

**PUBLIC HEARING AND BUSINESS MEETING
DRAFT 2/1/10**

- A. CALL TO ORDER:** Chairman Brown called the meeting to order at 7:02 p.m.
- B. ROLL CALL:** C. Brown, Chairman; L. Smith, Vice Chairman; A. Tonry, B. Mutrie, R. McDermott, Members; M. Farinola, Selectmen's Representative; M. Garavaglia, R. Spoerry, Alternate Members; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector; L. Ruest, Administrative Assistant
Not Present: R. Janvrin, Member; R. Rudowsky, Alternate Member

Alternate Member R. Spoerry was designated a voting member in R. Janvrin's seat.

C. PUBLIC HEARINGS

- 1. Case # 09-11-01:** Application from **MetroPCS Massachusetts LLC** for **Final Public Hearing** to Co-locate a 6 Panel Antenna at a center line of 98 feet with 3 equipment cabinets located within the existing compound on property located at East Road (Map 8, Lot 34-T)

MetroPCS representative W. McQuade, MetroPCS Attorney Sousa (in B. Grossman's absence) and AT&T Attorney Douglas H. Wilkins of Anderson & Kreiger LLP were present. Revised plans were provided to Board members and displayed on the presentation Board for the public.

C. Brown acknowledged receipt of a multi-section packet received from AT&T Attorney Wilkins outlining answers to concerns raised by the Board at its December 2009 meeting. The packet also included copies of co-location agreement, radio frequency interference policy, quarterly inspection report, security agreement and certificate of insurance documents. C. Brown asked the Board members for questions relating to this packet. Hearing none, she stated that it is helpful having AT&T's attorney present to address any concerns with conditions that might apply to this proposed amendment. It was noted that conditions of approval affecting MetroPCS' installation would be addressed by MetroPCS and others affecting the site would be addressed by AT&T.

Discussion took place with regard to the condition requiring quarterly reporting. C. Brown inquired as to how often reporting is required for sites of this type. Attorney Wilkins explained that each carrier has its own schedule for maintenance with a log maintained for inspections once or twice per month. C. Brown reported that inquiry with the Town Administrator in this regard resulted in no requirement for these reports as the Town does not have staff to handle this type of report. Attorney Sousa stated it is more of a standard to report every five years.

MOTION: To amend the condition of site plan with regard to required reporting from quarterly to every five years starting in January 2015.

MOTION: L. SMITH
SECOND: R. MCDERMOTT

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M. Garavaglia inquired as to whether unpaid taxes would affect this schedule. It was determined that this would be a matter for the Selectmen to address.

VOTE: UNANIMOUS

C. Brown noted that the amended co-location agreement notes the change in height from 100' to 110 feet. Question was raised as to whether the bond is renewed each year. Attorney Sousa stated he was not sure but that AT&T would accept a condition of approval to show a bond in full force and effect. Discussion took place with regard to the amount of the bond. It is currently \$150,000 and felt to be excessive. Suggestion was made to obtain a certificate from an engineer outlining the cost for removal and include a condition of approval requiring evidence of a bond in an amount, with an inflationary contingency, based on a certificate of an engineer. It was determined that there is no need for the Town engineer to review.

Discussion also took place with regard to the Certificate of Insurance and the change in Additional Named Insured from the Town of Hampton Falls to the lease holder of the tower property. C. Brown reported that this question will be raised with the Town's insurance carrier to ensure that the manner in which the Town is included is sufficient.

Review of the amended plans took place at this time. Reference to the original approved site plan and the Rockingham County Registry of Deeds recording number have been added as notes to the plan.

MOTION: To accept the application as complete.

MOTION: B. MUTRIE
SECOND: R. SPOERRY
UNANIMOUS

Waiver requests were reviewed. C. Brown stated that a review of the requested waivers found that all, but one, were approved with the original conditional approval of this site. The Board agreed that there is no need to review the requested waivers individually again.

MOTION: To approve the requests for waivers to site plan review regulations, as listed below, because all work is being done on the existing footprint.

1. 6.2.2: Scale of Plan to be 1 inch = 20 feet
2. 6.2.5: Seal of a NH Registered Land Surveyor
3. 6.2.9: Partial - ...water courses, floodplains, ponds, rock ledges, tree lines, etc.
4. 6.2.10: Location of wetlands
5. 6.2.16: Topographical plan with 2 foot contour lines
6. 6.2.17: Description of proposed grade surfaces
7. 6.2.18: Storm water drainage control plan

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8. 6.2.21: Landscaping plan
9. 6.3: State and Federal Permits required as Applicable
10. 6.4: Local items required as applicable
11. 6.9.2.5.3: Existing Tower inventory
12. 7.3: Erosion and Sediment Control
13. 8.6: Storm Water Drainages
14. Wetland Stamp

**MOTION: L. SMITH
SECOND: M. FARINOLA
UNANIMOUS**

A review of the plans resulted in the identification of the change in height to 110' and additional equipment cabinets at the base of the tower (all to be installed within the existing fencing). It was noted that the agreement includes the ability for the Town to place an emergency services antenna at the top of the tower. Hearing no further questions of the Board, C. Brown opened discussion to abutters and members of the public. Hearing no questions or comments, she closed the public hearing.

