

day out. Mayor Sobel turned the meeting over to Chief Powers.

Chief Powers called upon Officer Gus Grivas and stated the Council has graciously allowed me to present you with a token of their appreciation.

There was a round of applause for Officer Grivas.

Chief Powers stated as part of our own departmental award program, to often we in law enforcement tend to get bogged down with the negative aspect of what we do and it is a pleasure to stand here and be involved in something positive. Tonight we honor one individual officer for one particular incident, as the Mayor said, we graciously acknowledge all the members of the police department, men and women, and I just wanted to extend my own thanks.

Chief Powers stated tonight Officer Grivas is going to receive the Aberdeen Police Department Merit Award. This medal is awarded for a specific act involving personal risk or exceptionally good judgment. Officer Grivas it is my pleasure to present you with the merit award.

There was a round of applause for Officer Grivas.

Chief Powers introduced Mr. Gardner and Officer Grivas' family.

Members of Marine Core League came forward to honor Officer Gus Grivas and presented the Distinguished Citizens Award of the Marine Core League for ongoing service to the community.

There was a round of applause for Officer Grivas.

Officer Grivas stated it was that big a deal, I just helped a man out of a window. I got all I deserved that night, when he said thank you. I would like to accept all these awards on behalf of my brother and sister officers. Everything they do on a daily basis makes Aberdeen a better place to live. Thank you.

Mayor Sobel stated we had an executive session before this meeting and the Zoning Board Attorney brought us up to date on the Sprint Lawsuit. We will get to that before we close out this meeting.

Councilman Drapkin made a motion to remove Resolution No. 2008-90 from the agenda and move it to executive session for discussion. Seconded by Councilman Raymond.

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Perry, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: None

Abstain: None

HEARING OF THE CITIZENS - Agenda Items only

Mayor Sobel asked anyone wishing to be heard on agenda items to come forward and state their name and address. There being no one wishing to be heard Mayor Sobel declared the Hearing of the Citizens closed.

MINUTES

Councilman Perry made a motion to adopted:

Workshop, Regular & Executive Meeting Minutes of March 4, 2008

Workshop, Regular & Executive Meeting Minutes of March 18, 2008

Workshop, Regular & Executive Meeting Minutes of April 1, 2008

Seconded by Deputy Mayor Gumbs

Minutes of March 4, 2008

ROLL CALL VOTE:

Ayes: Councilmember Gallo, Perry, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: None

Abstain: Councilmen Drapkin and Raymond

Minutes of March 18, 2008 and April 1, 2008

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Perry, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: None

Abstain: None

NEW BUSINESS

ORDINANCE NO. 9-2008 – INTRODUCTION

Councilman Raymond made a motion to introduce Ordinance No. 9-2008 on first reading by title and to order the same to be published by summary in the August 8, 2008 issue of the Asbury Park Press, together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on August 19, 2008 at 7:00 P.M. in the municipal building of the Township of Aberdeen at One Aberdeen Square.

Seconded by Councilman Vinci.

The Clerk read Ordinance No. 9-2008: “AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ABERDEEN FOR TURN PROHIBITIONS”

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Perry, Raymond, Vinci, Deputy Mayor Gumbs

and Mayor Sobel
Nays: None
Abstain: None

ORDINANCE NO. 10-2008 – INTRODUCTION

Councilwoman Gallo made a motion to introduce Ordinance No. 10-2008 on first reading by title and to order the same to be published by summary in the August 8, 2008 issue of the Asbury Park Press, together with notice of its introduction and passage on first reading by title, and that it will be further considered for final passage after public hearing at a meeting of the Township Council to be held on August 19, 2008 at 7:00 P.M. in the municipal building of the Township of Aberdeen at One Aberdeen Square.

Seconded by Councilman Drapkin.

The Clerk read Ordinance No. 10-2008: “DEFINED CONTRIBUTION RETIREMENT PROGRAM”

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Perry, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel
Nays: None
Abstain: None

CONSENT AGENDA

Councilman Vinci made a motion to approve the Consent Agenda, all items listed under 7C.

