



Wednesday, February 7, 2024
Lower Saucon Township Council Agenda

6:30 PM
Lower Saucon Township
General Business and Developer
3700 Old Philadelphia Pike
Bethlehem, PA 18015

1. OPENING

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Announcement of Executive Session (if applicable)
- E. Potential Action on Executive Session Issues (if applicable)
- F. Public Comment Procedure

2. PRESENTATIONS/HEARINGS

- A. Conditional Use Application of Allentown SMSA Limited Partnership d/b/a Verizon Wireless - 4235 Lewis Ave

3. DEVELOPER ITEMS - NONE

4. TOWNSHIP BUSINESS ITEMS

- A. Discussion on Vistas at Longridge Development (Longridge Dr. and Royal Valley Lane)
- B. Resolution #36-2024 - Approval of 2024 Amended Proposed Budget
- C. Resolution #37-2024 - Fixing the General Purpose Tax Levy for 2024
- D. Authorize Collection of 2024 Real Estate Taxes
- E. Discussion and Possible Action on the Bethlehem Landfill
- F. Accept Resignation of Curtin and Heefner LLP as Township Solicitor
- G. Authorization to Prepare Request for Proposal for a Township Solicitor

5. MISCELLANEOUS BUSINESS ITEMS

- A. Approval of January 2, 2024 Council Minutes
- B. Approval of January 11, 2024 Council Minutes
- C. Approval of December 2023 Financial Reports

6. COUNCIL & STAFF REPORTS

- A. Township Manager, Mark Hudson
- B. Council/Jr. Council Members
- C. Solicitor
- D. Engineer

7. PUBLIC COMMENT - NON-AGENDA ITEMS - 5-MINUTE TIME LIMIT

8. ADJOURNMENT

A. Move to Adjourn

9. UPCOMING MEETINGS

A. Environmental Advisory Council: February 13, 2024

B. Council Meeting: February 21, 2024

C. Planning Commission: February 22, 2024

D. Zoning Hearing Board: February 26, 2024

E. Parks and Recreation Board: March 4, 2024

F. Saucon Rail Trail Oversight Commission: March 25, 2024 (Hellertown Borough)

G. Landfill Committee Meeting: April 18, 2024

1. **OPENING**

A. **CALL TO ORDER**

The General Business & Developer meeting of Lower Saucon Township Council was called to order on Wednesday, February 7, 2024 at 6:35 p.m. with Ms. Priscilla deLeon presiding.

B. **ROLL CALL:** Priscilla deLeon, President; Laura Ray, Vice-President; Victoria-Opthof-Cordaro, Jason Banonis, and Thomas Carocci, Council Members, Steven Goudsouzian, Interim Solicitor; Brien Kocher, Engineer; Cathy Gorman, Assistant Manager & Director of Finance; Stacy Werkheiser, Administrative Assistant; Rudra and Nitya Thakkar, Junior Council Members.

C. **PLEDGE OF ALLEGIANCE**

D. **ANNOUNCEMENT OF EXECUTIVE SESSION (IF APPLICABLE)**

Ms. deLeon said Council did meet in Executive Session prior to the meeting to discuss the purchase of property and she's going to turn it over to the Solicitor for any actions. Mr. Goudsouzian said if Council is inclined, someone could make a motion to authorize the signing of the agreements from Doug and Tim Houser Licensed Auctioneers relating to certain properties for a particular sum as identified and discussed in Executive Session.

MOTION BY: Ms. deLeon moved to authorize the signing of the agreements from Doug and Tim Houser Licensed Auctioneers relating to certain properties for a particular sum as identified and discussed in Executive Session.

SECOND BY: Ms. Opthof-Cordaro

ROLL CALL: 5-0

E. **POTENTIAL ACTION ON EXECUTIVE SESSION ISSUES (IF APPLICABLE)** - None

F. **PUBLIC COMMENT PROCEDURE**

Ms. deLeon said next we have the public comment procedure. If at any time, somebody can't hear, please raise your hand because she has no idea if you can hear or not. At all of the meetings of Council, regular or special, interested citizens with legitimate matters to lay before the Council shall be granted the right and privilege to address Council. The Council may prescribe procedures for citizen presentation to ensure decorum at all times and to prohibit personal or insulting language, total irrelevances and harassment either on the part of members of Council or members of the assembly at the meeting and Council did, they did Resolution #75-2022, she's sorry, it's Resolution #31-2024 and in that resolution it allows for a 5-minute public comment relating to each agenda item and also a 5-minute public comment period at the end of the meeting. Basically, it tells you about, they ask for a level of civility. Public comment will be held after Council's consideration of the item. She's just going through and picking out little phrases. Commenters shall announce their name for the record. No foul or vulgar language used or gestures. No defamatory or personal attacks on the integrity of others, whether or not present. We shall respect the point of view of others. Limit your use of cell phones please. If conduct and order is no longer maintained, we may recess the meeting to restore order, so business of the Township may be conducted when the meeting resumes. No personal attacks on the nature directed towards or against any Council person, employees of LST, members of the audience, or any other person, so that kind of sums it up.

Ms. deLeon said so, with that, we'll move on to presentations and hearings. First on the agenda is the Conditional Use Application of Allentown SMSA Limited Partnership d/b/a Verizon Wireless – 4235 Lewis Avenue.

2. **PRESENTATIONS/HEARINGS/ORDINANCES/RESOLUTIONS**

A. **CONDITIONAL USE APPLICATION OF ALLENTOWN SMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS – 4235 LEWIS AVENUE**

(see attached Transcript) (04:43.09 to 4:56:20.7)

Mr. Hudson said our Jr. Council members are going to be leaving shortly, so they had an item they wanted to update us on and since they are at the end of the agenda, they are going to do that and then they can leave whenever they would like and not interrupt the hearing.

5. **COUNCIL AND STAFF REPORTS**

A. **JR. COUNCIL AND STAFF REPORTS**

Rudra Thakkar – He said this Saturday at 6:00 p.m. there is the Colonial League quarter-finals for basketball for Saucon Valley High School. So, you guys can purchase tickets on the Saucon Valley athletic Facebook page and on the website but if you guys want to go to the competition, you have to be sure to purchase the tickets on-line before entering the building. So, that game is going to be again at 6:00 p.m. on Saturday against Salisbury High School for the first round of playoffs of the Colonial League. Ms. deLeon said good luck. Mr. Hudson said thank you.

3. **DEVELOPER ITEMS** – None

4. **TOWNSHIP BUSINESS ITEMS**

A. **DISCUSSION ON VISTAS AT LONGRIDGE DEVELOPMENT (LONGRIDGE DRIVE AND ROYAL VALLEY LANE)** (11:37 p.m.)

Ms. deLeon said the Township has received complaints from some of the homeowners in the Longridge Development living on Longridge Drive and Royal Valley Lane. These residents have asked to address Council with their concerns. Who is representing the homeowners? She asked if they would like to sit upfront here.

Matthew Minielly was present. He said with him is Cary Magaram and to his right is Kris Rooney. They represent three of a group of six of the homes that are currently occupied out of a total of seven. Ms. deLeon said tell her again. Mr. Minielly said there are seven homes that have been built by their builder, Rotelle. They represent three of the six, unfortunately the other three couldn't be here due to work conflicts but he's sure right now they are enjoying the comfort of their own beds. So, with that, he would, he did send to you guys in advance of this meeting, a lot of detail around visual and empirical evidence of the issues that were surfacing and he would like to note that they did write a letter to Council and they appreciate their response today. They heard from all Council members, the Township Manager, Brien was out, the Township Engineer was out at the house and assessing some of their issues. So, ultimately, they are here to seek Council's support in holding the builder in their development accountable to both the quality of their product and to the environmental issues they are creating throughout their community. He does apologize that they are going to talk about decibel levels and storm water again, so five hours of that wasn't enough. They are certainly aware that when you build a new home, it can be stressful at times. But, it should be fun and rewarding, especially in their community where they have six young families with eight children. Unfortunately, their collective experiences have not been fun nor fulfilling and they've been incredibly stressful. They all carry tremendous resentment towards their decision to build in this community and it's impacting their individual health and wellness, personal relationships and their professional work product. It's really overtaking their lives. In the documents that he had sent to Council, it outlines some high-level information, but they are not here to address nits and nats and the normal stuff that would occur when you build a new home like nail pops and stuff like that. There are serious deficiencies to the critical infrastructures of their homes to make them sustainable long-term and a safe environment to raise their families. There's one place on earth that you should be safe and that's in your home and none of them feel safe in their home. Third-party inspectors have supported their claims and they have identified serious deficiencies in their home construction and in the building code as well. Grading, and again, the Township Manager and Brien have come to look at grading issues in their community. All of them have serious grading issues in their community. Mr. Magaram's lot from the original plans, his driveway was moved about 25,' which now the storm water coming off of his lot at the top of the hill misses the culverts and it actually comes right down the road and into his lot. So, with 2/10 of an inch of rain, he's getting water into his basement, okay. When they had the rain and the snow combo melt about three weeks ago, he had 5 or 6" of rain, or of measurable water in his basement. He called the builder - non-responsive. So, the bulk of the development's water ends up on his lot versus being diverted to the detention pond that it's designed. Quite frankly, he has two inlets right in the front of his lot that haven't seen rainwater because it just totally bypasses it. Additionally, one fix that the builder did, one haphazard fix he should mention the builder did deploy, was to redirect his sump pit to discharge out the back of the property into the protected wetlands. Where his property sits it's adjacent to a 7-1/2-acre natural protected wetlands and

