Bramley, who attended the evening session of the meeting, said that Cornwall's town attorney was reviewing the record, and he agreed that Mr. Caruso's

conduct was unnecessary.

"We just feel that the chairman's behavior and conducting of the meeting was really outside the realm of normal, and whether he frequently does this or this is just something that was unusual for him is kind of the question," he said.

"Even if it is legal, it's not appropriate," he added.

First Selectman Gordon Ridgway, who favors increasing wireless phone coverage in Cornwall but has reservations about the Popple Swamp Road site, said when he spoke during the council's afternoon session, he felt he was interrupted more than necessary but that he was chiefly concerned that the environmental questions weren't adequately answered.

"Our concerns are whether the hearing was conducted properly," he said. "The bigger question is how they can rule on this with so many open questions as far as the site plan and implications."

Mr. Ridgway added that the selectmen will be drafting a letter to the Siting Council at their Aug. 17 meeting before the public record of the hearing closes on Aug. 20.

S. Derek Phelps, executive director of the Siting Council, declined to comment, but stated that Mr. Caruso was preparing a written response to Mr. Roraback's and Ms. Willis' letter.

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Sunday, August 15, 2010 8:47 AM
To: CSC-DL Siting Council
Subject: Public Records RE Docket 402
Attachments: Re 402 kathleen Mooney response.docx

I am submitting the attached on behalf of my wife Kathleen Mooney.

Re: Docket # 402

CSC Hearing July 20, 2010

I have to go on record regarding the events of July 20, 2010.

My husband, Fred Thaler and I filed as intervenors to speak against the suitability of 16 Bell Road Extension, Cornwall Bridge Ct. as a cell tower site.

We arrived at 2 PM for the hike up the 20% grade Mine Mountain abutting State Forest to see the site.

There was mention of wetlands on both sides of the road, "sterile" spotted salamander eggs. There was mention of a thousand square feet of fill on our side of the road. I requested an introduction to the members and was told that would occur at the meeting at 3 PM. The impact of the wetlands was inquired about and minimized by saying the culvert and fill would have no significant impact on the wetlands to the east of our property. When asked what permanent impact is, it was described as changing the course of water and dispensing it through fill onto our property. This is adjacent to a vernal pool on our property.

When we got to the top of the mountain we observed the mooring for the balloon. It was pointed out that the line for the balloon was snagged in the branches above making it fly lower. The line was let out an additional 20 feet. When we went down to our cars someone went up and pulled the balloon back down to the original marker on the string.

In the parking lot we were told to arrive around 3:30 because the council had other business to attend to.

We came to speak. After introductions and explanations of functions the members of the council asked questions and voiced concerns about the access road, grade of this road, maintenance, fills, wetland impact, impact on the environment and ability to withstand tornado strength winds. The people from Verizon/Cellco said they had addressed all of these issues.

Our first Selectman, Gordon Ridgway was the first intervenor, representing the town of Cornwall. He was interrupted and treated in a dismissive manner. The chairman inquired as to why he was concerned with runoff onto our property and the absence of an A2 survey. Did that affect the town in some way? Why was he concerned with us? He said it would be a problem if there was unclear ownership of the property proposed for the site access road.

As to questions of suitability the council said all these issues were addressed. Their main concern seemed to be whether this access road was a town road or not. The chairman was dismissive about maintenance issues and basically questioned the validity of the selectman's questions.

The council gave Verizon/Cellco the home work of finding out the significance of the Upper Housatonic Heritage Corridor before the 7:00 PM meeting and was this site in the overlay area.

By then it was 5:20 and we were informed that it was time for dinner since the only place they could find to eat was in Kent.

The 7:00 PM meeting was started at around 7:20. Verizon/Cellco and all members of the public were seated waiting for the Siting Council members. The executive Director Phelps asked intervenors, two neighbors, to come into the hallway and explained to us that the public would speak before us and we were not to interrupt the public speakers and that we would be asked to testify in the end of the meeting if there was time. If not we would be invited to another meeting, at another time and location if possible. I objected and was assured that I would be able to state my questions.