Seconded by Councilman Drapkin

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Perry, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel
Nays: None
Abstain: None

1. RESOLUTION NO. 2008-86 – BE IT RESOLVED by the Township Council that it hereby authorizes the contract for DPW Routine & Emergency Repair be awarded to B&W Construction.
2. RESOLUTION NO. 2008-87 – BE IT RESOLVED by the Township Council that it hereby authorizes the contract for Water Materials for Maintenance and Repair be awarded to HD Water Works Supply.
3. RESOLUTION NO. 2008-88 – BE IT RESOLVED by the Township Council that it hereby authorizes the contract for Road Materials for Maintenance & Repair be awarded to Stavola, Trap Rock and C.J. Hesse.
4. RESOLUTION NO. 2008-89 – BE IT RESOLVED by the Township Council that it hereby authorizes the contract for Utility Department Electrical Maintenance be awarded to Quality Electric Construction.
5. RESOLUTION NO. 2008-91 – BE IT RESOLVED by the Township Council that

it hereby appoints the following members to the Aberdeen Township Zoning Board of Adjustment.

6. RESOLUTION NO. 2008-92 – BE IT RESOLVED by the Township Council that it hereby authorizes the transfer of Plenary Retail Consumption License to GAS Gardens Catering Corp.
7. EXECUTIVE SESSION RESOLUTION - BE IT RESOLVED that the general public shall be excluded from discussion held during executive session – Litigation – Tax Appeals; Contractual – 2008 Professional Contracts.

HEARING OF THE CITIZENS/CORRESPONDENCE AND PETITIONS

Mayor Sobel asked any member of the public wishing to be heard to come forward and to state their name and address.

Mayor Sobel asked Mr. Leckstein to provide the residents with a summary of what is taken place and what the next steps may be.

Mr. Marc Leckstein, Zoning Board Attorney thanked the Mayor, Council and members of the public for having him here tonight. Mr. Leckstein stated on July 23, 2008 the Appellate Division affirmed its decision in trial court in Freehold which had overturned the Zoning Board's denial on the Sprint application. The only avenue left for the Zoning Board of Adjustment is to petition before the Supreme Court of New Jersey to hear the appeal. Supreme Court has the option to hear the appeal or not hear the appeal. It is not up to us. We have to make the petition for them to hear it. We have until August 12th to do that. Time is of the essence. The Board of Adjustment wanted me to come before the Council, so the Council would be the ones to fund the appeal and make sure that Council had no problems with doing this appeal.

Mayor Sobel stated during executive session this was discussed and Councilmembers fully support funding an appeal by the Zoning Board. The Boards we have Zoning, Planning, Recreation, Environmental, these are staffed by volunteers. They are independent bodies. We do not direct what actions they take, because if you were sitting on a board and the Council is telling you how you should act why would you sit on the board. We feel strongly enough about the subject at hand that we have given Mr. Leckstein the authority to go ahead and we will fund the appeal to the State Supreme Court. I have received emails and phone calls, as did other Councilmembers, residents are looking for some action from Council. That is our action we have taken this evening. There is nothing else we can do at this point. However, my opinion, New Jersey American Water Company owns the water tower and the fact that they entered into a contract with Sprint on a issue that is very sensitive is unconscionable on their part. Without even consulting with the Township on the actions that they were going to take, not that they had to, I hope they regret that they took this action. I would suggest you need to make your voices heard to NJAWC, by petition, email, phone calls. If they truly believe in good community relations, having a good working relation with the residents of this community and the other communities they serve, they should do the right thing. If they can break the agreement they have with Sprint, that is how they should act. You

can make your views known to Sprint, at the very least NJAWC needs to hear from you. We will also write to NJAWC and Sprint expressing our disappointment in the recent decision. The more we can stay in their face the better it would be.

Tom Daly
Inglewood Lane

Mr. Daly stated he is speaking on behalf of this wife and neighbors. Mr. Daly read a letter stating the events of the decision from the Appellate Division and stated he appreciates the Council's decision to appeal. Mr. Daly stated notwithstanding the potential effects of this particular structure at this particular site will have on the residents and their properties, I also believe the Township was correct in its original decision to deny to variance. I also believe the Trial Court failed to properly consider the wireless communication ordinance. Although, what I or other residents may believe carries little weight, the Courts opinion of the introduction of competent evidence to support the Boards decision may help reverse the opinion of the Court that the variance denial was arbitrary and unreasonable. The Court found that there was no expert evidentiary basis for the Boards rejection and specifically the opinion goes on to state that although the Board retained an engineer and planner to evaluate the application, neither professional testified at public hearings. I am confused at that. This lack of supporting the Boards decision made for an easy reversal, inclusion of this evidence into the record by render the Boards decision correct. Bring "Expert Testimony" which was not rebuffed therefore making the Boards decision arbitrary. I am simply a concern citizen who does not want my one year old daughter and unborn child raised within 200' of a potential fatal health hazard. If nothing is done by August 12th Sprint can start installing its facility and it will only be a matter of time before other telecommunication giants follow suit. Thank you.