they've metered that discharge and over the last month, they are discharging 35 gallons per minute. That's 50,000 gallons a day. Okay, that's 350,000 gallons a week and 1.5 million gallons per month. If you just do the math, if they continue with that rate, that's 18 million gallons of storm water that they are discharging out of his lot into the natural protected wetlands. So, just to put an order of magnitude on that, that's 38 Olympic-sized swimming pools. So, other impacts impacted by their grading issues are Lot 3, which is next to Cary's. Lot 9, which is Mr. Rooney's and Lot 16, which is at the same level as Mr. Minielly's. They've got septic issues, although thankfully due to this body, you guys were able to remedy for him, actually as of today, the septic was deemed by the SEO to be fully operational. So, he's been in the house 76 days and his septic failed 42 times and there's empirical evidence in some of the pictures there. So, the alarm went off 42 times in six days and the builder told him everything's okay. Everything is not okay when that happens 42 times. The first time it rained it was an unusual occurrence, and then the fifth time it rained, it was normal for this time of year so they are just kind of all over, all over the map. The other thing that actually came to light yesterday, he had asked Hanover Engineering (HEA) for anything regarding his septic tank because the alarms and so forth and he was given this onsite sewage maintenance agreement, which he was never aware of. This is an agreement between the developer, the builder, and the Township and it states the requirements of what should happen in the septic system...Ms. deLeon said when's that dated? Mr. Minielly said this is dated, this is signed, this is drafted by Barry Lincoln Treadwell and it is dated or executed on the 11th day of April 2022. Ms. deLeon said 2022? Mr. Minielly said correct. This was never disclosed to him as a condition of closing of his home and there's, quite frankly, when you look at, there's serious deficiencies, actually the builder didn't adhere to the...Ms. deLeon said who signed that? Mr. Minielly said so, it is in your packet, but they will go to the back so Mr. Banonis, he thinks he signed this one and RB Dwellings Property Owner and there were two witnesses and he doesn't know their names. But this is an agreement that states the sewage maintenance requirements of his lot. It's basically he has to hire someone to come in every six months and check it because it's highly sophisticated system and so forth. There's actually one other known system to-date. Actually, yours was supposed to be one, Mr. Rooney's was supposed to be one; however, he opted to do the traditional gravity fed. Lot 7, that's the individual who failed to participate in their information is also subject to adherence of this but in similar fashion he would suspect that the owner is not aware of the requirements. The key requirement is that the owner shall retain an insulation contractor because the appropriate training and experience with all system components and is approved by a manufacturer installer as a drip system. He actually called American Manufacturing today, very helpful. The individual that was contracted by the builder is not an authorized provider, so he has serious concerns even though the septic was mitigated today, and again, thank you Brien to Chris Taylor who was out there every day for the last week. Mark, he's talked to. You guys are probably tired of hearing about it, but thank you for addressing that. Electrical issues – all of their homes have serious electrical issues, right, so Mr. Magaram's house, you can be sitting in it and half of it just shuts off. Okay, another house, the Vako residence, across on Lot 10 with PPL service interruption just goes dark. In his home, when they have a surge, the power goes out and he has to go reset all the breakers. Now, the breakers don't trip, but when the power comes on he can see all the neighbors' homes. He has to go turn them off, turn them on, to get all his lights and his utilities, so that is not, he doesn't know how it passes inspection because that is not normal. It's just not normal. HVAC – four of the six homes have HVAC issues. Mr. Magaram will talk to you in a few minutes about his issues. Three of them including his, never had their furnaces connected to the propane, so they could never heat the house. So he wants to know how that passed inspection and was given a (Certificate of Occupancy) CO. It's impossible for that to happen. Cary again will talk shortly about his situation. Foundation – so this is where it gets interesting. Five of the six homes have serious foundation cracks. Five of six. That's Hall of Fame material, but it's not a Hall of Fame he wants to be part of. Again, speaking about his situation only, he notified the builder over 75 days ago that he was taking water in his basement through the foundation cracks – crickets. Never heard a thing. Two homes in their development, Lot 3 and himself have had measurable water in the basement, and again, bonus points for him, it's happened twice. Subflooring issues – Kris has been dealing with this for about five months now, but his subflooring on both the first and second floor were finally, had a third-party inspector out there and deemed deficient. He means you could walk on them, it's like a trampoline. It makes all sorts of noises and again, you've been fighting with the builder for over five months to rectify it. These are some of their issues. He's going to yield now to Cary and Kris to finish off but they are asking for you guys help. They've had an

incredible impact on their situation to date. They are just asking to keep that momentum and hold these guys accountable. You know, they've made as a group, about \$9 million worth of personal investment in this community into their homes and they are looking at a big loss situation right now.

Ms. deLeon said okay. Just your name for the record. Cary Magaram said thank you very much for hearing him out. Vice President Ray, she fortuitously mentioned decibel level of 60 about the sound of a conversation of the human voice. He and his wife have been experiencing a banging noise coming from their HVAC beneath the main bedroom floor. They have been dealing with this since April of last year. They took possession of their home March 31, 2023. They made the complaint three days in. Here they are, eleven months and the issue has yet to be diagnosed, identified, fixed, by Rotelle, by their sub-contractor HVAC, company Kenrich Mechanical. They have made every single excuse as to why they can't fix it. They've gotten quotes from other people as high as \$10,000.00 without the drywall work that would need to be done to rip out and then replace the drywall. He's not sleeping. They have a toddler. His wife doesn't sleep. She has medical complications, post-pregnancy that have been severely exasperated by this issue. This has become, as Matt alluded to before, the second job that none of them wanted. It's affecting them in such severe ways just hearing, watching what Matt's had to go through. Hearing what Kris has gone through. What all of their neighbors go through. His biggest fear is what they don't know. What are they going to find? He feels they are all living in an episode of the Twilight Zone, the Black Mirror for those of you that are younger. He just feels it's a bizarre reality where he doesn't know what he's going to turn up next. What expenses he's going to have to incur because time after time they are being told by Rotelle, in his opinion, falsely that these are not warrantable issues. They are not warrantable per their contract. They are simply just trying to get away with doing a very poor job for a home that he paid \$1.1 million for. He is not the son of a rich man. He's worked his whole life to get where he is. He comes from a blue-collar family. His mother was a teacher for 35 years in the NYC Department of Education, Teacher of Special Education children, his father ran his own business, came here, an immigrant, 40 years ago, and built himself up from nothing. They came here to Hellertown for a better life. They came, moved all over the country, came back home with his daughter, with his wife to be close to his family. They chose Hellertown because of the safety, schools, a great place to live and it's been, the community has been wonderful so far. Again, just giving them the time up here speaks to the integrity of everyone that lives here, calls Lower Saucon home, but if they don't stop Rotelle now, his greatest fear, for not only for himself, or Kris or for Matt, or for the people that are moving in. They are putting up lots right now and he doesn't want these poor people to suffer like he's suffered, like his wife suffered, like the Rooney's, the Minielly's, and every other family frankly, in this development. Thank you.

Ms. deLeon said did you also want to go? Kris Rooney said he just wants to reiterate. They are not here to sit here and ask for their help in minor things, right. As they both alluded, he's lived in the Lehigh Valley for a very long time. His wife, you know, and Michael was to build up a life here in Lower Saucon. They made that a goal. You know, Easton, eight years ago and here they are. They are not asking for help in the nail pops. They don't want the people that are unsuspectably moving in right now to go through what they are going through and you know, the big issues, the grading. They want to make sure the builder is doing what they are saying they are doing in that the Township and zoning are holding them accountable, you know, to their actions because he thinks as of right now, they are greatly not. So they appreciate it as he said, any help they would appreciate and thank you for letting them speak tonight.

Ms. deLeon said she's sorry they are having these issues but she would also like to hear from the Manager, the engineer, the solicitor for any ideas for them for what they can do.

Mr. Banonis said may he ask them a question. Mr. Magaram said he apologizes, before he was alluding to a level of decibels that was uncovered to 60 decibels. He's measured the loudness of the noise, the banging, as very commonly as over 75 decibels and as frequent as every ten seconds. So, imagine sitting in your bed, night after night, every single night, working ten hours a day, taking care of a toddler, got to see his wife maybe 30 minutes if he's lucky, and then they just sit there angry just hearing bang, bang, bang, every ten seconds. That's been their life the last eleven months.

Ms. deLeon said she's going to hold Council questions until they hear from the Manager and the engineer and the solicitor. Mr. Banonis said he doesn't understand. He needs to ask them some questions. He's not exactly sure that he understands...Ms. deLeon said the process is to hear their consultants. Mr. Banonis said he has a question for the people that are before us with the complaints. He's trying to understand what their complaint is, so why won't she...Ms. deLeon said he is allowed to ask that question...Mr. Banonis said let him ask the question so he has a better understanding of...Mr. Carocci said he's an elected official so...Mr. Banonis said what the Manager and the engineer is going to tell him. Ms. deLeon said it doesn't matter, go ahead Jason, go right ahead, just do what he wants. Mr. Carocci said thank you.

Mr. Banonis said thank you. He's trying to understand a little bit here, the septic agreement that they have, okay. They talked about that. That pertains to the development to the original owner. Was that ever disclosed to them at the time when they purchased their home? Ms. deLeon said he said no. Mr. Minielly said this was never disclosed to him. Actually, he got it from Mr. Chris Taylor who works for Brien at HEA. He's the...Ms. deLeon said SEO. Mr. Minielly said enforcement officer, whatever. He spent more time in his tank in the last week than he'll want to admit. It was never disclosed to him by the builder nor they don't have drip systems. The only other one currently installed is Lot 7 who is not participating. Ms. deLeon said his septic system is the drip system. Mr. Minielly said the septic system is the drip system. Ms. deLeon said the contract went to that. Mr. Minielly said it's alarmed 42 times in 6 days, but it works fine.

Mr. Banonis said so he looked at the agreement, what stands out to him is it says the owner shall annually renew for the life of the system a maintenance contract with an authorized provider, shall annually provide a copy of that to the Township, and that was executed on May 13, 2023 and it should have been renewed to them by May 13, 2023. Did he ever get any sort of system maintenance information from the builder? Mr. Minielly said no sir. They also, the builder did not disclose the location of a seepage pit as well and he knows Mark and Brien have seen it, but there's a seepage pit that's basically square in the back of his yard which is not to the grading plan which encumbers his ability to do anything with the lot. No swimming pools, no decks, no nothing, so no, the builder didn't disclose anything and quite frankly, he bought the model home. His home was built when it was sold to him, so they had the information to disclose. On Cary's drawings, the tentative location was disclosed to him and yes, this has never been disclosed, I know you are focusing on the septic agreement. Mr. Banonis said right, but the other question is in No. 4, within that agreement on page 2, it talks about within a month of the transfer to the new owner, which would be you guys, as you bought the home. There should be a meeting with the service provider to review the operation and maintenance system, and that never occurred either. Mr. Minielly said it never occurred. He met with the excavator, which is not certified with them and only because he was having alarm issues and they were down the road, but he didn't meet with them in the formal capacity of this document if that's his question. Mr. Banonis said so he's going to say something here, and he's not trying to pass the buck at all, but it seems to him that their recourse may be against the builder obviously, but have they had conversations with their realtor that was involved in this. Mr. Minielly said he has. Mr. Banonis said okay, can he share with them what the outcome, what those discussions were.

Mr. Minielly said throughout this horrible journey in the last 20 days, a lot of documents have been shared by Mr. Hudson, Mr. Kocher and some of his colleagues, Wilkinson Engineering who did the original developer work and so forth and they are seeing all these drawings for the first time and there are disclosures that should have been made to them, that never were. Quite frankly, if he would have known that there was a seepage bed in his backyard, he wouldn't have bought the property. If he would have known this agreement existed, he wouldn't have bought the property, so to answer his question regarding the realtor, is when he saw new information that he was unaware of, he contacted his realtor who was the, kind of the liaison for the builder, and he said Chris DeVecchio is his realtor, have you ever seen this document for this is all new information to him and she was totally like no, no, no. She specifically asked the builder this individual, her buyer wants to put a pool in, they need all of the lot

diagrams and so forth, the approved lot diagrams, and they were given stuff with stuff redacted essentially.