C. Brown noted for the record that response has been received from the NH Division of Historical Resources indicating no adverse affect resulting from this proposal.

MOTION: To approve the request from **MetroPCS Massachusetts LLC** to co-locate a six-panel antenna at a center line of 98 feet with three equipment cabinets located within the existing compound on property located at East Road (Map 8, Lot 34-T) with the following conditions:

1. That any and all fees due the Town of Hampton Falls be paid before the mylar is signed and recorded.
2. That the wording of a mutually acceptable co-location agreement be made with the Board of Selectmen.
3. That all conditions of ZBA approval of 10/22/09 and prior conditions of Planning Board approval of 11/24/98, and as amended this meeting, continue to be in force.
4. That inspection reports be made to the Board of Selectmen every five years beginning January 2015.
5. That all approved waivers be noted on the final plan.
6. That evidence be provided of a current bond adequacy based on a stamped engineer certificate to include an inflationary consideration for removal of the tower.
7. That there be an agreement between the applicant and the Board of Selectmen regarding amendment to the site license agreement.
8. That adequacy of the certificate of liability insurance naming the Town of Hampton Falls is verified.

**MOTION: L. SMITH
SECOND: R. MCDERMOTT**

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D REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

C. Brown suggested to amend the wording of the motion on page two to read “**MOTION:** To postpone consideration of this ordinance until next year based on ~~advice of~~ *information received from* counsel.”

The first sentence of item number six on page three was revised to read “All proposed *antennas and apparatus* meet manufacturer’s standards.”

MOTION: To approve the minutes of the December meeting as amended.

MOTION: L. SMITH
SECOND: A. TONRY
UNANIMOUS

E. OTHER BUSINESS

1. Committee Reports: No committee reports were reviewed at this time.

2. Energy Committee: Chairman Susan Smylie, Vice Chairman Shawn Hanson and Member John Ratigan were present. J. Ratigan provided information on the work done by this committee to date to include public outreach, audits of municipal and school buildings, grant application work and other energy and conservation issues.

J. Ratigan explained that the Committee is seeking authorization from the Planning Board to work on an energy chapter for the Master Plan as well as possible ordinance, regulation and code changes. M. Farinola stated he is not in favor of adding more regulations as this proposal would result in an adverse affect to market values, more compliance and more costs. L. Smith stated he felt M. Farinola was in the minority in this regard as there is no regulation in zoning that hasn’t passed by voters and added that he is in favor of this proposal. S. Smylie stated the Committee is looking to start dialog and obtain suggestions. She added that she feels energy conservation is the future and that time needs to be taken to explore and address it correctly. J. Ratigan stated that part of looking at this issue is to move people in the direction to conserve more energy and use better building products. A poll of the Board found six in favor and one opposed to creation of an Energy Chapter in the Master Plan and six in favor and one opposed to the Energy Committee working on a Master Plan chapter. C. Brown requested that a proposal be brought to the Planning Board for consideration and possible assignment to the Ordinance and Regulations Review Committee. D. Smith recommended the Energy Committee look at the Energy Chapters as part of Newcastle’s and Atkinson’s Master Plans. K. Kelley stated that codes change periodically and that the 2009 code includes changes in the energy code.

3. Building Inspector Report Re: Raspberry Farm Subdivision, Phase I, Nason Road,

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Abutter's Report of Drainage Problem: K. Kelley reported that he visited 55 Nason Road today and found no evidence of snow erosion or standing water. He stated he plans to continue to monitor this problem and check again in the spring.

F. COMMUNICATIONS TO BOARD MEMBERS

B. Mutrie reported that Building Inspector K. Kelley was asked to talk with the Ordinance and Regulations Review Committee with regard to redundancies and items that are no longer needed in the Building Code and asked if the Committee could re-do the Building Code. She added that it is planned to add the proposed Historic Demolition Review ordinance to Section 4 of the Building Code. It was determined that this matter would be addressed in March with other items identified for the Committee to review.

G. ADJOURNMENT

MOTION: To adjourn the meeting at 8:50 p.m.

MOTION: A. TONRY
SECOND: R. MCDERMOTT
UNANIMOUS