Brian Fuller
51 Innerhill Lane

Mr. Fuller stated as the last speaker, I have 3 month old daughter and I'm very concern with the potential health hazards associated with this. I am happy to hear the Board is on our side and continuing to fight for our rights in regards to this. Is there any sort of legal precedents with a prior hearing to see if their was an outcome on a similar case.

Mr. Leckstein stated unfortunately in the State of New Jersey we seem to be pro cell towers. There seems to be a climate where cell towers win. There has been some successful cases but the Zoning Board disagrees with the decision of the Appellate Division. We have our best case to the Supreme Court and try to convince them that the Appellate Division rule was not appropriate, that they didn't pay attention to all the evidence that was actually submitted at the hearings. Unfortunately, just to let you know you can not produce new evidence.

Mr. Fuller asked if expert reports were submitted.

Mr. Leckstein stated they have everything that was submitted during the hearing. You can not put anything new in.

Mr. Daly stated it seems to me by reading the opinion the Court was of the opinion that the Board flatly rejected Sprint, without even considering any expert evidence.

Mr. Leckstein stated that is not accurate, that is not what happened. That was our biggest problem with the decision that the Appellate Division just ignored it.

Mr. Fuller asked what the towns relationship is with NJAWC, is there anything we can use to leverage against them in terms of contractual obligations.

Mayor Sobel stated many years ago this was our water system. We got out of that business. Most of our residents are serviced by NJAWC.

Rena Gardner Farone
87 Idolbrook Lane

Ms. Farone stated NJAWC owns the water system and the tower, do they own the land.

Mr. Lauro stated they do own the land.

Ms. Farone stated don't they have any duty to the Township as far as protecting the residents. We are their business.

Mayor Sobel stated he attended most of the Zoning Board hearings and I felt they made promises. There is nothing that says other companies can locate to this water tower. There are debate on both sides regarding health issues related to it. You are going to have machinery at the base of this water tower that would admit a certain noise level, there has to be maintenance done to that, they can talk about all the landscaping they want to shield that noise, but would you want to have trucks at all hours. These were issues that were addressed by many people who attended those hearings. It was like water off a ducks back. They came across as unfeeling, they erect their antennae and their gone. When we brought this to the attention of NJAWC, they failed to see what the harm was.

Ms. Farone stated this is basically about money.

Mayor Sobel stated it does come down to money, they could be collecting \$20,000 - \$30,000 a year. Recommendations were made to locate their tower elsewhere in town. On Route 34, on the edge of town, they felt it wasn't suitable. It is all about money, making the smallest amount of investment and getting a return. My feeling is, it is not about serving the residents of Aberdeen, if you see where the tower is you have a clear shot into Manhattan. It is not servicing the residents of Aberdeen.

Mr. Leckstein stated there was an entire dialogue at the hearing over the Manzo towers. It was suggested that they try to locate to the Manzo towers. The owners of the property tried to talk to them. Sprint would not talk to them. They wanted this tower, this is where they were going to put it.

Mayor Sobel stated the Manzo towers are on Route 34 away from homes. Sprint didn't

want to make the investment in terms of getting more support to those towers.

Ms. Farone stated we have no leverage against NJAWC. Would it make a difference if we slam them in the newspapers and make it as public as possible that they are doing this.

Mayor Sobel stated that is the point I made. Make them feel as uneasy and uncomfortable as possible, letters, phone calls, emails, as much as possible. We will do whatever we can to facilitate this process.

William Shenton
136 Idlebrook Lane

Mr. Shenton asked if we could look into the taxes the water company is paying for that tower and possibly threaten to reassess the tower.