Mr. Banonis said so your realtor, is that a realtor that was both buyer and seller realtor or did he have his own. Mr. Minielly said no, she represented him only. They had Sydney Jacobs, their seller. Mr. Banonis said he's looking at paragraph 14 of this agreement and there's some favorable language in there with regard to the Township and the recourse that the Township has against the builder, including going after them for enforcement of this as well as fees that are incurred as a result of it. Does he know if, he said it was Rotelle was the builder, although...Mr. Minielly said RB Dwellings, they have a little shell game. You know how it works. This is their LLC if you will for this particular development. Mr. Banonis said got it. Do you know if, are they still in existence, are they defunct. Mr. Minielly said no, they are, so this is why we have some asks to Council, they are halfway through the development, so there were seven of them, one was closing or just closed a couple of days ago, so there might be eight, but there's 17 lots in their side of the development, so there are nine homes left to construct. Mr. Banonis said thank you, he appreciates those details; they are very helpful. Thank you for the courtesies.

Ms. deLeon said she'd just like to ask, she doesn't mean to be, what is a seepage pit. Mr. Minielly said a seepage bed, so what it is, is where he comes from, they call them eavestroughs, but you guys call them gutters. Gutters go into downspouts and then they go into a subterranean. Brien, he's going to look at him, what are they connected to? Mr. Kocher said there's a pipe then that goes after the downspouts are all connected, there's a pipe that goes out to a large hole that's filled with big stone. Ms. deLeon said with stone, okay. Mr. Minielly said if you look at his lot, it was supposed to be at the southeast corner of the lot, almost to the property line, and it is...Ms. deLeon said smack in the middle. Mr. Minielly said in the center. By the way, the builder did declare that the connector whatever tube it's called was broken and that's what the sump pit, which created some of the flooding, was actually the sump pump, excuse him, was discharging to its own pit so it was creating a recycling affect so you could never catch up. You are just treading water and you know, it happened on, someone was talking January 17th or whatever, he forgets exactly what date, but you know, he called the plumbers, you know, had a \$5,000.00 bill and the builder agreed that it was their fault and they won't even pay for the bill to clean up. So they are incurring costs and they do understand to your point, Mr. Banonis, that there is recourse that they can pursue outside of this body, but they think there was, and they aren't here to point fingers, but they think there was a general lack of oversight regarding coding. They've had third-party inspectors in and he had an electrician in and he goes he doesn't know what's wrong with box. It's new technology, but it's not working. You should never have a situation where your power surges, and then you have to go and reset breakers all the way down. He can't go on vacation, you know. They talked about how it's impacting work. He had two business trips. He is a CFO of a large company and he's had to cancel two business trips. It's actually starting to impact his work. It's impacting Cary's work. Last year Kris is an independent business owner. He works for himself and has some staff in the community and it's just, it's awful.

Ms. deLeon said okay, so what can we do. It's getting, the bewitching hour and they want to help, but she doesn't know, she'd like to hear from you guys, what are their options. What can they do for these people? Mr. Minielly said he did have an as-built, to add one more point, he did share with Mark and Brien this morning, he did have an as-built drawing which is, someone at the Township puts together, there's a sewer plan and there's a grading plan that's approved by the Township engineers. They are supposed to build to that plan. He actually went and did a third-party inspection to measure where that as-built was and they are off on the grade. Brien can speak more articulate than he can, but they are off 2' in some instances and that's where it's kind of coming in. The water actually can get so high in a 1" rain where it comes over his foundation into the floor joists and through so he's got mold issues. He's got a seven-month-old at home and all the builder does is they smile or they are just not responsive so he sent that to Brien for review, for some help, and why have a plan to manage storm water if you're not going to enforce it. That's one of the questions they have.

Ms. deLeon said okay, so what our options? Mr. Kocher said so what he'll...Ms. deLeon said they can write a letter but what else can they do. Mr. Kocher said what he'll begin with, just in terms of some

background for Council. The operation and maintenance agreement that you see was a requirement of Council during the re-subdivision process for Longridge to handle situations like this for the drip irrigation systems. Drip irrigation systems are, he's going to say, relatively new. It's not like it's a year, but it's relatively new so there are some complexities to that which is why Council thought ahead and thought they should have some kind of agreement like that. That's why that agreement exists. What are our responsibilities and what they can do to help is a better way to help, the solicitor is going to have to weigh in on that. The driveway issues, he did look at when they had sent the email about driveways being off by x number of feet. He did go back very quickly and just see if he could confirm that with the latest aerial he had from the County, which was 2023 and looked at the approved grading plans for the lot. That's very important, for the lot. They were fairly close.

Mr. Minielly said on Cary's lot, his approved grading plan for the lot is close to where his driveway is, but where the storm water system was put in by the developer which predates any changes made to that lot, he's got a, the drains are uphill so his driveway was meant to be straight, and drain into that storm water. Now that it's moved, there's no drains anymore so his water comes out of his driveway, right down the street, right into Mr. Minielly's lot.

Mr. Kocher said he hasn't looked at specifics other than some specifics on Matt's lot, just because he was, he was the one that had contacted him. What he can say is that these issues that are related to the road, even though it's a private road and the storm sewer system, the Township is holding financial security from the developer, BT Stonewood and they have to put the wearing course on yet, the road isn't done, so now that they brought some of these issues to their attention like maybe the driveways are directing water out in the road as opposed to keeping the roadside swale, they'll be able to address that with the developer before he gets security releases or anything like that.

Mr. Carocci said how much is in escrow though. So, is it so little that they'll walk away from it or how much money is it? Mr. Kocher said he thinks it's over \$100,000.00. Mr. Minielly said his lot, by some estimates, maybe \$150,000.00 to fix. Mr. Kocher said no, not that, he thinks Tom asked how much has the developer, not the builder, the developer put into escrow, just by memory, it's over \$100,000.00. They did check on that letter of credit, he thinks today, and it's all okay.

Ms. deLeon said it's what? Mr. Kocher said it's okay. Mr. Carocci said the money is there. Ms. deLeon said the money is there. Mr. Kocher said and again, he doesn't remember the exact amount, he just remembers it being around \$100,000.00. He thinks we can address those issues. What the ordinance doesn't really provide for with respect to some of the grading is, the process to get a permit is very explicit. You know they have to get an engineer, HEA has to review it, they do it. The end of verifying isn't real strong. Ms. deLeon said there's no tickler system to know that they didn't miss the deadline or something to make them...Mr. Kocher said on the letter of credit, correct. Ms. deLeon said she's jumping ahead.

Mr. Carocci said he guesses that's his concern is what recommendations can this, can we do to make sure we do have some back-end compliance. You see all these people, they come in here. They spend money. You go over their plans. We talk. He's been on Planning. He was on Planning for eight years or whatever. They are always talking about the storm water runoff, gradings, you know, where the driveway is, how long the cul-de-sac is, all of this stuff, right, all this detail. And if they are just going to be able to ignore it at the end of the day, what's the point, what's the point. They have to have something in place to enforce these things because you are going to have more things like this, you know.

Mr. Kocher said for the public improvements, and even land developments, the ordinance is very explicit about the level of detail. Tom, you just described through Planning and the ordinance is very explicit about the amount of interaction the Township engineer and then ultimately Council has to make sure that it's done. It's not quite the same on the private lots. Mr. Carocci said right.

Mr. Banonis said if he could just jump in here. We got a rainy season and it's been a rainy winter, obviously. But spring is coming up which is typically a rainier time and he thinks we are up against the clock here to try to find some relief. Mr. Minielly said they are against the clock with that issue, because of that issue, but these two are close to their one-year warranty issues and they've just been getting the run around.

Mr. Banonis said his thoughts on this are you know, they have another meeting coming up on February 21st, he thinks that the Township Manager, Township Engineer, and Zoning Officer and Solicitor should call a meeting with this developer and builder to go over the issues that we have here and perhaps they will give us greater attention than they have to you as property owners, and he thinks that meeting should be requested and take place before the February 21st meeting that Council has and then direct them to identify a solution to this problem no later than May 6th and if a solution is not reached or provided to us by May 6th...Mr. Minielly said May 6th or March 6th? Mr. Banonis said sorry, March 6th, March 6th, thank you, that you know under, if you look at paragraph No. 15 of this agreement, and he's just talking about the storm water issue. This is our, this is how we can he thinks, enforce some of this. The Township shall fully utilize, shall - that means must, fully utilize the legal authority set forth herein and the powers it possesses through enabling statutes to affect the purposes of this agreement. So, he thinks you tell them if you don't do this by March 6th, they are going to be in litigation and you know, you may want to get lawyers involved in this too, to pursue it, but certainly he thinks the Township can have the solicitor be involved in this litigation. Hopefully we'll have a full-time solicitor by that point, he doesn't know if we will, but he thinks that time is of the essence. They've been dealing with this; you got a one-year warranty issue deadline coming up and it's truly regrettable what they are dealing with. Like to Tom's point, why do we do any of this stuff, right, if they can just ignore it, what's the purpose in having any of this land development approvals and everything else, if there's no teeth to it. He thinks the teeth to it is Paragraphs 14 and 15 of the agreement, at least with regard to the storm water issues, the septic systems and storm water issues that are here.

Mr. Carocci said and we do have some development possibly coming up, right. The 412 was rezoned and the Planning Commission looked at a plan for St. Luke's to build there, you know, we have some stuff to worry about with storm water management and stuff like that. He thinks Council should, not a dime of that escrow money should be sent out to the developer until full satisfaction. That money should not be touched.

Ms. deLeon said can they put a hold on that or by directive. Mr. Minielly said you can put a lien on it. Mr. Goudsouzian said to make sense at this point is this, they've raised their concerns. He thinks they acknowledged the Township has acted promptly and appropriately. He means this in the nicest possible way, some other places would say, hey, this is your problem. You have an issue with the homeowner, figure it out and you got the exact opposite, which is great. He thinks what they are hearing from the Township is they are willing to help. He thinks what they need to do, and what his recommendation would be to Council, is let's find out what they can do to help. Let's find out where they have escrows, where they don't have escrows. In the meantime, he's not their lawyer, he can't be your lawyer, he won't be your lawyer, but they should consider doing something...he understands, but he thinks that makes the most sense and then it sort of ties in to what Mr. Banonis was saying, let's get a timeframe and let's get a reasonable timeframe. You know we can say we'll do this by such and such day and then we don't do it and that doesn't help anybody but what he would recommend is let them look into it. Let them report back, let them report back informally to you or formally to the board or both, and then see what's available. Mr. Minielly said they appreciate that.