Elaine La Bella was prepared and spoke eloquently.

Despite cautions to be brief and not to cover material that was already common knowledge. She graciously complied. I will ask her to foreword her concerns. Two other citizens voiced their concerns.

Fred and I were asked to introduce ourselves and speak.

Fred had prepared a list of thoughts and questions. He was interrupted by the chairman mid sentence and told that the chairman had no idea what he was talking about and did Fred have a question?

The effect was so intimidating that it was difficult to form a thought even using notes. Fred asked about time for preparation. We were not allowed on the site until the Wednesday before the meeting to bring the town soil scientist and a neighbor's soil engineer to examine the site.

We stated our need to have our property examined as the property downhill containing the wetlands and swamp directly affected by runoff. The chairman asked us if we really wanted to spend money duplicating Verizon's report. I said this was not the same property. None of the proposals from any previous meetings or this one included complete wetland maps of the area.

When, my husband brought up the impact on our property and the lack of easements, and the lack of a soil report analyzing our property he was interrupted repeatedly. I finally asked if they were using our property or going onto our property because they did not have an easement. They said they did not intend to go onto or use any one else's property subject to an A2 survey. They said if it did cross our property they would shift the road to get it away from our property.

The state Forest land was not listed as abutting property until this meeting on July 20, 2010.

Fred was accused of interrupting and chastised for making it difficult to transcribe the meeting. Did we really want it unclear what was transpiring in the meeting? It is clear from the transcript that Fred was the one being interrupted.

I decided not to make my statement for the sake of brevity and only asked two questions. Why Verizon/Cellco refused to enter into dialogue with our local government to locate suitable sites for cell towers in this sensitive area? I was told that Cellco had been in discussion since 2000 and had examined numerous sites, and then the Government Relations Officer Sandy Carter corrected herself, saying 2007. I am assuming that this might be the same group that looked at the site in 2000 and were told it was unsuitable. In fact other sites were cursorily examined after the Bell Road Extension site was selected and under contract for lease in Sept 2008. The property of the other side of the ridge, to the south had even steeper grades and so was rejected.

I stated that they seem to have tunnel vision for this site.

The commissioner kept interrupting me and I told him that I would stop speaking when I finished saying what I had to say.

I had one more question. How did Verizon/Cellco want to respond to the objections of AG Blumenthal to this site location?

Verizon Counsel Baldwin put his head in his hands and finally said he agrees to disagree with some of Blumenthal's concerns. That was the depth of the transparency in the answers.

I was asked if there was anything more I wanted to say. I said no and the chairman as an aside said to me "Then I'm going to suggest you guys get out of here while the getting is good, how's that." With a smile.

I was under the impression that the Siting Council was set up to represent the public and investigate with due diligence, not serve the corporate interests. As the chairman stated, The FCC gives rights and fair opportunity for every communication company to expand its coverage. The statement was in response to the concept of shared facilities and minimizing impact on the community and environment.

In response to investigating the Upper Housatonic Heritage Corridor the Verizon/Cellco representative said that they believed that this area was set up for educational purposes and there are no restrictions on development or construction. This needs to be investigated. I supplied a map of the corridor showing the site overlay.

This is a partial but heartfelt report. When I returned to one neighbor said that they wouldn't have been able to endure the treatment without crying. Another said it was the theater of the absurd.

It was indeed a kangaroo court. I was on trial not Verizon/Cellco. I do not wish to discredit the other members of the Siting Council who seemed considerate and concerned. Chairman Caruso gives a very bad impression as the spokesperson and I was surprised at the acceptance of his behavior by other members of the council and the representatives of Verizon/Cellco.

Truly disgraceful.