Councilman Drapkin stated you can not reassess, the assessment is what it is.

Mr. Shenton stated isn't it more valuable because of the money they will be making.

Mrs. Dabulas stated no.

Helmut Mrozik
159 Idlebrook Lane

Mr. Mrozik stated he appreciate what the Council is doing and helping us. He was here three years ago and finds it incredible that after two or three years the legal system comes back and turns over. What kind of democracy is that, if the people don't want it. President Bush stated our legal system is broke and he was right.

Jessica Smith
Irongate Lane

Ms. Smith stated she is very opposed to having the Sprint company put the antennas on our water tower, I represent a lot of different people in our neighborhood. Do we get any benefits as a Township on what they receive.

Mayor Sobel stated no.

Ms. Smith asked if we have a contract with NJAWC.

Mayor Sobel stated NJAWC owns the water systems and water tower, we do not have a contract with them. We sold it to them years ago and we received money for it. There is an agreement between NJAWC and Sprint.

Ms. Smith stated she took a ride on Route 34 and saw the Manzo tower and three other optional tower. I object to Sprint putting antennas on that water tower. It is not a case of not in my backyard, it is in our neighborhood. We like to preserve the dignity and noise levels and property values we have. I think we have to fight this as a group, township and use all of our resources. I am a subscriber to Sprint but I am opposed to this.

Brian Fuller

Mr. Fuller had one other quick thought, there have been many water main breaks in the "T" section. When the repairs occur is that a cost incurred by NJAWC.

Mayor Sobel stated yes.

Mr. Fuller asked if that could be factored in, we are losing so much money in this area by these water main repairs that we have to make up the costs by subjecting people that live here to this cell tower. Is there anything we can do to offset some of the costs.

Councilman Drapkin stated I don't it is. They have two different divisions, one is real estate and one deals with water. I don't think it was them saying lets make money because we are losing money.

Mayor Sobel stated we have been on their backs with these water main breaks.

Carol Craig

39 Inglewood Lane

Ms. Craig thanked the Council for their vote of support. Ms. Craig stated based on the appellate decision there are four or five reference to evidence not provided by people suppose to be there to represent us.

Mr. Leckstein stated that is not a true fact. We do not agree with the decision. We argued that before the trial court and the appellate division, the court chose to disregard it. The Court is human beings, they mess up to. They did not follow the evidence and follow what was submitted in our briefs and came up with a decision that came out of thin air.

Ms. Craig asked how can we prevent that from occurring.

Mr. Leckstein stated we write a brief and try to explain to them why they should take the case and will point out the items we felt the Appellate Division missed. That is the best we can do, we can not put anything new in.

Mayor Sobel stated we had a whole laundry list of facts which supported the Zoning Board decision and that was part of the brief.

Mr. Leckstein stated it was. If you were here during the hearings you saw the hearings last months and months. If there was no evidence coming in on the boards side it would have been a one night hearing. The Board would have said okay put in the cell tower. That is not what happened. The reason they were here for six meetings because there was a debate going back and forth between the Board and applicant. The resolution explains all the reason why the applicant was denied. Mr. Leckstein stated don't go by the decision get a copy of the resolution. If you want to know what happened at the town level get the resolution.

Ms. Craig stated she noticed nothing says that this is a total residential area. One meeting Sprint compared this site to Rose St and Cliffwood Avenue. If it was good enough for there why not Idolbrook. It is a totally different. My friend and I took pictures, it is totally different area of property.

Mr. Leckstein stated there couldn't have been a clearer brief that it is a residential area. It is inappropriate for this section of town. It couldn't have been more clearer. If you look at the top of the opinion, it says "not for publication" that means the Court gives it lesser weight, it is not establishing a precedent.

Ms. Craig asked everyone if they have time to join and help.

Melissa Siebold
57 Idolbrook Lane

Ms. Siebold stated the water tower is right behind her house and is worried about how it would effect me, like the people that came up and were worried how it would effect their children. I know you are not allowed to use health awareness to testify in Supreme Court because they are not really sure yet if it could effect your health. We only have week left to change their minds, is there anyway signatures of the residents who are against it can be given to the Supreme Court to show how many people are against it.