Ms. deLeon said they can put it on the next agenda and they want to try to get this resolved before their annual date comes up, you know. Mr. Rooney said March 29th. Ms. deLeon said and yours? Mr. Magaram said he's not there yet. Mr. Minielly said it's an issue for him more than...Ms. deLeon said they'll do the best they can, you know. Mr. Banonis said he thought about actually having Township staff meet with the builder and developer. Ms. deLeon said she thought they just agreed to that. Mr. Goudsouzian said he thinks the concept would be ensuing...Mr. Banonis said he talked about what recourse do they have, looking into that and not so much meeting with the builder and developer. He

thinks both should happen, we have to find out what's our recourse and what levers do we have and in addition to that, meeting with them and bringing to their attention the fact that this is now on our radar and we are going to be giving this very strong attention.

Mr. Goudsouzian said here's what he was suggesting and here's what he thinks makes the most sense with the circumstances. Let's find out what we can do first. He thinks conceptually, he personally has no objection to meeting with the builder as quickly as possible, but he wants to know what we can do but what he doesn't want to do is rush into a meeting with the builder and not have our ducks in a row and then have them say well you can't do anything about it and now you guys are held high and dry and we haven't helped them. Mr. Minielly said he appreciates that but they have enough third-party inspections. They are not building to code, so. Mr. Goudsouzian said but they don't build to code, you might have...that's the plan you might have against the homeowner, they are willing to come and help them but certainly that's the impression, that's where they are coming from. Mr. Minielly said who oversees code enforcement in this Township?

Mr. Hudson said it would be him and Jim, but the code...so the home inspections are done by a third-party inspector. They give the Township a report that everything was completed and they inspected everything and everything was inspected satisfactorily. That's when they then issue the CO because they have the report from the third-party inspector which is identified by the Township as...Mr. Minielly said who is that third-party inspector because he understands the third-party inspector that did his was removed from Township duties. You guys...Mr. Hudson said they have Base Engineering and they have KeyCodes. Mr. Minielly said KeyCodes, he was told they were no longer doing, he doesn't know. Mr. Hudson said they haven't changed. Mr. Minielly said okay because the...Mr. Hudson said Rotelle may have changed who they were using. Mr. Minielly said okay. Mr. Hudson said but they haven't changed who they use as the Township. So they get the report from one of those two organizations that everything has passed, so they may need to bring them into this, they will need to bring them into this also because they do the actual inspections. They inspect the electric. They inspect the walls to make sure they are 16" centers. You know, all that kind of stuff. So, they will bring them into that also. They will get everyone, if you give him an email for everyone, he will get everyone their approved grading plan so they have what was actually approved by Brien. They can do that as quickly as possible.

Mr. Minielly said that was one issue that caused a problem on his lot. So the septic plan was done by one engineering firm. The grading plan was done by another and they don't talk to each other. They are different. Mr. Hudson said you're talking Rotelle. Mr. Minielly said so no the grading plan, the final grading plan and you sent him and the final grading plan that Chris Taylor goes, sorry, the septic plan, the septic plan had the seepage beds in the center of his yard which the septic plan is not the governing document of the grading. The two firms weren't collaborating so that's what created some issues with his lot because the excavator told him this morning when he was at this property fixing the septic, he goes, well he put it where it said on the septic plan. Mr. Minielly said well that's for the septic. The seepage bed relates to grading. Here's the final grading plan, 40' away. Ms. deLeon said okay...Mr. Carocci said can we get an update at our February meeting about, even if they haven't had time to meet with the builders yet, at least an update, at our next meeting. Mr. Hudson said he has it to put on the next agenda. Ms. deLeon said they just clarified that they are having an update on the 21st and you guys behind the scenes do what they need to do and report back to Council and you know, make sure they are aware that we have a February 21st meeting and the next meeting is, she doesn't have a calendar in front of her, but they need to come up with a solution to this. We mean business.

Mr. Minielly said may he make two more points on this and the first is even though he has a different septic system, the tanks are identical and the failure on his tank was the intake boot. They all have the same intake boot so they all have a concern that their septic's being installed by the same person were installed incorrectly. So, he has actually digital metering that he can monitor and he can tell the difference in his usage versus what the tanks producing. These guys do not, so they might have seepage out of their tanks that are creating an environmental hazard that they don't know about because typically what they found out in their development, they've got five out of six foundation cracks, right. So the same person did the foundations, they are all cracking. The same person did the septic. Their concern

is from an environmental perspective, are these intake boots going to crack or were they mis-installed in all the tanks, not only the one. So that's one concern and the other concern is environmental by the national wetlands by him, it's been absolutely decimated, so who pays for the reclamation of that because the storm water plan is not being adhered to and it's just, and quite frankly, he can't wait for the next rainstorm. He sets his alarm for every 90 minutes to go downstairs to make sure he's not taking on water. That's not healthy. So they need to let them know we are watching. Shut them down, whatever because they got a half a million-dollar problem they are dealing with right now. His lot alone is \$150,000.00. He doesn't want a million and a half dollar to 2-million-dollar problem with their whole development.

Ms. deLeon said okay, thank you for waiting and she apologizes for the length of our other hearing. Mr. Minielly said they actually learned a lot. If the township is ever out of money, you can sell that to Bravo...Ms. Opthof-Cordaro said may she be recognized. She said can we must make sure all of the inspection, the independent inspection reports, can we make sure that our third-party inspection companies receive those reports and that they can answer to why there are such grave discrepancies. Mr. Minielly said they actually had them. They shared one with actually the Township and they were told the building code is subjective and open to interpretation. Mr. Carocci said by who? Mr. Hudson said he shared one today, could he give him the other third-party, kind of independent, independent. Ms. Opthof-Cordaro said she would say all independent inspections for whatever, you know, HVAC, or your septic, or your home, the building structure, all of the property owners, there's six of them, whatever they have can they give it to the Township so they can at least approach the third-parties when the Township deems it necessary. She just wants to say she is very, very sorry to hear about all these problems. She hopes they can find a solution.

Mr. Carocci said can he be recognized. You said there's nine lots they are still trying to sell. Mr. Minielly said there's nine homes to be built, all but two are sold. So, he's been told that they can't fix his lot because it's not the right time of grade, and stuff like that and meanwhile they are across the street at Lot 13. They are up the hill at Lot 2. They are grading like non-stop to keep the cash flow going. Mr. Carocci said get their attention. Degrade your property value, devalue your property value in the small term, but he's put a sign somewhere saying, warning people who are coming to look at that, you are having problems. Mr. Minielly said they did that and the developer made them take it down. Mr. Carocci said how? Is it in your yard?

Mr. Magaram said it was his yard. So Rotelle controls their HOA right now per their contract. So Rotelle went to his HOA President, Mark Taylor who was the developer and demanded that he take his sign. It had no foul language. It said ask him about his experience going with Rotelle and he can send you guys the file of what that was, with my phone number because he wanted to warn people what they went through and that's what their intention lies. Their intention lies on removing his sign, not making sure he doesn't have a swimming pool in his driveway...Mr. Banonis said does the HOA Agreement, so they haven't turned it over yet to a community based, community board. The HOA Agreement that they have, does it include a prohibition on signage? Mr. Magaram said he would say there's language that's ambiguous. Basically, the conclusion of that meeting was that...Mr. Banonis said Sir, he doesn't want the sign. He's sure they don't want the signs because it affects their ability to sell. The question he has is do they have any legal authority to force him to take that sign down under the HOA Agreement and if they don't, he'd put it up. Mr. Carocci said put it up. Ms. deLeon said the first amendment right. Mr. Carocci said he didn't go in his yard and take it out, right, they just told you to remove it. Mr. Magaram said no, the HOA emailed him. He can send the email that was sent. Mr. Carocci said he'd put it back up. Ms. deLeon said she'd put it back up too.

Ms. deLeon said okay, so Laura, does she have anything to comment. Ms. Ray said no, she just hopes they can help. She thinks the inspection agencies, either Base or Keystone, whoever did them needs to be held accountable in some way too. Mr. Magaram said even on the inspection of his HVAC, he was told 50 different things about what was a requirement because it was in the basement. That's where the HVAC unit was. Whether or not it needed to be insulated. It was cheap materials and he finds construction debris all the time from the contractors in there. 2x4's and PVC pipe shoved into his ceiling

and then the HVAC sub said it was Rotelle, they didn't build around the HVAC correctly, nobody knows the problem, so he's just wondering how it passed inspection with that noise as loud as it was. Nobody was paying attention. 60 decibels outside, he got 75 decibels coming from inside. Someone must have been asleep when they were issuing that CO. Ms. deLeon said okay, like she said, they are going to work on this and thank you.

Mr. Minielly said can someone reiterate the next measures. Do they have to be here at the next meeting or will someone contact them? Ms. deLeon said February 21st. Mr. Hudson said he will let them know. Ms. Opthof-Cordaro said everybody gets a gold star. Mr. Hudson said he will be in touch Matt. Mr. Minielly said thank you all. Ms. deLeon said good luck.

B RESOLUTION #36-2024 – APPROVAL OF 2024 AMENDED PROPOSED BUDGET

Mrs. deLeon said the 2024 Amended Proposed Budget has been advertised as required and has been available to the public for 10-day review on the website and at the Township Building. Resolution #36-2024 has been prepared to adopt the final document.

MOTION BY: Ms. deLeon moved for approval of Resolution #36-2024 - approval of the 2024 amended proposed budget.

SECOND BY: Ms. Opthof-Cordaro

Ms. deLeon said Council discussion, we'll start with Jason. Mr. Banonis said he had contacted Mr. Goudsouzian, he guesses this will be two now days ago, since it's after midnight, and he asked him in an email, in writing, with regard to Township business items B., C., and D., on the February 7, 2024 agenda, please advise in your legal opinion as interim solicitor if each item passes legal muster, both procedurally and substantively, if voted for approval by the majority of Council. Also, please advise if the budget and taxes approved by prior Council in December 2023, remains in effect until any new budget is approved. What effect, if any, the December 2023 approved budget has on Township expenses or obligations incurred and/or paid from January 1, 2024 until any new budget is approved and how many payments made so far in 2024 are reconciled with any new budget. Mr. Goudsouzian wrote back to him, now yesterday, and he said the following "based on the Lower Saucon code provisions for the budget are addressed in Sections 5-14, which is attached, 53 PA Consolidated Statute Annotated 68202 of the Second-Class Township Code is also attached. The provisions of both are somewhat similar. I have not reviewed the budget documents or the process in detail. That being said, there is nothing that would suggest a legal or procedural deficiency. If there is a specific question or concern that you have regarding procedure? If there is a specific concern you have, please let me know." Then he goes on to say "there is nothing that I am aware of that would prevent voting tonight. The amended budget, must be adopted by February 15. Majority of Council's vote would be controlling, for example, 3-2 vote would be controlling. The existing budget remains in effect until it is amended. If once the budget is amended, the amended terms control. No adjustments would have to be made for payments made. I believe a breakdown as to what the amended budget would change has already been provided to members of Council; however, I have enclosed another copy for you and there's a link to the amended budget on the Township website". He would just note that the packet they have here today does not have the amended budget but he wants to confirm with Cathy that the amended, the proposed amended budget, that was subject to authorization, this is back on January 17, 2024 that's what's before us today, Cathy?