Thank you

Kathleen Mooney

66 Popple swamp Road

Cornwall Bridge CT 06754

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Monday, August 16, 2010 3:01 PM
To: CSC-DL Siting Council
Subject: Re; Docket 402 Public Record

The following will be published in the Letters to the Editor of the Lakeville Journal on Thursday August 19th 2010.

"

On July 20th 2010 in our little town of Cornwall we had a CSC hearing.

I applied for intervener status. The access road borders my property, on an abandoned ancient highway, which is presently used as a private drive, that has runoff problems and goes by and through an active wetland area,

I came to the hearing for understanding of the issues and the process and to speak and be heard.

The chair made clear that nothing my wife and I could say would have any bearing on the decision.

I came for understanding, but as I addressed my concerns, in my untutored manner, and asked for help to express my concerns I was overwhelmed by the hostile treatment of the Chairman.

Sir, Chairman Caruso, the citizens in attendance in your committee room witnessed your dismissive manner.

That the meetings started late for the committees' reasons, and then the interveners were asked to be quick and brief, that the chair was dismissive and argumentative, informed all of their insignificance.

That it was your committee room was pointed out.

CSC rulings trump town P&Z, inland wetlands and other local commissions.

It was clear that you were showing us, that the local town hearing was for your entertainment and amusement.

As your executive director said to me " keep quiet and you will learn."

The executive director explained that the record would be hard to transcribe if after

the chair started speaking I continued or tried to speak for then I would be interrupting. Am I to understand that the chair can speak, though another might be speaking, and then, that person is then interrupting the Chair?

We are of the New England Town Hall Tradition. We allow our citizens to speak and be heard.

We are unfamiliar with your way of the Chair and your ways of running your commission.

But sir, your treatment of my wife was dismissive and crossed to rudeness.

That you can place towers where you will does not entitle the rudeness you displayed to me, my wife and this community.

Frederic I. Thaler

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Monday, August 16, 2010 4:32 PM
To: CSC-DL Siting Council
Subject: Re; Docket 402

Observations and Questions for the Siting Council.

Sirs and All.

When the Chairman said to my wife and I "Then I'm Going to suggest you guys get out of here while the getting is good, how's that." I wondered if the statement was a threat, what powers as chairman he had with which to threaten my wife and me, and what consequences there would be if I tried to say what I had wanted to say.

I shall not ever know.

Due process has not been served. Executive indiscretion and excess has been observed.

But this I know, for the people of this community, the chairman's dismissive and rude behavior will forever taint any decision. The day the Connecticut Siting Council came to Cornwall and treated it poorly is now part of our permanent history.

These, his words show that he is not a fair judge and he should recuse himself from the vote on Docket 402.

Respectfully Submitted.

Frederic I. Thaler

8/19/2010

Fontaine, Lisa

From: Saved by Windows Internet Explorer 8
Sent: Wednesday, August 18, 2010 11:51 AM
Subject: Legislators Address Siting Council Actions - The Bulletin
Attachments: ATT00002..bin

The Bulletin (CTBulletin.com)

News

Legislators Address Siting Council Actions

Thursday, August 12, 2010

By Max Wittstein

CORNWALL—The town's Board of Selectmen and two state representatives are joining neighbors of the site for a proposed cell phone tower in criticizing the conduct of the Connecticut Siting Council—particularly that of Council Chairman Daniel Caruso—at the council's July 20 hearing in Cornwall. During the session, the council heard concerns from the public about a controversial tower on Popple Swamp Road.

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Drainage Runoff

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In particular, Mr. Thaler was put off by a comment that Mr. Caruso made toward the end of the hearing, that he and his wife should "get out while the getting is good."

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In an Aug. 5 letter to Mr. Caruso, State Sen. Andrew Roraback (R-Goshen) and State Rep. Roberta Willis (D-Salisbury), neither of whom attended the meeting, ask the council to ensure that proper courtesy is extended to those who attend future public hearings.

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Cornwall Selectman Richard Bramley, who attended the evening session of the meeting, said that Cornwall's town attorney was reviewing the record, and he agreed that Mr. Caruso's conduct was unnecessary.