Mr. Leckstein stated anyone can write to the Court. We can not submit it as part of our legal papers. There is nothing to stop the residents from writing to the Court saying we know you are going to be hearing this case, please take this case. More useful might be to go to NJAWC.

Leon Smith
41 Irongate Lane

Mr. Smith asked if the Court actually take official action on the August 12th.

Mr. Leckstein stated no, we file notice of petition to Supreme Court that we want them to hear the case. We then file a brief explaining why we want them to hear the case. The other side files a brief explaining why the shouldn't hear the case. A month or two the Supreme Court will write back, yes or no they will take the case. If they take the case a hearing will be scheduled before the Supreme Court.

Mr. Smith asked Mr. Leckstein if he will be filing the petition.

Mr. Leckstein stated yes.

Mr. Smith stated the rest is up to the citizens of Aberdeen.

Claire Kennedy
30 Inglewood Lane

Ms. Kennedy stated she is a resident and tax payer of Aberdeen. We are going to have Sprint on the water tower, that is going to cause a lot of traffic and noise.

Mr. Leckstein stated one of the main arguments in the hearing will be the noise that is will produce.

Ms. Kennedy stated what is going to happen with the traffic and the noise as a taxpayer. It will bring down the value of our homes. What is going on, it is all about money. We need to fight this stronger.

Mr. Leckstein stated the Township does not own the tower and they have no control over the tower. The Board of Adjustment denied the applicant which is all they could do. They fought it and lost in Court, now we will try to get the Supreme Court to hear the case. The Town is doing everything they can.

Ms. Kennedy stated what happens if this goes through. Is there anything else we can fight them about?

Mayor Sobel stated there was considerable testimony about noise from experts and residents and their concerns. Part of the applicant was a landscaping design plan that Sprint submitted. What happens if the Supreme Court doesn't hear the case and NJAWC turns a deaf ear, what is the next step by Sprint. Do they have to come before the Zoning Board once again.

Mr. Leckstein stated they do not have to come before the Zoning Board. Whatever their application was will then be approved.

Mayor Sobel stated there is a landscaping plan for screening in order to keep the noise level down. In reality I don't know what the effect would be.

Ms. Kennedy thanked Council.

Ms. Craig asked if the noise level does go over the certain amount of decibels, can we give them a fine.

Mr. Leckstein stated that would be for Code Enforcement. Mr. Leckstein stated he believes if they are in violation of the noise ordinance they would be subject to a noise ordinance fine.

Will Tereskovich
73 Idolstone Lane

Mr. Tereskovich stated assuming that we owned the tower at one point what would be the possibility of buying the tower back.

Councilman Drapkin stated it is not the tower it is the system.

Mr. Tereskovich asked if there has been any offers made to NJAWC.

Councilman Drapkin stated no not at all.

Ms.Dabulas stated the water system also services other communities and we can not buy it back. That is not feasible, we are not in the water supply business, there are agreements and water rights and those contracts are set in stone.

Mr. Tereskovich stated we forgot how to do that.

Ms. Dabulas stated we did not forget how to do that, now it is regulated by the State.

Mr. Tereskovich stated just wanted to see if it was an option.

Steve Siebold

57 Idolbrook Lane

Mr. Siebold asked what if anything has been done to convince NJAWC that this is not in the best interest of Aberdeen.

Mayor Sobel stated we have not had any discussions with NJAWC since the decision came out. We had informal discussions prior. In addition to writing to them, I will personally contact our representative at NJAWC to make them aware of the residents feelings and what we would like to see as an outcome. We made a suggestion to make your views known to NJAWC. Your energies will be better spent dealing with NJAWC than the Courts. We feel the Zoning Board took the right action, we have given authority to fund any appeal filed by the Zoning Board. We will personally contact NJAWC. We would be remiss if we didn't do everything possible.

Mr. Siebold asked if it was possible for them to use the Manzo site.

Mayor Sobel stated they felt the Manzo towers could not support any antennae, nor were they interested in making those towers safer.

Mr. Leckstein stated I don't think they really looked at the Manzo towers seriously. The didn't send anyone out to examine them, they used all reports. They had an engineer who testified that he had worked on tower in Ohio which had a broken leg and they were able to put an antennae on it with no problem and then he said the Manzo tower was good. They did not want to use the Manzo tower. There is nothing we can do. We will argue that before the Courts. We can not force Sprint to go there.