Mrs. Gorman said the proposed amended budget that was presented by Council earlier. Mr. Banonis said January 17th at their Council meeting, January 17th? He wants to ask her some questions about that so that he understands this budget. If you go to, this is under 439 Highway Construction, 01-439-600 Capital Construction, it goes on and then there's a note, 01-439-600, it says Saucon Terrace project placed in General Fund due to the timing of the contract. Where, how, where is that reflected in the General Fund?

Mrs. Gorman said that is actually in the 2023 payments. Mr. Banonis said okay, he has that. Mrs. Gorman said so they, at the time of the 2023 budget, they budgeted \$1,700,773.00. Mr. Banonis said

what was that number? Mrs. Gorman said in 2023, year-to-date at the time, they paid \$1,032,149.35 and they were projecting by the end of 2023 to pay \$1,071,000.00. The proposed budget has zero in it because that project is complete. Mr. Banonis said the Saucon Terrace project, as he recalled, they originally budgeted \$1 million and when the bid came in, he thinks it was \$380,000.00 was the real number, correct? Remember they sent it out for bid in December. The bid came back for Saucon Terrace. It originally had allocated a million in the budget, and the actual bid that came in was \$380,000.00 and he recalls when Lynn Hill was here...Mr. Hudson said no, no, no you are on...Mrs. Gorman said that's Cherrywood. The Cherrywood paving project. Mr. Banonis said he's sorry, Cherrywood. Mrs. Gorman said that's why she's getting confused. Mr. Banonis said Cherrywood. Mrs. Gorman said that would have been in the Capital Fund which they transferred over \$1 million to do that, Cherrywood paving project and she believes there are a couple of other paving projects...Mr. Hudson said originally when they first started to look at it, it was Cherrywood, the very steep road over top, Frederick, and Peachtree, and there's that other little road there. Mrs. Gorman said she thinks at the time of, they were trying to get the bid out, the engineer, Brien, had indicated that there was more work that needed to be done in engineering and he wouldn't be able to get all of that completed on time. Mr. Banonis said that's right, so...Mrs. Gorman said there is a \$700,000.00 or \$600,000.00 difference between what is actually approved by Council and what they budgeted. That doesn't mean that next year Council will have that extra \$600,000.00 in the budget to do Frederick...Ms. deLeon said for 2024 or 2025. Mrs. Gorman said 2024, they'll have the extra \$600,000.00 in the Capital Fund to do Frederick and Peachtree if they want to.

Mr. Banonis said right, again, where in the proposed budget is the \$1 million for Cherrywood. Mrs. Gorman said in the Capital Fund. That they actually had enough time to process it and put a major scale project like that in the Capital Fund. Mr. Banonis said and that figure has not been reduced. Mrs. Gorman said no, it was not reduced. Mr. Banonis said to reflect the bid that came in, the successful winning bid that was approved by Council for \$380,000.00 for Cherrywood. So, the proposed budget is inaccurate in that it allocates a million dollars for Cherrywood and the reality of it is the cost of the Cherrywood paving project is \$380,000.00. Mrs. Gorman said she thinks what they need to understand is that this is a plan, not like bible. You can change a professional consultant within the time period. You can change a project whether it be more or less than what was budgeted. Right now, what they would have to do is if for whatever reason, they only do Cherrywood, then they would only spend the money that Council had approved. They wouldn't spend any more and then the following year she would be saying, she would only transfer over the \$370,000.00 to pay for Cherrywood. They didn't transfer over the full million dollars or she could come back to Council and say do you want her to transfer over the full million dollars and leave it in Capital Fund and they can earmark that to a future road improvement project or something else that would need to be done.

Mr. Banonis said but the million dollars was earmarked for Cherrywood, and we know the number for Cherrywood is \$380,000.00, but yet the proposed budget they have here is off by \$620,000.00. Is that fair? Mrs. Gorman said in actual expenses that have been approved by Council, yes. Mr. Banonis said okay. Mrs. Gorman said but for budgetary purposes. Mr. Banonis said so the budget is off by \$620,000.00 because there's no other money needed to pay for Cherrywood because it's been bid approved, so that's an inaccuracy that they are aware of. So, if he's looking at this correctly, the General Fund expenses for 2024 are \$10,882,478.00, is he correct? Mrs. Gorman said the expenses listed in the General Operating budget is \$10 million. Actually, that is including transfers to the Capital Fund, the \$10.8 million. Mr. Banonis said \$10.8 million, that's the \$10,882,478.00 figure. So, do you have a calculator? Mrs. Gorman said sure. Mr. Banonis said he just wants to make sure his math is correct. Twenty-five percent of that figure, is he correct, is \$2,720,619.50? Mrs. Gorman said 25% of the General Operating budget is \$2,720,619.50. Mr. Banonis said so he previously said at prior Council meetings, that he thinks it's improper and illegal for this Council to hold so much money in reserves. How much money are in reserves? Mrs. Gorman said they have \$6.3 million that's identified as restricted, and at the end of 2023, they have \$5 million that was in their general savings which \$3 million is to stay in there and the \$2 million will probably be recommending to help pay for the Easton Road ballfield. Mr. Banonis said so what's the total then that they have in reserves? Mrs. Gorman said as of December 31, 2023, they have \$11,354,000.00 that had not been, or \$9,354,000.00, excuse her.

\$9,354,000.00 that's either restricted or reserved that's not identified for any project or any general operating expenses.

Mr. Banonis said so what they have in reserves is more than three times that 25% figure that he referenced earlier, more than three times the \$2.7 million, right? Mr. Hudson said yes. Mrs. Gorman said yes, sorry. Ms. deLeon asked Jason if he was finished. Mr. Banonis said he's almost done. Well, again, he thinks it's improper. He thinks it's illegal to have a budget that is inaccurate by \$620,000.00 that's being considered here and he also thinks it's improper and it's illegal to continue to tax LST residents when they are sitting on \$9.354 million in reserves, when the 25% of the expenses is \$2.7 million. Now he's finished.

Mr. Carocci said he thinks Jason is correct and again, he doesn't know why they are raising taxes from the tax cut that was approved in December, even the fire services tax when they have over \$9 million in the bank. He thinks it's just confiscating residents' money for just to keep in a Township bank account and collect some interest. It belongs to the residents. It belongs to the taxpayers. It should be left in their pocket. They are the ones that did all the hard work to earn the money and why we are confiscating it, at this rate, ridiculous rate, is, makes no sense and if it's illegal then it should be handled. Ms. deLeon said are you finished Tom? Mr. Carocci said yes. Ms. deLeon said Victoria.

Ms. Opthof-Cordaro said thank you. Cathy, what was their total tax millage rate for 2021? Mrs. Gorman said 2021? Ms. Opthof-Cordaro said yes, does she remember it? Mrs. Gorman said she believes it was 5.14. Ms. Opthof-Cordaro said it was 5.14 for 2021. 2022, what was the total? Mrs. Gorman said 5.14. Ms. Opthof-Cordaro said 2022, 5.14. For 2023, what was it? Mrs. Gorman said 5.14. Ms. Opthof-Cordaro said in October of 2023 when this budget, when a budget for 2024 was proposed by former, by the prior Council, what was the proposed total millage rate for the Township. Mrs. Gorman said the administration proposed budget at 5.14. Ms. Opthof-Cordaro said okay, what is the total proposed millage rate that they are considering right now to finally approve? Mrs. Gorman said 5.14. Ms. Opthof-Cordaro said thank you, that's all she got. Mr. Carocci said the fire tax went up. Ms. deLeon said Laura.

Ms. Ray said so as Victoria's pointing out, there has been no tax increase. Mr. Carocci said that's an absolute lie. The fire tax has increased. Ms. deLeon said Tom, you are out of order. Mr. Carocci said that is an absolute lie, well, the fire tax, he's not going to let an absolute lie...Ms. deLeon said Tom, you are out of order. Mr. Carocci said it's an absolute lie. The fire tax was increased. Ms. Ray said this is not a lie. Ms. deLeon said you are out of order. Ms. Ray said the millage is 5.14. Mr. Goudsouzian said hold on, why don't we just stop for a minute. Ms. Ray said he's talking over her. Mr. Goudsouzian said let's have five seconds of silence. Mr. Carocci said he's allowed to be recognized. Mr. Goudsouzian said he would recommend we allow, that the President allow Ms. Ray to continue. Ms. deLeon said okay, yes, Laura, please. Ms. Ray said the total tax millage has not changed and is not changing. As for the \$1 million budget amount for the paving, that was the amount that they had in the budget. That was the amount that was going to go through had they not reopened the budget, so there's no difference. They cannot change the budget by more than the 25% total or whatever the rule is, so they wouldn't have been able to knock it down to the proper amount anyway. So, the fact that it's there in one column, and it will get moved over to the other column when they are allowed to do that in April maybe, she's not sure if that's when they can do that. It makes no difference. It's not an illegal budget. It's the amount that they had in there. It's the amount they had approved originally. So, she's tired of having this same going in circles argument over this. Mr. Carocci said she should be accurate in her statements. The fire tax increased. She said taxes didn't increase. She should be accurate. Ms. Ray said the tax millage for LST resident has not increased. Mr. Carocci said it has, the fire tax went from .75 to .90. Ms. Ray said and the other one went down, the total tax rate is the same, no difference, the rate is the same. Mr. Carocci said they raise taxes and won't even admit it. Ms. Ray said will he stop talking over him. Ms. deLeon said he is so rude. She knows it's hard, but please be polite.

