

February 24, 2020
Special Meeting

A special meeting of the Mayor and Council of the Borough of Bay Head was held on February 24, 2020 at 7:00 pm in the Municipal Building, 83 Bridge Avenue, Bay Head, New Jersey.

Mayor Curtis called the meeting to order and welcomed everyone. He asked everyone to stand and join in the Pledge of Allegiance to the Flag.

Mayor Curtis read the following statement:

Ladies and gentlemen, pursuant to the applicable portions of the New Jersey Open Public Meetings Act, adequate notice of this meeting has been given. This meeting was posted in the lobby of the Municipal Building at 83 Bridge Avenue on February 11, 2020 and published in the Ocean Star on February 14, 2020 and the Asbury Park Press on February 13, 2020.

The roll was called for attendance. Present were Mayor Curtis and Councilmembers Frizzell, Cornell, Barnes, Shaning, MacPherson, Lyons, Borough Administrator, Chris Parlow and Melanie Appleby, Esq., covering as Borough Attorney.

Mayor Curtis: This meeting is to obtain your thoughts and concerns on cell antenna issues. NJAW has noticed they will be demolishing the water tower by February 2021. The cell companies have until November 2020 to remove their antennas. You can also discuss any other subject even if it doesn't relate to cell antennas.

Mayor Curtis opened the meeting to the public.

Jon Younghans, 66 Mount Street: Thank you for this meeting so we can talk and be part of the conversation. My biggest concern is putting it in a place that is best for everybody and get the revenue for the town. Currently the water company receives about \$125,000.00 per year in rent. If we had an arrangement with a tower developer who would build, maintain and we could negotiate and split 50/50 with the town. Do we have someone working as a consultant on this?

Councilmember Lyons: We are looking into that. I am not sure where the \$125,000.00 came from but when we met with NJAW – they aren't making anywhere near that. In fact, what NJAW is receiving is not even close to that.

Mr. Younghans: There are three carriers on the water tower so even if it is \$3,000.00 per month – any money is found money. I spoke with a neighbor of ours at home who is an attorney for cell tower folks. He stated if it is on public land the municipality would have to go through a bid process. I am not sure how all that works. I hope you find a better location than the present which is right in the middle of a historical district. They also have antennas that look like a light house, trees. Charlie's is tall, the BHYC is tall which could be considered locations. Thank you for having this meeting.

Bob Applegate, 560 Lake Avenue: I was on Council many years ago and I remember we had a room full of irate citizens to discuss the placement of antennas on the water tower. We spent a lot of time and money creating a cell tower ordinance. Have you reviewed it and does it pertain to the present situation?

Mayor Curtis: We will take a look at that.

Mark Durham, 50 Lake Avenue: I live across from the water tower. I am not sure where it will be or how it will look but we do have a code that does cover cell towers. We now have it and need to put it to good use. I am not sure the purpose of this meeting.

Mayor Curtis: The purpose is to hear your concerns.

Mr. Durham: Do we need a cell tower in Bay Head?

Declan O'Scanlon: I am a consultant since the mid 90's to local officials. I work on the municipal side. I am not being paid to be here tonight but I was asked to bring some of my knowledge. To answer your questions. Cell companies have designed their systems over 20-30 years. It is likely they will need some

antennas in Bay Head. There is no incentive for them to keep sites they don't need – but over the years they have gotten closer and closer together. If you let this site go away – I am sure they will contest and state that it is vital to keep them in town. I haven't spoken to the carriers.

Mr. Durham: How many carriers are on the existing tower?

Councilmember Barnes: Three with multiple antennas.

Mr. Durham: How many antennas would be needed.

Mr. O'Scanlon: What they presently have probably will meet their current needs, so very similar as to the number that is there now.

Mr. Durham: There are 30 up there right now. He passed a picture around from the Borough website showing All Saints Episcopal Church with the water tower in the background. You want to take into consideration the visual. The Planning Board should be involved in such a major consideration. One of my neighbors, Bernard Maisner shared an article from a company that negotiates rates. This business has been around a long time and negotiations are very rigorous process. We are babes in the woods and they aren't out to give anything away.

Councilmember Barnes: We all received the articles sent by Mr. Maisner.

Mr. Durham: Who will be spearheading this on Council?

Mayor Curtis: Everyone will be involved but it could be Public Works or Public Services.

Mr. Durham: Have we had any applications submitted from the telecoms? Work has been on the street for a year.

Mayor Curtis: This is official from NJAW that the tower is coming down.

Dr. Gail Zimmerman: I live by the existing tower and agree with my neighbors. Besides the revenue is the aesthetics. If the tower is on municipal property, we would have more control. At the present it is in the middle of our historic district. If we can avoid an eyesore the 2nd go round – I push for municipal property.

Matthew Paszamant: I own the Swetits property. When purchased I didn't know that the Bay Head Yacht Club was building a mini park in by back yard. Who owns the property the cell antennas are currently on?