Councilwoman Gallo asked if they got the site in Holmdel that they were looking at.

Mr. Leckstein stated he doesn't know the answer. There were a bunch of sites in other towns they were looking at, they wanted to create a triangularization of cell tower sites. I don't know the outcomes.

A resident asked any chance in the agreement that was signed when we sold the water system to NJAWC that that said it could not be used if detrimental to the Township of

Aberdeen, any language that might be appropriate to focus on.

Ms. Dabulas stated we are trying to figure out how long ago this contract was signed.

Councilman Drapkin stated that is a good idea.

Mr. Fuller asked Mayor Sobel to help with some of his contacts with the press to help with publicity of this issue.

A resident stated maybe it says to be used for water, if the contract says the usage is for water, perhaps there is a case to be made that it is an inappropriate use.

Ms. Kennedy stated years ago she tried fighting for a fence, I went through a lot of money, a lot of mailings, a lot of hearings it was finally approved. They didn't want the fence because they said it wasn't going to look nice. Now I am going to look up the block and see cell sites from my front door. We have to do something here, for health, look wise, we have to fight this.

Councilman Drapkin stated we agree with you.

Mayor Sobel stated the companies say when they put up the antennae that you will never notice it there. I don't know if I believe that totally, that is their position. There will be a box or two at the base of the tower, it will admit a certain noise level. We tried to convey that we all share the same position, everyone is frustrated. We thought we put forth a good case that we were clear. For whatever reason the Court chose to ignore the evidence.

Virginia Smith
54 Idol Way

Ms. Smith stated the higher Court is going to here this, as citizens can we go to the Court to here this.

Mr. Leckstein stated we first have to petition the Supreme Court to hear the case. There will be no public hearing on that. If the Court decides to hear the case it will be in Trenton, there will be a public hearing and yes everyone can come. That is only if they agree to hear the case.

Mayor Sobel stated once the decision comes down, we will post it on our website and will try to get a press release out.

Ms. Smith stated if 200 or 300 citizens go down to the Court, they will take a look. We may not win but they will look.

Councilman Drapkin stated if the same 200 or 300 citizens keep calling or emailing NJAWC they will notice.

Mayor Sobel stated we are not the only elected officials that represent you. You have the Freeholders and Assembly, State Senator. You have a whole host of people you can put pressure on to help.

Ms. Smith stated will you reach out to the Freeholders.

Mayor Sobel stated yes and we encourage you also to reach out and follow through.

Mr. Leckstein stated he needs to emphasize, you should not just rely upon the Township Council to do this. They will do it, but you need to do it as well. When residents call, a different reaction happens. You need to organize and make the calls.

A resident asked if the Township Council can supply the names and addresses to us.

Mayor Sobel stated to call the Township Clerk and she will supply the information to you.

Mr. Siebold asked who decides to hear the case, is it the Judges.

Mr. Leckstein stated the Supreme Court Judges.

Mr. Siebold asked if we can write to them.

Mr. Leckstein stated you can, it never hurts. I think the avenues best spent is dealing with NJAWC directly.

Mr. Siebold asked if anyone knows how much rent the water company will receive.

Mr. Leckstein stated no, he doesn't know.

Mayor Sobel stated the water tower we own, we collect about \$1800 a month.

Brian Fuller

Mr. Fuller asked if representatives of NJAWC were present, that may open their eyes at how sensitive an issue this is.

Mayor Sobel stated they were aware of the meetings, they chose not to attend.

Bill Pitus

62 Idlebrook Lane

Mr. Pitus stated there are activities that go on at the water tower. I woke up one morning in the summer of 2006, I couldn't breathe, I went outside there were four trucks out there. One from Comcast, two more from Verizon, all the engines running. This is what happens, my house borders the tower. Sprint will come in, then T-Mobile, next Comcast and all the other ones. All the trucks will come in. You can't control these things.

Agnes O'Connell

Ms. O'Connell asked if the Town Engineer checked out Manzo and alternate sites to determine if they would satisfy Sprints needs. According to the Court case, Sprint declared that their needs would not be satisfied by any other but the Tower. Did the engineer check out is it going to be 43 decibels noise level or much higher and how can we monitor that if the worst happens. What will the fine be. These are things that should have been considered. Sprint made a lot of statements that she believed were false. I am not an engineer or an attorney. I do know cases have been won against cell phone companies in other states. It is possible to defeat them. Can't we look at the precedents in other states and see how it was done. Often it is environmental issues and if the Town offers alternate sites that usually accepted as satisfactory.