Mr. Goudsouzian said why don't we move on. Ms. deLeon said we are going to move on because they are going to open it up for public comment. Mr. Banonis said he'd like to speak again, may he be recognized? Ms. deLeon said we will do public comment, then he'll be recognized. Mr. Banonis said

he should be recognized before public comment. Mr. Carocci said he's an elected official. Ms. deLeon said after public comment. Mr. Carocci said the gavel Nazi doesn't rule. Ms. deLeon said she doesn't want to gavel him. Mr. Banonis said sure she does. Ms. deLeon said please state your name for the record.

Robert Blasko, Lower Saucon Township resident, said Tom, you are going to like this, okay, pay attention. Mr. Carocci said alright, he's paying attention. Mr. Blasko said let's lighten it up a little bit here. Mr. Carocci said sounds good buddy. Mr. Blasko said okay, now listen up. Mr. Carocci said okay. Mr. Blasko said Proverbs 18:22, says a man who has found a wife has found a good thing. Matthew 6:33 says seek ye first the Kingdom of God and all these things will be added unto you. He doesn't know about you, but he got one good wife and she's enough. Ms. deLeon said talk a little bit louder. Mr. Blasko said just bear with him. This is to prove a point. The next one he's going to tell you, were told to him by a Pastor years ago and he wanted to get across the point of taking things out of context, okay. So Matthew, what happened, the guy figured he'd take his bible every morning and he'd drop it on the table and whatever verse popped up, that's what his verse was for the day and that's what he was going to do. Matthew 27:5b, he dropped his bible down and it says, Judas went and hanged himself. So, he picked his bible up again and he dropped it down and it came up and said Luke 10:37 go and do ye likewise. Ms. deLeon said going what? Mr. Blasko said do ye likewise. The guy stopped using that form of bibles. Okay, Mr. Banonis, he's really glad to see him here this evening. He's glad he brought up this thing about the budget being, not the budget, this supposed over surplus being illegal; however, he hasn't heard him state any statute or anything that proves that anywhere along the way. As far as taking things out of context, these are from the minutes from the meeting, November 15, 2023, when speaking about this. "Mr. Banonis said so it seems that the Township is very flush with cash, and he'd like to bring to everyone's attention a legal decision. The case is called Wolk vs. Lower Merion School District (LMSD) and it is Wolk, not the curriculum. This was a class action lawsuit that was against the LMSD that sought to enact a 4.4% tax increase to spite the school district having amassed tens of millions of dollars in budget surpluses over the years. And that case, the Judge ordered the school district to rescind and reduce the tax, and as a result of that school district was forced to return \$26 million in taxpayer money", it was actually \$27 million by the way and \$100,000.00 in legal fees. So he has a couple questions, Mr. Banonis said it's his position first which he brought again that the government should not be holding taxpayers hard-earned money in a savings account. The taxpayers should keep their money. Funny. They heard nothing of that before the November 7, 2023 election. This surplus did not come about between November 7th and the end of December. He said alright in his opinion, he would like to reduce real estate tax and anybody who opposes that is simply a tax and spend person. If that's true, why did he take it in the first place in 2022 and 2023; 2022 he can understand, 2023 he had the power in 2022 to say, look we got a surplus, let's give it back. Like he mentioned before, it would have been a great campaign slogan. All of a sudden now there's a surplus and then you turn around and say "they don't appreciate the value of people's earnings. They want to hoard our resident's money for whatever purpose they have." You mean like the purposes you had when he never said anything about a surplus before November 7th? As far as taking things out of... Ms. deLeon said your time is almost up. Mr. Blasko said okay. The school district had requested the department to allow it to raise taxes by 4.44% without taxpayer approval. Mr. Banonis, he probably knows this. The reason and the case is right here and the Judge's opinion, and the interview they did with Wolk from the Philadelphia Inquirer. The reason they were sued is because they fraudulently got that surplus. He doesn't see that in Mr. Banonis notes. He keeps bringing it up time and time again, but he never mentions that. You never mentioned the fact that they transferred money, excuse him Priscilla, may he continue without interruption. Ms. deLeon said absolutely. Mr. Blasko said thank you very much. Ms. deLeon said he's wrapping it up and she's allowing it. Mr. Blasko said thank you very much, Priscilla. He's not saying thank you to this gentleman, he's thanking Priscilla. Ms. deLeon said let's wrap it up, because it's getting late. Mr. Carocci said she won't let him speak. Ms. deLeon said one person at a time. Mr. Carocci said she won't let him speak. Ms. deLeon said one person at a time, you are out of order. *(Someone in the audience was speaking)* Ms. deLeon said you do not have the floor right now, you don't, excuse me, okay, so please. Mr. Blasko said they got the money because they took it out of General Funds and hid it in a transfer fund in a reserve fund. Then they turn around and they got tax increases without a voter referendum because they hid the money. That's what they got caught at.

That's why they were taken to Court, not because there was a surplus, but because they accrued it improperly, illegally, and fraudulently. And when the Philadelphia Inquirer on June 14, 2022 interviewed Wolk himself, and he will do the whole paragraph, he's not going to cherry pick his. This was a litigation over surplus. He was right on that, not over taxes necessary to accomplish any desired program or tasked by the LMSD. Wolk said he "would never have filed a lawsuit to impact the educational opportunities for children in Lower Merion and Nordberg. I filed the lawsuit because the taxes were excessive and my judgement and illegally rendered" not because they had a surplus.

Ms. deLeon said thank you for bringing that to their attention. Now this is just for the budget, she doesn't know if they are wanting to speak on public comment, that's later, we aren't there yet. Okay, so she guesses to wrap it up, she'd like to call for the vote please.

Mr. Banonis said he wants to speak, he couldn't speak until after the public spoke. Ms. deLeon said they'll let Tom go first and see what he says. Mr. Carocci said he's going to let Jason go first. Mr. Banonis said Cathy, what was the tax rate that was approved by Council in December 2023. Mrs. Gorman said 4.39. Mr. Banonis said 4.39. What was the tax rate for fire services taxes back then? Mrs. Gorman said it remained at .75. Mr. Banonis said okay, and what is the tax rate in the current proposed budget that's before them today? Mrs. Gorman said for fire, or for general? Mr. Banonis said for general. Mrs. Gorman said it's 5.14. Mr. Banonis said okay, so he doesn't pretend to be a mathematician, maybe if Dr. Bilal was back here again, but he thinks 5.14 is greater than 4.39, is that correct? Mrs. Gorman said that's correct. Mr. Banonis said so, the tax that is being proposed here, the general tax, is greater than the budget that was enacted by prior Council, which our solicitor confirmed an email to him, was a valid budget in effect, and it remains in effect, from January 1, 2024 until whenever a revised budget is passed, correct? Mrs. Gorman said correct. Mr. Banonis said so, let's talk about the fire services tax. It was approved at .75 and what is being proposed here? Mrs. Gorman said .9. Mr. Banonis said .9, so again, he's not a mathematician, but he thinks .9 is greater than .75, so again, the fire services tax that was approved in December 2023, in effect from January 1, 2024 until whenever any other budget is passed, was greater, what's being proposed now, is greater now than what was enacted then, correct? Mrs. Gorman said yes. Mr. Banonis said Ms. Ray's comment and she doesn't to answer this question, he thinks it's perfectly obvious. Ms. Ray's comment that nothing is changing, is a lie. It's an absolute, outright lie because not only is the general tax going up from what was already approved and in place, but so is the fire services tax going up from what is in place. So, anybody who thinks otherwise, is just gas lighting. So, that's part one. Okay, too bad Mr. Blasko left, he'd like to respond to his question. 2024 proposed budget was proposed before the landfill Host Municipal Agreement was in place and also before the landfill's land development plan was approved and the consequence of this, and they've been over this many times and many Council meetings, apparently, Mr. Blasko doesn't listen or didn't hear. Ms. deLeon said he's not here, you have to be respectful, she read in the beginning you shouldn't talk about people that aren't here. Mr. Banonis said that's not his problem that he left. He chose to leave and he is going to speak, so please don't interrupt him. So, Mr. Blasko...Ms. deLeon said wait a minute, no, no, no. She has the floor right now. Mr. Carocci said don't interrupt. Mr. Banonis said can you stop from yelling at him in the audience. Ms. deLeon said you should not be making personal or insulting language. Mr. Banonis said it's nothing personal or insulting. Ms. deLeon said it's in the code. Mr. Banonis said he didn't either hear him or didn't understand is what he's saying. Mr. Banonis said there's nothing insulting about that.

Mr. Goudsouzian said he's done this before in this meeting, and he's going to do it again. Members of the audience...Mr. Banonis said he's not a child. He's not going on time out, Steve, okay? Mr. Goudsouzian said he's not suggesting anything like that, Mr. Banonis. Mr. Banonis said he'd like to finish, he was speaking. Mr. Goudsouzian said he was directing his comments to the audience, as Mr. Banonis requested and he was going to say to the members of the audience it is not proper, and he said this before in this meeting, it's not proper to call out. It's not proper to say things when other people are talking, please refrain from it. He's said it before and he'll say it again, and it's inappropriate. Sorry for interrupting you, Mr. Banonis.

Mr. Banonis said so, before he was so rudely interrupted by Priscilla, going back to his point. The Host Agreement and the land development plans had not been approved when that proposed budget was offered out and the consequence of all that, again, is, excuse him. Consequence of all that again...would you stop whispering in his ear. He doesn't know what she's doing. So, grow up. The consequence of all of this is that the new host agreement projects to bring in \$72 million over 18 years. That's the difference. That's the difference that establishes the lack of the need to have such a reserve. The other point that he would make here, is for those of you who may live in LST and pay school district taxes, which is pretty much everybody in this room, who has an interest in this. The Saucon Valley School District at their board meeting a few weeks ago announced that they are going to be \$2.5 million in the hole. \$2.5 million okay, and here's the kicker. The most that they can raise by statute is \$1.4 million. So, there's going to be a \$1.1 million shortfall that's going to have to come from somewhere. So, who knows what's going to be cut, if anything, but they have to figure out this budget. But at a minimum, it looks like they are going to be increasing taxes to generate an additional \$1.4 million, which is the maximum revenue they can generate by statute and raising the taxes to the highest level that is permitted by law. So, you got the school district, which is short on money, is going to be raising taxes, and then you got the arrogance of this LST Council that is sitting on over \$9 million of taxpayer money and they want to raise your taxes again and hoard more of your money. So, you are going to get higher taxes from the school district. You are going to get higher taxes from LST. Maybe the school district needs it to balance their budget, but certainly LST doesn't need additional money. To suggest otherwise, is absurd. And to lie that you are not raising taxes is a lie. It is a blatant lie, an absolute blatant lie. Just like you lied to the folks that were here complaining and expressing concerns about Easton Road and you said oh, we're not doing anything about it. The hell you're not. You directed Township staff, you directed Township staff to draft an ordinance to change back the rezoning to what it was before...don't interrupt him. Ms. Opthof-Cordaro said we're not on Easton Road. Ms. Ray said we are talking about the budget. Mr. Banonis said he doesn't care what you're talking about. He's going to finish his comment. Ms. Opthof-Cordaro said we are talking about the taxes. Mr. Banonis said he's going to finish what he's talking about and you don't interrupt him either. Mr. Carocci said don't interrupt. Ms. deLeon said she can interrupt him if she wants and he's not allowed to talk about...Mr. Banonis said he's talking to her. He's talking to her, don't interrupt him. Ms. Opthof-Cordaro said she thinks he should lead by example. Mr. Banonis said the lies, that's what he's talking about. Ms. deLeon said it's one o'clock in the morning...Mr. Banonis said it goes in hand in hand the history of lying, the history and history of lying. That's what it goes to for anybody who pays attention. Ms. deLeon said okay Tom. Mr. Banonis said he has nothing else. Ms. deLeon said you wanted to say something.