"We just feel that the chairman's behavior and conducting of the meeting was really outside the realm of normal, and whether he frequently does this or this is just something that was unusual for him is kind of the question," he said.

"Even if it is legal, it's not appropriate," he added.

First Selectman Gordon Ridgway, who favors increasing wireless phone coverage in Cornwall but has reservations about the Popple Swamp Road site, said when he spoke during the council's afternoon session, he felt he was interrupted more than necessary but that he was chiefly concerned that the environmental questions weren't adequately answered.

"Our concerns are whether the hearing was conducted properly," he said. "The bigger question is how they can rule on this with so many open questions as far as the site plan and implications."

Mr. Ridgway added that the selectmen will be drafting a letter to the Siting Council at their Aug. 17 meeting before the public record of the hearing closes on Aug. 20.

S. Derek Phelps, executive director of the Siting Council, declined to comment, but stated that Mr. Caruso was preparing a written response to Mr. Roraback's and Ms. Willis' letter

Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Wednesday, August 18, 2010 11:55 AM
To: CSC-DL Siting Council
Subject: Re; Docket 402 Submitted by Intervenor Fred Thaler
Attachments: Roraback Willis Ltr Siting Council[1].pdf; From TCEXtra.doc; Cornwall Rejoinder - The Bulletin.htm; Lakeville Journal.doc; Legislators Address Siting Council Actions - The Bulletin.mht; Observations and Questions for the Siting Council A.doc

Sirs:

To Further understanding of the Community and areas understanding of the Hearing Process of the CSC the following is submitted:

Attachements:

Observations and Questions for the Siting Council.

Sirs and All.

When the Chairman said to my wife and I "Then I'm Going to suggest you guys get out of here while the getting is good, how's that." I wondered if the statement was a threat, what powers as chairman he had with which to threaten my wife and me, and what consequences there would be if I tried to say what I had wanted to say.

I shall not ever know.

Due process has not been served. Executive indiscretion and excess has been observed.

But this I know, for the people of this community, the chairman's dismissive and rude behavior will forever taint any decision. The day the Connecticut Siting Council came to Cornwall and treated it poorly is now part of our permanent history.

These, his words show that he is not a fair judge and he should recuse himself from the vote on Docket 402.



State of Connecticut
GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

August 5, 2010

Honorable Dan Caruso, Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Dear Chairman Caruso:

We wish to communicate to you our serious concerns with respect to the conduct of the Siting Council hearing held in Cornwall on the evening of July 20, 2010 in connection with the proposed siting of a cell tower at 16 Bell St. Extension in Cornwall. While we were not present at the hearing, we have heard from several sources that members of the public, who are our constituents, were treated in a manner which was discourteous and highly unsettling to them.

It is our strong belief that citizens participating in the public hearing process, particularly those for whom this may be an unfamiliar experience, are entitled to be treated with dignity and respect at all times. Confidence in the important and difficult decision making entrusted to the Siting Council can only be achieved when Connecticut citizens are assured their concerns are fully heard and considered.

We ask that you and all members of the Council insure that all future public hearings are conducted giving every member of the public the courtesy they deserve.

Sincerely,

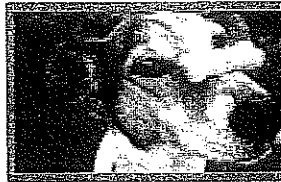
A handwritten signature in cursive script that reads "Andrew Roraback".

Andrew Roraback,
State Senator, 30th District

A handwritten signature in cursive script that reads "Roberta Willis".

Roberta Willis
State Representative, 64th District

CC: Honorable M. Jodi Rell, Governor
Gordon Ridgway, First Selectman, Town of Cornwall
Fred Thaler



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LAKEVILLE JOURNAL : CORNWALL

Circling the wagons in wake of cell tower hearing

By KAREN BARTOMIOLI

August, 12, 2010

CORNWALL — Residents are still stinging from what they feel was questionable treatment of those who participated in July 20 public hearing before the Connecticut Siting Council on a proposed Verizon cell tower off Bell Road Extension.