Mayor Curtis: NJAW. They have notified the cell companies to remove their antennas because they don't need the water tower any longer and it will be demolished.

Mr. Paszamant: Let's talk about the temporary tower to go in our backyard – parking lot of Centennial Park. Why do we need a temporary site – why not just chose a permanent site.

Mayor Curtis: That is why this meeting is taking place. There have been no further discussions on a temporary site.

Mr. Paszamant: I get it – no one wants it in their backyard. I have heard rumors of health issues from the antennas.

Mr. O'Scanlon: Years have been spent studying health issues. Your phone is probably more exposure than you would get from the antennas on a tower. Exposure goes down with distance and they are aimed at the horizon. There is more RF level in our lights or your wfi. People are searching and haven't found any connections. There is no health impact after being researched for 25 years.

Mr. Paszamant: With 5G – do we need smaller towers?

Mr. O'Scanlon: 5G won't replace towers. 5G is needed if we want all our devices to work. 5G is mostly placed on telephone poles.

Dr. Zimmerman: When we were battling the current location, we checked on the dangers of cell towers. One of the studies was from the University of Pennsylvania stating it was the same as UHF your TV gives off. The danger is the thermal.

Mr. Paszament: What you are saying is that we need to have something erected by November.

Mayor Curtis: They (cell antennas) have to be off the tower by November.

Mr. Paszament: We are trying to make a decision between now and November. The question is What and Where. Have possible locations been identified?

Mayor Curtis: We have looked at Borough properties – behind this building, public works property, Fire Company property.

Mr. Paszament: How much space do we need?

Mr. O'Scanlon: 50' X 50'

Mr. Paszament: I have an understanding – how does this get decided? Sounds like it should be on Borough property so now you have to negotiate?

Mr. Parlow: The only way the municipality earns is to locate it on Borough property.

Gary Marquis, 531 Club Drive: I have been in to see Mayor and Chris and my points have been brought up by others tonight. If the antennas are put on existing structures can you also store the equipment inside the structure so it won't be an eyesore. It shouldn't be placed where we play. There are better solutions than a tower – there are options for us. We need to do what is best for the town and not the cell phone companies.

Mayor Curtis: That is one of the reasons for this meeting – we weren't crazy with the temporary location.

Ann Kelly, 100 Meadow Avenue: They chose Centennial Park as the temporary location?

Mayor Curtis: If they were going to go back to the NJAW site. Hopefully we won't have to use the temporary location. I know you don't want it there. We have stopped the proceeding with that to hear your concerns.

Ms. Kelly: I don't think Centennial Park is the right location. The path is very active with bikers, walkers, children playing in the park – especially in the summer. As you would lose parking spaces which are used by businesses on Mount. It is also very close to wetlands they we have to protect. BHYC has an emergency exit onto the path that has to be considered. Please reconsider using Centennial Park.

Frank Ronan, 525 East Avenue: What height does the tower have to be 80' – 30'? Could they be lower and spread all over town?

Mr. O'Scanlon: Probably not. If they are lower they can't broadcast that far. The lower you go the more gaps you will have.

Mr. Ronan: What is the height now?

Councilmember Lyons: 132 feet.

Mr. O'Scanlon: The antennas are around the middle of the water tower and they have been designed for that height. They are going to say they need a similar site to what they presently have. It would be difficult to lower them and have to need more sites. Also the other sites in the area count on the height. You can look to minimize the aesthetic impact. You presently have three carriers, you may want the ability to accommodate a 4th. Those presently used are clock towers which are very expensive, tree structures or just regular towers.

Dr. Zimmerman: I have heard some use flag poles.

Mr. O'Scanlon: You could try. Colts Neck has a tree and Sea Bright has a flag pole.

Mr. Paszamant: Why is it our responsibility to work at the water companies time line?

Mr. Parlow: Don't you need your phone to work? The reason for the temporary site would be to provide service so residents wouldn't lose their coverage. Service is also needed for police and alarms. The site wasn't picked to upset the neighbors. It was for temporary service. We would have to go out to bid and the cost of the antenna would be put back on the carriers. It would work the same way if permanent as long as it is on municipal property. NJAW is private. If it goes to a private site, they would have to go before the Planning Board. If they can't follow the ordinance they would have to obtain a variance.

Mr. O'Scanlon: You don't want a lack of coverage. Also the carriers are on a timetable. If a public site is not available, they could approach a private site and file for variance. I am sure they would argue, to prevent a gap in coverage. Even if the Planning Board would turn them down they would win on appeal.

Mr. Durham: The FCC is known to loath gaps in service. Even if the application was rejected by the Planning Board it would be difficult for the Borough to sustain. In 2005 the Land Use Ordinance was amended to concern cell antennas. Please have someone with knowledge review it to make sure our standards are current with the best practices. It is prudent to look at it to see if there are any gaps.

Councilmember Barnes: That is on the agenda to review the entire Codes.