Mr. Banonis said he wants to say one other thing. Mr. Carocci said go ahead. Mr. Banonis said he sent RTK requests to the Township, dozens of them, seeking information from Priscilla deLeon, Victoria Opthof-Cordaro, Laura Ray, Mark Hudson, any member of Lower Saucon administration. These were sent January 17th. Ms. deLeon said what does that have to do with the budget. Mr. Banonis said January 17th. Ms. deLeon said what does this have to do with the budget. Mr. Banonis said it does have to do with the budget. So, don't interrupt him. He's going to get to the point. The items that he sought between November 7, 2023, January 2, 2024 or January 17, 2024, LST budget, LST draft budget, taxes, millage, general tax, fire services tax, surplus funds, operating reserves, revenue, controller Lynn Hill, the joke of a wacky presentation that they got, this Power Point projected estimates of cash balances which was fraudulent, Township Administrative Code, proposed budget revenue, preparation of the Township annual budget, this amended budget, all those things he requested and you know what he got in response to it, he got nothing. He got a letter from the Township saying, you know what, we're not going to give it to you in five days. We want an additional 30 days, and when does that 30 days expire? That 30 days expires, it expires after this meeting. Isn't that convenient? He doesn't know as a Council member, what sort of conversations were taking place through communications about those issues and the public doesn't know that. So, this remains secret. He has a problem with that. He has a problem that this information hasn't been turned over to him in a timely manner, particularly when the issues that are raised in those RTK requests are relevant to the matter that is before them now and this motion that has been made, and seconded.

Ms. deLeon said okay, Tom? Mr. Carocci said he agrees, that this information should have been turned over prior to tonight. Ms. deLeon said they are talking about the budget. Mr. Carocci said but these are emails related to the budget. It comes to, you know, like what are you hiding. Why wouldn't you turn the communications over? It does relate to the budget. He just told you how they related to the budget. So, you know...Ms. deLeon said can we call for the vote please. Mr. Carocci said so...Ms. Opthof-Cordaro said she has one little itty-bitty thing. Mr. Banonis said are you going to let him finish or are you going to keep interrupting him. He doesn't think Tom has yielded. Mr. Carocci said he hasn't, no, no. He means he knows Mark that Linc used to help him with the RTKs. Has he received any help from our new solicitor from the RTKs. Mr. Hudson said he has. Mr. Carocci said okay. Mr. Hudson said these are being answered in the same time that any big RTKs were answered in the past. Mr. Carocci said alright. Ms. deLeon said thank you Mark. Okay, Victoria?

Ms. Opthof-Cordaro said just two questions. Mr. Hudson, did the Township have a hearing, or she should say, a meeting on August 30, 2023 at which time a new Host Agreement was proposed and passed by Council? Ms. deLeon said at 9:00 a.m. in the morning. Ms. Opthof-Cordaro said it was the all-day meeting, does he remember that on August 30th? Mr. Hudson said yes. Ms. Opthof-Cordaro said when was the proposed budget made? Was that September? It was in the month of September, October? So, she just wanted to point out there were a number of statements made that they didn't know what the Host Agreement was when the proposed budget was prepared in September and October, and she thinks if we passed it August 30th, or the Council voted to pass it August 30th, that the records speak for itself on that matter. The only other thing she wants to note is that the meeting agenda for the January 2nd meeting came out the Friday before, is that right? Ms. deLeon said Thursday or Friday before. She doesn't remember. Ms. Opthof-Cordaro said so Thursday or Friday before, so it's like 3 or 4 days, at least 4 days. Mr. Hudson said whenever they normally came out, it came out. Ms. deLeon said right. Ms. Opthof-Cordaro said so and the RTK that Mr. Banonis and Mr. Carocci are discussing, that was received by the Township on January 2nd, is that right? Mr. Hudson said it's due tomorrow. Ms. Opthof-Cordaro said okay, so she's just pointing out that there was the choice by Mr. Banonis and Mr. Carocci to submit their RTK after they received the budget so that they could have a received their responses prior to today's meeting. That's the only point that she wants to make out that they had ample notice before that meeting on January 2nd as to what...Mr. Carocci said he didn't submit a RTK request. Mr. Banonis said because, this is an attack on him and he's going to speak on this. Ms. deLeon said just call the vote. Mr. Banonis said don't call the roll because he's going to speak on this and if she interrupts him again he's going to sue the Township for preventing him from exercising his rights. He's going to speak on this and the point of this is, the land development plan was not in play to guarantee that the Host Agreement would be in effect. That's the answer to that question, okay; and with regard to the RTK request, January 2nd, the proposed amended budget was on the January 17th agenda, okay, it wasn't on January 2nd so check your facts before you suggest he's being untruthful. Check your facts. Ms. deLeon said okay, can we have a roll call please to approve the 2024 amended budget.

ROLL CALL: 3-2 (Mr. Banonis and Mr. Carocci – No)

C. RESOLUTION #37-2024 – FIXING THE GENERAL-PURPOSE TAX LEVY FOR 2024

Ms. deLeon said Resolution #37-2024 has been prepared fixing the General-Purpose Tax Levy for 2024 at 4.24 mills and the Fire Tax at 0.90 mills.

MOTION BY: Ms. deLeon moved for approval of Resolution #37-2024 fixing the General-Purpose Tax Levy for 2024.

SECOND BY: Ms. Opthof-Cordaro

Mr. Banonis said he's completely opposed to it for the same reasons he just alluded to. It's ridiculous to increase people's taxes when you are sitting on so much money. He's already spoken on this. He's not going to change their minds, but he thinks that it needs to be mentioned for the record.

Ms. deLeon said okay, Tom. Mr. Carocci said so this has the general tax levy at 4.24. Ms. deLeon said correct, 5.14, she's sorry. Ms. deLeon said Victoria? Mr. Carocci said no.

Ms. Opthof-Cordaro said you didn't call for roll call, you just asked for comment. Ms. deLeon said yes. Ms. Opthof-Cordaro said she'd just incorporate her prior comments, that's all.

Ms. deLeon said Laura? Ms. Ray said no new comment. Ms. deLeon said public comment, anybody?

Ms. Andrea Wittchen came to the podium. Ms. deLeon said can you lower the microphone? Ms. Wittchen said she would be happy to. She said she's sitting here looking at her calendar, and in August, they met on Wednesday, August 30th at which time the brand-new Host Agreement was passed and the new, very dubiously figured out financial numbers were presented, which meant that the number that he's talking about that we're supposedly going to get from this new Host Agreement was well-known before they even got to the October budget discussions. On October 18th, they had the initial vote on the budget at the same general tax level that they have had as has been pointed out, for the last four years. It was then correctly published, which it needs to be done so it could be voted on, on Wednesday, November 15th. It was only on November 15th, that they were suddenly presented with the batten switch and the suddenly bogus arguments about how they had to give up all of this money, it was terrible to take it, even though Mr. Banonis sat on this Council for four years while the tax was at that level. And he can't stick around and listen to the truth she will point out. The fact of the matter is that the budget and the tax rate that was voted on, on October 18th, and was publicized correctly, is the same total tax rate that they voted on tonight. They have made a slight adjustment between the fire tax after discovering that the fire companies been a little bit shortchanged for a couple of years now, surprise, surprise, remains at the same total amount; and these people can sit here and smirk and carry on, but they've been pulling the wool over your eyes. They've been stealing the money for four years and all of a sudden, they lose, they get, they lose their majority on Council and this is their retribution. Welcome to Trumpism in LST. Ms. deLeon said thank you.

Ms. deLeon said anyone else care to comment? If not, can we have a roll call please?

ROLL CALL: 3-2 (Mr. Banonis and Mr. Carocci – No)

D. AUTHORIZE COLLECTION OF 2024 REAL ESTATE TAXES

Ms. deLeon said Council to authorize the Township Manager to collect the 2024 Real Estate Tax in the base amount of \$2,353,258.02 of which \$412,049.07 is for the Fire Tax based on an assessment of \$457,832,300 as presented by Northampton County.

MOTION BY: Ms. deLeon moved to authorize the Township Manager to collect the 2024 real estate taxes in the base amount of \$2,353,258.02 of which \$412,049.07 is for the Fire Tax based on an assessment of \$457,832,300.00 as presented by Northampton County.

SECOND BY: Ms. Ray

Ms. deLeon said Council discussion, Jason? Mr. Banonis said yes, for the same reasons as before. He thinks it's wrong and illegal to be taking people's tax money and hoarding it under the circumstances that are being used here.

Ms. deLeon said Tom? Mr. Carocci said same, it's illegal.

Ms. deLeon said Victoria? Ms. Opthof-Cordaro said she incorporates her comments made earlier. Thank you.

Ms. deLeon said Laura? Ms. Ray said she has no new comments.

Ms. deLeon said we have to vote on it. Mr. Hudson said public comment. Ms. deLeon said public comment, anyone from the audience, she's hearing none, okay, call for the vote.