A small crowd attended the Aug. 2 Board of Selectmen's meeting to appeal for help and to offer help, in hopes that the town's concerns will be heard.

The deadline for submitting public comment on the proposed telephone tower is Aug. 19 — not a lot of time to organize a committee, as suggested, but one local couple advised the selectmen they had already set the groundwork for that, and consultation with a local expert.

"It was the most appalling experience to go through," said Meg McMorrow of the hearing. "There was such disregard and disinterest. It was such an example of undue process."

Her husband, Brad Harding, called the behavior of council Chairman David Caruso "totally objectionable, belittling and sarcastic."

They urged the selectmen to help them move forward with their expert to look at the proposal from a legal viewpoint by checking regulations, environmental impacts and issues related to a tower's proximity to homes and schools.

"Everyone wants cell coverage," McMorrow said. "But no one wants health problems or their real estate investment decreased. Let's try to do it in a sensible way."

Options unclear

First Selectman Gordon Ridgway said earlier this week the transcript of the hearing is under review by the town attorney. He expected to have a letter for the Siting Council by week's end. It will deal with the way the hearing was conducted, as well as what town residents feel was a lack of attention to substantial issues.

Ridgway said it remains unclear if the town has the option to demand further studies and surveys by the applicant, or extend the process. He noted the applicant can go to court if the decision deadline is not met.

"Part of the issue is that they are talking about putting up four, five or six more towers in town. We need to look long-term and be proactive. There needs to be a joint effort that includes the Planning and Zoning Commission looking at where towers could go."

State officials chide council

The board passed along public concerns to state officials. An Aug. 5 letter sent jointly from state Sen. Andrew Roraback (R-30) and state Rep. Roberta Willis (D-64) to Caruso noted they had received complaints from several sources.

"It is our strong belief that citizens participating in the public hearing process, particularly those for whom this may be

unfamiliar experience, are entitled to be treated with dignity and respect at all times," the letter said.

"Confidence in the important and difficult decision-making entrusted to the Siting Council can only be achieved when Connecticut citizens are assured their concerns are fully heard and considered."

The Cornwall Planning and Zoning Commission submitted a formal objection based on a violation of zoning regulation switchback driveway up the steep hillside to the tower site exceeds at times the 15-percent maximum grade.

Although half of the remaining public comment period had already elapsed by the time of the Aug. 2 selectmen's meeting, a full transcript of the hearing had yet to be delivered to Town Hall even though it had been promised by the council -- even though it was received at the Siting Council office on July 29.

The 180-day deadline for a decision on this application expires Nov. 2. A draft finding of facts is scheduled for Sept. 9, a draft decision Sept. 23.

All application-related information is posted at ct.gov/csc. Click on pending applications and docket no. 402.

Confusion over road

A twist on the whole issue came when the board received a letter from the law firm of Herbst & Herbst, representing M Collins. The letter requested a review of the status of Old Poughkeepsie Road, which may be the existing dirt road that Verizon would use for a portion of its access road.

Collins' adjoining property on Popple Swamp Road was originally considered as the tower site, and remains an option. Bell Road Extension site was deemed to be the better of the two.

Collins wants to be able to access the rear of his adjoining property over the tower road. The issue could become problematic, Ridgway said, given that the road situation and even property boundaries need to be clarified in that area.

Old Poughkeepsie Road was abandoned by the town at a public meeting in 1866. Ridgway said it connected Pierce Lane Popple Swamp Road, and may have included a portion of the current Poughkeepsie Road.

But it is unclear if it is the same place as the access road will be. No survey has been done in conjunction with the tower application. Ridgway mentioned this at the July 20 hearing.