Robert Jones, 626 East Avenue: Could you speak to the process we would go through – financially to take on vs their responsibility?

Mr. O'Scanlon: The first decision would be location – that would dictate the design which would open up a discussion as to lighthouse, tree etc. Lighthouse design is very expensive. As far as dollars we are in one of the most expensive areas for carriers. Higher density generates higher use and they want to provide coverage to those who use their services.

Mr. Marquis: If we have ordinances – even if it goes on town property we should be interested in following our own ordinances. If you ride through Point Pleasant – they have a number of antennas on roofs to be able to serve the crowds in the summer. Maybe we could do the same.

Mayor Curtis: Are those on the boardwalk?

Chief Hoffman: There is a temporary pole at the corner of Ocean and Arnold from May to September.

Councilmember Shaning: Is there a tower on Jenkinson's?

Mr. O'Scanlon: It might be Verizon.

Councilmember Shaning: Who gets the revenue?

Mr. O'Scanlon: Jenkinson.

Mr. Paszamant: The base of the tower where the equipment is located – is there more danger there?

Mr. O'Scanlon: No, they don't broadcast from there.

Mr. Paszamant: I don't see where a tree tower couldn't be placed at the recycle center. It would blend in with the existing trees there now.

Mr. O'Scanlon: That site could be looked at.

Mr. Paszamant: I think that would be the best location.

John Griggs, 279 Osborne Avenue: The Fire Company had an antenna at one time and the Fire Company benefited. I like the shape of a Lighthouse. How about the site north of the lake on Twilight Road or the landlocked piece of property behind Cedar Drive.

Paula Berko, 248 Park Avenue: We have an ordinance that should keep us from having this discussion. The ordinance stated an antenna would have to be 150' from any property.

Mayor Curtis: 100'

Ms. Berko: I am baffled by this. Every time something comes up and you don't know where to put it – it goes to the recycle center.

Dr. Zimmerman: What is at the recycle center?

Ms. Berko: When we moved in the sewer plant was there. That was also the location to place low income housing and now cell antennas. The people that live there don't want it. We have enough as it is now.

Ms. Berko: I thought the town would get \$40,000.00 per year.

Mr. Parlow: Around \$30,000.00 per carrier per year.

Ms. Berko: Are we desperate for cell tower money? I would rather pay \$100 more on my taxes.

Mr. O'Scanlon: If it is on private property you might think it would be better – but it is not. You have control if it is on public property. This is an established site – Bay Head. Years ago the sites were built 3 miles apart now they are 1 mile or less. They will argue that to keep an antenna in Bay Head.

Bernard Maisner, 56 Mount Street: It is very rare for a town to have a second chance to decide a site. We had an opportunity 15 years so let's bring it home this time.

Dr. Zimmerman: I understand you don't want the antennas in your backyard at the recycle center but the worse location is in the middle of the historical district. The Borough can get the revenue and as discussed most like the tree. I don't know about the other sites that have been mentioned.

Ms. Berko: I can't image anyone wanting to look at it but the Water Company chose to do it.

Mr. Younghans: I don't believe the Water Company decided – they received Planning Board approval.

Mayor Curtis: That is correct.

Mr. Younghans: Thank you for having this meeting and not moving forward with the temporary site. This should be a once and done – there is no need for a temporary site. Centennial Park is an active site with a lot of activity plus there shouldn't be a loss of parking spots. Why are the parking spots still coned off?

Mayor Curtis: That was the located discussed for the temporary site.

Mr. Younghans: The stores would appreciate being able to park there. Not sure why they are still there – maybe we could move the cones. I spoke to the financial piece. We need to hire a manager to help with the selection site and financial backing. Atheistic is critical – where can we put it that it is least seen. I am not sure where that is. There are trees at the recycle center, The Fire Dept. property is still in the middle of the historical district. We have heard some good ideas.

Joanne Pehlivanian, 332 Western Avenue: I have copies of the cell ordinance. Schedule A - Antenna Height and Separation Requirements were distributed to Counsel. This reads that antenna height and separation from nonresidential structures is 150 feet. This should solve the problem with the cell tower placement at the recycle center.

Mr. Parlow: Schedule A - this provision only applies to antennas and towers not put on municipal property. It doesn't apply to municipal property.

Mel : That is correct.

Mr. Ronan: There is no private property in town that could meet those regulations.

Councilmember Lyons: They would have to seek a variance.

Ms. Pehlivanian: Since we have the ordinance let's look at it.

Mayor Curtis: We have.

Mayor Curtis thanked everyone for coming and their contribution to the discussion.

There being no further business Councilmember Lyons moved to adjourn. The motion was seconded by Councilmember Shaning and passed on roll call vote. YEAS: Frizzell, Cornell, Barnes, Shaning, MacPherson, Lyons. NAYS: None.

Patricia M. Applegate, Municipal Clerk

William W. Curtis, Mayor