Mr. Leckstein stated the Zoning Board hired a cellular communications expert to be their guide. The expert requested certain information and requested certain information and data from Sprint because he stated, on the record, that he didn't agree with the information that was given and Sprint refused to give the information. The Court completely ignored it in its decision.

Ms. O'Connell stated when you read the Court case it seems like there was very little defense. I know you said they would not accept certain things that happened. Where were our experts.

Mr. Leckstein stated you were here for the hearings, so you heard. The information was all there. The Court decided not to listen to it. We had our experts and our experts made their presentation and Court decided to ignore it.

Ms. O'Connell asked how you can change it.

Mr. Leckstein stated you make the case to the Court.

Ms. O'Connell stated you mentioned the Zoning Board, does the Zoning Board have to confirmed an appeal.

Mr. Leckstein stated the appeal will be done.

Mayor Sobel stated the Zoning Board will not be meeting before the 12th. Mr. Leckstein is here to get direction from Council to fund an appeal. We have instructed Mr. Leckstein to proceed.

Ms. O'Connell stated thank you.

Mr. Fuller asked Mr. Leckstein what you think in your professional opinion of our chances of the State hearing this case.

Mr. Leckstein stated it is hard. The Supreme Court gets a lot of petitions. This is an unpublished decision of the Court. I would be surprised if they took the case. I will do

my best to make the argument. But the Supreme Court likes to take grand cases where it is going to alter some facet of the law. It is not, in my opinion, a very well written opinion. I am being honest, I don't think our chances are good, but we will make the best case.

Connie Jahrsdorerfer
55 Innerhill Lane

Ms. Jahrsdorerfer asked how can I trust NJAWC. Four water main breaks, same place. They do nothing.

Mr. Lauro stated they are started to replace new water mains in the "I" section. We were notified a week ago.

Ms. Jahrsdorerfer stated it seems so unfair. We owned the water tower, 45 years ago there weren't cell phones, Sprint wasn't around. We sold the tower, now NJAWC sold off to Sprint, we are left holding the bag.

Mayor Sobel stated if we didn't sell the water system, the tax burden would have buried us. If you think about the costs of maintaining this system and the fact that over the last three to five years it is breaking down because of its age and breaking down quicker then anyone had expected it to, it would have buried us. We do not have the financial resources to deal with it. A company as large as NJAWC does. Things do change.

Ms. Craig stated if Sprint is allowed will other cell companies have an open door. Of course, our goal is Sprint doesn't get in, but if they do can we limit the other cell companies.

Mr. Leckstein stated everything is a case by case basis. They will still need to go before the Zoning Board.

Ms. Craig asked if there was an ordinance that says only one.

Mr. Leckstein stated there is an ordinance now that says none.

Anand Phamburaj
96 Idolbrook Lane

Mr. Phamburaj asked what the best argument that you can make that will convince the Court to take the case.

Mr. Leckstein stated the best argument is look at the evidence that was before all the Courts. The Appellate Division did not recognize all the evidence they ignored it. That is the argument that we will make.

Mr. Phamburaj stated you will have to the weekend to prepare.

Mr. Leckstein stated yes, they have to go through the evidence, show the Court did not

pay attention to what the evidence was, they didn't pay attention to what Sprint said, Sprint lied and contradicted themselves consistently throughout the application. We have to put that before the Court.

Ken Aitken
65 Juniper Place

Mr. Aitken stated regarding Resolution No. 2008-90 which is on the agenda. I believe that was held for executive session.

Mayor Sobel stated yes, we will come out of executive session and take action on it.

Mr. Aitken stated he would like to offer his opinion on it that you have \$650,000 worth of work to be done and not have a bid is just wrong and it should be bid.

Brian Pfeufer
243 Lennox Road

Mr. Pfeufer stated he agrees with Mr. Aitken. Mr. Pfeufer stated he doesn't understand why CME is getting all these jobs without any bids being put out.