From TCEXtra.com

CORNWALL

Hearing, yes; listening, no: Most feel cell tower 'done deal'

By KAREN BARTOMIOLI

07/29

CORNWALL — The Connecticut Siting Council's decision-making process on a proposed cell tower began here on July 20, with a site visit, balloon float test and two public hearing sessions.

For the two public hearings, the Town Hall meeting room was more than half filled by one long table for the 11 Siting Council members, another table for a contingent of technical and corporate Verizon representatives (led by their attorney), still more tables for those testifying and a dizzying array of recording and audio equipment.

With all those space constraints, it was perhaps a good thing that there was not a large crowd at either the afternoon or evening session.

Those who came, however, were expecting to give impassioned pleas and to make presentations about concerns that, for the most part, centered on environmental impacts.

Most of those who spoke were legally listed as interveners, such as abutting property owners and others who would be potentially impacted by the project.

Verizon says it wants to provide cell phone service to as much of Cornwall and other nearby towns as possible. To accomplish this, the company has secured a lease on a site above Bell Road Extension, on a ridge that looms over Popple Swamp.

When pressed to talk more about those plans, company representatives say that four towers will eventually be needed to do the job; this would be the first of those four. Although one or more could end up in adjacent towns, a big concern here is the impact the tower would have on the viewshed.

Not listening at hearing

Many Cornwall residents came away from the hearings saying they got a sense that no one was really listening to their concerns.

Following the hearing, many told The Journal they felt it was a done deal, with the Siting Council simply going through the motions.

They felt there was a condescending and rude attitude toward town residents and others who took part in the proceedings.

Much of that was due to confusion over how the process works -- although those who attended felt that the process was not adequately explained prior to or during the hearings.

Most of the afternoon session's allotted two hours was taken up by a special meeting of the Siting Council and a review of the application.

110-foot monopole

The current plan for the tower is essentially the same as the one presented informally to the town last year; it can be read in its entirety at the Siting Council's website (ct.gov/csc).

It involves a 110-foot monopole with room for four additional cell service providers; a clearing for equipment and a parking area; and a long, winding road up the side of a steep hillside.

The public portion of the afternoon hearing July 20 began with an evidentiary hearing, during which concerns could be raised. Only First Selectman Gordon Ridgway had time to speak before the hearing was recessed, a half hour late, and council members headed to Kent for dinner.

Upon reconvening, comments from the general public were sought first. There were not many, but there was a five-page letter with a list of environmental concerns presented by Elaine LaBella, director of land protection for the Housatonic Valley Association.

Although she attempted to summarize her letter (as requested by Siting Council Chairman David Caruso), and though the letter will become part of the record, LaBella felt that there was technical information that needed to be heard.

But she was interrupted time and again by Caruso, who hurried her along.

The plan — once public comment was completed — was to finish the evidentiary hearing. The interveners who testified thought they could speak as the public had. Instead, they were told they could only ask questions.

Many objections raised

Fred Thaler and Kathleen Mooney, whose home is just below the proposed tower site, struggled through it all, trying to figure out how they were supposed to present their concerns. Caruso frequently interrupted them. At times, concentrating on properly presenting their prepared statements, Thaler and Mooney were admonished for speaking over the chairman.

Other public comments included a plea for better cell service for emergency response purposes and the selection of a different site to protect the sensitive swamp and a vernal pool that Verizon noted exists below the site. An engineer described detailed measures planned to protect the pool from runoff.

Cornwall Planning and Zoning Commission (P&Z) members are officially opposing the project because they say it violates zoning regulations. Driveways are not allowed to have a grade of more than 15 percent. Portions of the planned access road exceed 20 percent.

The Northwest Conservation District wrote a letter objecting to the construction plan. Soil Scientist Sean Hayden noted the soils there are rated "severe," meaning "significant erosion is expected" and roads will need frequent maintenance and costly erosion control.

"As currently designed," Hayden summarized, "this proposal is not environmentally compatible and will not be protective of the surrounding wetland and water resources."

Ridgway noted P&Z's concerns, and also commented that the final design plan was not provided by Verizon until early that afternoon.

Ownership of roads there is a "legal gray area," he added. Bell Road was once a town road, but is now "abandoned" — with easements for those who own property on it.

Ridgway said he did not believe an A2 survey had been done for the impacted area.

He also noted the potential for winds higher than the 80 mph for which the tower is rated. He asked if anyone on the council or with Verizon was aware the site was in the path of a tornado in 1989.

The very next day, as if Mother Nature was trying to punctuate his point, a confirmed tornado with winds of up to 100 mph touched down in Sharon and Cornwall before moving on to Litchfield.

All public documents and a continuing schedule for this process are available at ct.gov/csc. A transcript of the hearing will be provided for public viewing in town clerks' offices in Cornwall and Sharon. Siting Council Executive Director Derek Phelps told The Journal copies will also be provided to those who request them by calling his office at 860-827-2935.

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Fontaine, Lisa

From: FRED THALER [fthaler@snet.net]
Sent: Wednesday, August 18, 2010 4:22 PM
To: CSC-DL Siting Council
Subject: Re; Docket 402 Intervenor Submission Fred Thaler
Attachments: Litchfield county times.docx

Sirs,

I am not sure wether the following article made the transition and can be read and inserted therefore into the statements.

Therefore I have sent the article again in a different format.

Thank you for your indulgence.

Fred Thaler

News

Legislators Address Siting Council Actions

Thursday, August 12, 2010

By Max Wittstein

CORNWALL—The town's Board of Selectmen and two state representatives are joining neighbors of the site for a proposed cell phone tower in criticizing the conduct of the Connecticut Siting Council—particularly that of Council Chairman Daniel Caruso—at the council's July 20 hearing in Cornwall. During the session, the council heard concerns from the public about a controversial tower on Popple Swamp Road.

In accordance with the Federal Telecommunications Act of 1996, the Siting Council has final authority over the placement of all telecommunication equipment in the state, with preemptive power over the land-use regulations of town governments. The council is prohibited from regulating towers on the basis of any environmental or health effects of radio frequency emissions, to the extent that such towers and their equipment comply with the FCC's regulations concerning such facilities.

Drainage Runoff

The concerns about the chairman's behavior were brought to the state representatives by Cornwall residents Richard Thaler and Kathleen Mooney, who applied for status as intervenors because their Popple Swam Road property abuts the proposed tower site. Mr. Thaler said that he had hoped to voice concerns about drainage runoff from the construction affecting his property and the surrounding wildlife, as the area contains a vernal pool, streams, wetlands and ponds. But he was not given a chance to read his statement and was instead told to ask specific questions.

"I had thought that [being an intervenor] meant that I could ask about the impact it would have on my property, which adjoins the road downstream from where they will be placing this," he said. "What I came away from that meeting understanding is that the council can do what it wants, and that was it."

The written transcript of the evening hearing, during which Mr. Thaler spoke, has numerous instances of Mr. Thaler and Chairman Caruso attempting to speak over each other, and several instances of Mr. Caruso warning the intervenors not to interrupt him, as it would make it difficult for their secretary to type up the transcript. In response to a comment from Ms. Mooney that she felt the council had tunnel vision to allow construction of a tower on this particular site, Mr. Caruso interrupted her, saying that "a cooperative dialogue is not served" by such words.

In particular, Mr. Thaler was put off by a comment that Mr. Caruso made toward the end of the hearing, that he and his wife should "get out while the getting is good."

"I was being very polite and was flabbergasted about how rude, argumentative and disdainful he was," said Mr. Thaler. "I'm used to a New England town hall government, where we give everyone the courtesy of speaking what's on their mind. I came there to understand the process and left understanding that he was the chair, this was his chair room, and he could say and do what he wanted."

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URL: <http://www.countytimes.com/articles/2010/08/18/news/doc4c6403bad0a52391049240.prt>

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