Mayor Sobel stated each year we go through a process where we send out RFQ's, CME submitted a RFQ for Township Engineer. They are the most highly respected engineering firms in the State. It is bad judgment to have bottom line thinking as it applied to professional services. I mentioned during workshop, whether it is legal services, engineering or planning those are critical activities. If not done correctly places the Township at great risk. We dealt with other engineering firms in the place and we lived with the mistakes with this supposedly reputable firms and we had to go in and redo their work at a cost to the Township. What we receive from CME is free advise throughout the year. They attend conferences with developer's, planning, zoning board and council and not charge us. They are there at a drop of a hat with their advise and a lot of time with no costs to us. What they do charge us is also at a discounted rate. I figure, it is just my opinion, it is not sound judgment to put out professional services out to bid. They had their opportunity at the end of the previous calendar year to response to an RFQ. Firms did not respond, CME did.

Mr. Pfeufer stated the RFQ is put out last year.

Mayor Sobel stated it is an annual event.

Mr. Pfeufer stated this year CME was the only response.

Mayor Sobel stated right it has only been the last three years we have RFQs. Just because a firm comes in with a low bid doesn't mean they are going to do the best job. I don't know what is gained by putting it out to bid.

Mr Pfeufer stated saving money.

Mayor Sobel stated penny wise dollar foolish.

Mr. Pfeufer stated we don't know that because it is not put out to bid.

Mayor Sobel stated we lived with that before with mistakes made by other very large engineering firms where we had to go in and redo their work at a high cost to this municipality. As a member of this Council, I will not put our residents at risks for that. It is not good practice.

Mr. Pfeufer stated going out to bid should be looked into because it might be a savings. If you do like CME you can negotiate at that point to bring CME costs down.

Mayor Sobel stated they discounted their rates already.

Mr. Pfeufer stated we don't know what anyone's rates are.

Mayor Sobel stated yes we do. We know what other firms charge.

Ken Aitken

Mr. Aitken stated he agrees, if he was going to a doctor I might go to the doctor I want to go to because I am paying the bill. But in this case the Town is paying the bill and it is your responsibility to do some due diligence here and make sure we are getting the right money. It doesn't cost that much money to go out to bid. As a former School Board member we had to go out to bid on everything, including professional services, it had to be bid and that is what should be done. I just want it noted for the public record, this particular firm is a substantial contributor to the Aberdeen Democratic Committee. People need to know that.

Mayor Sobel stated this is not a political issue. I judge CME on the work they do.

There being no one else wishing to be heard, Mayor Sobel closed the public portion

Deputy Mayor Gumbs made a motion to adjourn to executive session, seconded by Councilman Raymond and unanimously concurred by Council.

The meeting reconvened with the same members in attendance.

Councilman Drapkin made a motion to introduce Resolution 2008-90 and move its adoption. Seconded by Councilman Raymond.

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: Councilmember Gallo and Perry

Abstain: None

RESOLUTION NO. 2008-90

WHEREAS, the Township Council of the Township of Aberdeen is in need of professional services associated with the 2008 Road Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Aberdeen that the Mayor and Clerk are authorized to execute an agreement with CME Associates for a cost not to exceed the sum of \$652,006.00, in accordance with a proposal dated June 9, 2008, attached hereto and made a part of this resolution.

This agreement is made without competitive bidding as a “professional service” under the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)a(I).

BE IT FURTHER RESOLVED that this resolution is conditioned upon the Township Manager’s certification of the availability of funds.

Deputy Mayor Gumbs made a motion to introduced Resolution No. 2008-93 and move its adoption. Seconded by Councilman Drapkin.

ROLL CALL VOTE:

Ayes: Councilmember Drapkin, Gallo, Raymond, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: None

Abstain: Councilman Perry

RESOLUTION NO. 2008-93

BE IT RESOLVED by the Township Council of the Township of Aberdeen that it hereby appoints Joseph Criscuolo as Township Manager effective September 8, 2008 consistent with attached Agreement of Employment annexed hereto and made part of this resolution.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to execute said Agreement of Employment with Joseph Criscuolo.

ADJOURNMENT

Councilman Raymond made a motion to adjourn, seconded by Councilman Vinci and unanimously concurred by Council.

David G. Sobel, Mayor

Karen Ventura, Municipal Clerk