ROLL CALL: 3-2 (Mr. Banonis and Mr. Carocci – No)

Mr. Banonis said may he be recognized? May he be recognized? Ms. deLeon said it's out of order, but go ahead. Mr. Banonis said thank you. So, it's unfortunate that Mr. Blasko left. He'd like to share...Ms. deLeon said what agenda item are you talking on. Mr. Banonis said they are still on items B., C., and D., which have been voted on but he has some comments he'd like to provide to Council. So, he's going to share with everyone. Ms. Opthof-Cordaro said point of order, they already voted and it's over...Mr. Banonis said copy of the Section 607 of the Second-Class Code that talks about the duties of supervisors and the Board of Supervisors shall be charged with the general governance of the Township and the execution of legislative, executive and administrative powers in order to ensure sound financial, fiscal management and to secure the health, safety, and welfare of the citizens of the Township. They are also required under Section 7 to perform duties and exercise powers as may be imposed and conferred by law with the rules and regulations of any agency of the Commonwealth. So, he's going to share a copy of Act 69, Second Class Township Code, Section 1508.1, it talks about the operating reserve fund. Under Sub-part B, it says the following: The Board of Supervisors may annually make appropriations from the General Township fund to the Operating Reserve fund but no appropriation shall be made to the Operating Reserve fund if the effect of the appropriation would cause the fund to exceed 25% of the estimated revenues of the Township's general fund in the current fiscal year. He'll say that again, no appropriation shall be made to the Operating Reserve fund if the effect of the appropriation would cause the fund to exceed 25% of the estimated revenues of the Township's general fund in the current fiscal year. So, he went over this with Cathy, and you were here, you heard it, that the amount in reserves was \$9.354 million and that 25% of that figure was \$2.7 million. So, he's sorry, 25% of the expenses was \$2.7 million. So, what they have done is they have broken the law, Section 1508.1, by approving a budget that retains greater than 25% of the estimated reserves of the Township. He'll also draw their attention to Section 3202 for annual budget and this says the Township shall prepare and, a Township shall not, the Township shall not prepare and advertise notice of a proposed budget when it is knowingly inaccurate. He'll say it again, Section 3202 annual budget, a Township shall not prepare and advertise notice of a proposed budget when it is knowingly inaccurate. They've already established, don't interrupt him. They've already established that the proposed budget is inaccurate in that it allocates \$1 million for Cherrywood, when the reality of the cost for Cherrywood is \$380,000.00 to the proposed budget that was prepared and advertised, was off by \$620,000.00, more than half a million dollars. So, he'll further bring to their attention, all the consequences of this. Here you go. Here's Section...and let the record reflect that he is providing them with copies of all these statutes. Section 3501, violation of act generally penalty, any Township supervisor elected or appointed Township official or employee, road master or contractor, or any other person including any corporation, officer, or employee, who violates any of the provisions of this act other than those for which specific penalties are provided or who fails to carry out the provisions of this act commits a summary offense, he'll say it again, commits a summary offense, all fines collected for violation of this act shall be paid to the Township Treasurer and credited to the General Township fund.

Mr. Banonis said so, Officer Bartholomew, he will give him copies of each of these so that he can share them with the LST Police Department and he requests that the LST Police Department investigate and charge and prosecute Priscilla deLeon, Victoria Opthof-Cordaro, and Laura Ray for violations on the Second-Class Township Code, and issue to them summary offenses and he asks that this occur promptly because what is taking place here is egregious and the LST taxpayers deserve better than this.

Mr. Carocci said he'll make a motion as follows:

MOTION BY: Mr. Carocci moved that Council makes a recommendation that the police investigate and prosecute this and proceed with the steps necessary for prosecution.

SECOND BY: Mr. Banonis

Mr. Carocci said he doesn't know what our solicitor thinks, but he thanks you for bringing this to their attention. Ms. Ray said and how many years did your fund exceed 25% of the estimated revenues. How many years? Mr. Carocci said Jason, thank you for bringing this up. Mr. Banonis said knowingly. Ms. Ray said knowingly for you. Mr. Carocci said knowingly, Jason, thank you for bringing this up. Thank

you for bringing this up Jason. Ms. Opthof-Cordaro said she just wants to point out the offense for the first one. Mr. Carocci said he has the floor. Ms. deLeon said it's late and we're talking out of turn, we're talking over each other. We need to have some order here. Okay, so we have a motion on the floor, it's been moved and seconded, and Victoria, did she want to say something?

Ms. Opthof-Cordaro said she just wanted to point out that Section 1933, Act 69, she guesses, which was the basis of the entire recitation of the proposed charges against myself and the other two Council members, and she apologizes. It says no appropriation, and that word appropriate implies and she thinks the definition of appropriate would be that they somehow did something in this current tax to give money to the reserve fund and there's a difference in that meaning between appropriate and retain. She would defer to our solicitor on that. By cursory review, they have four lawyers here, and she's sure there's a definition of retain vs. appropriate. They can discuss that. She would be opposed to it. Mr. Carocci said the problem is our solicitor is a political appointee for Priscilla and he'd like the police to take a look at this. Ms. deLeon said fine, there's a motion on the floor, any other discussion by Council before she opens it up to the public? Anybody in the audience would like to speak on this?

Ms. Andrea Wittchen said she'd very much like to know who they talk to about bringing the same summary charges against the two people who have been on the Council for the last three years and in the last three years have equally voted for reserve funds in excess of the claimed percentage that is appropriate and she would like the Council to look into what is appropriate to go back and to enforce that requirement on those two Council people. Thank you very much.

Ms. deLeon said she also thanks her and she also, did somebody else want to go? Go ahead Mark.

Mr. Mark Ozimek said he seconds that. What's good for the goose is good for the gander. What's good for the goose is good for the gander. It's been fine for years before, so if you are going to try and punish other people, don't forget to point the finger at yourself. Ms. deLeon said okay, thank you. Mr. Carocci said nothing else, it will straighten out for years to come. Mr. Goudsouzian said if there's no other comment, call for a vote. Ms. deLeon said okay, so can we just repeat the motion.

Mr. Carocci said Jason brought up these possible summary offenses and just requests that our law enforcement look into see whether, or request to look into to see whether they are offenses. Ms. deLeon said okay, roll call please. Mr. Banonis said it was actually to issue a summary offense and pursue the charges against them and collect the funds. Ms. deLeon said okay, call for the vote. Mr. Carocci said if there are offenses...Ms. Ray said this wasn't even on the agenda though, so are we supposed to be...Mr. Carocci said it's for the budget. Mr. Goudsouzian said let's call for the vote.

ROLL CALL: 2-3 (Ms. Opthof-Cordaro, Ms. Ray, Ms. deLeon – No) – Motion fails.

Ms. deLeon said she'd like to make a motion. She's talking now. She'd like to make a motion:

MOTION BY: Ms. deLeon moved to do the same thing to issue a summary offense for Jason and Tom.

Ms. deLeon said is there a second. Mr. Carocci said and you, Ms. deLeon, she was on that Council too, yourself. You forget you were on Council for the past 35 years. Ms. deLeon said she's glad he enjoying the laugh, but it won't be for long. Ms. Opthof-Cordaro said she's just going to extend her Christmas gift...Mr. Goudsouzian said here's what he recommends. Mr. Banonis said on what basis is he making a motion against him and Tom? Mr. Goudsouzian said there's a motion right now, and there's no second. Ms. deLeon said so it fails. Mr. Goudsouzian said it's 1:20 and we have things on the agenda, let's move forward.

Ms. deLeon said no second, her motion fails. Mr. Banonis said may he be heard again. Ms. deLeon said no.

E. DISCUSSION AND POSSIBLE ACTION ON THE BETHLEHEM LANDFILL

Ms. deLeon said Council will review DEP Inspection Reports from January 2024 and the Odor Complaint Log.

MOTION BY: Ms. deLeon moved to direct the Manager in consultation with our solicitor to send a letter to DEP urging them to issue a NOV to the Bethlehem Landfill for failure to comply with the requirements in their permit causing strong gas and leachate odors offsite reported in inspection reports since 2022, at least, North Slope road issues eroding with eroding and need for additional infrastructure, which affects the Narrows of Riverside Drive, temporary caps, strong odors of gas and leachate were detected during SEM testing, methane readings were in excess of 500 ppm, and some other issues. Bethlehem Landfill Company has failed to implement corrective action and she'd like the carbon copy with the attached two reports dated January 11th and January 25th, was it, attached. She'd like copies to go to Bethlehem Township, Borough of Freemansburg, Senator Boscola, Representative Freeman, Representative Mackenzie, Representative Emrick, Roger Bellas, Mark Wejkszner, David Matcho, LST, LST EAC, LST Landfill Committee, Secretary of DEP, Secretary of Governor Shapiro, NCD, DCNR, Astor Lawson, Dave Pannucci, Amy Faulch, and Matthew Vipond.

Ms. deLeon said so, and it's late, she's not going to go into too much detail, she's just going to...Mr. Carocci said add President Biden and Vice President Kamala Harris. Ms. deLeon said he is interrupting her conversation. She'd like to say that...Mr. Carocci said how about President Biden and Kamala Harris...Ms. deLeon said you are not being recognized. Mr. Carocci said may he be recognized? Ms. deLeon said no, she's talking. Mr. Carocci said Madam President...Ms. deLeon said no. Mr. Carocci said Madam President, gavel Nazi, may he be recognized?

Ms. deLeon said this is the January 11th DEP report, at the end it says new and outstanding violations, landfill gas odors detected on Applebutter Road in the SE area of the landfill have been occurring and documented in this inspector's reports since January 2022 inspection. Offsite odors migration into Applebutter Road between Red Barn Auto and the storage lockers have been extensively documented in DEP odor patrols. Expansion of existing gas collection, piping in the SE section of the landfill in October failed to control excessive odors and emissions from the immediate cover. Storm water netting on the south slope areas has minimized weather damage to intermediate cover, but has failed to control odors, fishes and seeps. BLC has been discussing potential solutions on ongoing odor issues including clay soil cap and wind defender tarps that has failed to implement corrective action. Another violation is SEMs were conducted by DEP on the SE corner slope and South slope below the active disposal area. In two areas, methane readings in excess of 500 ppm's were measured. Three areas of readings over 350 ppm's were detected on the South slope. Strong persistent odors of landfill gas and leachate were present throughout the South slope and the SE corner. Storm water netting may be mitigating weather damage but also concealing integrity issues including fishers, seeps, gas bubbling that were absorbed in the area.

Ms. deLeon said that's her motion, is there a second?

SECOND BY: Ms. Opthof-Cordaro

Mr. Carocci said he'd like to be heard to discuss this. May he be recognized, there's a motion on the floor? Ms. deLeon said normally she goes in order, so Jason, Jason is first.

Mr. Banonis said Tom can go first, and he may want to speak after Tom. Mr. Carocci said one, we're sending these reports to people who have already seen the reports, Astor, EAC, LST, that doesn't make a whole lot of sense to him. Yes, if we are just sending them to everybody for no reason whatsoever, let's get one to President Biden, Vice President Harris and let's throw in...Mr. Banonis said the governor. Mr. Carocci said the governor was on there. Mr. Banonis said County Executive. Mr. Carocci said yes, County Executive. Ms. deLeon said that's a good idea. Mr. Carocci said Ukraine President Volodymyr Zelenskyy, he might be interested on what's going on there. Another question, why aren't we sending one to Ed Boscola who produces the most odor over there with his water or waste treatment

facility and when we get over 2" of rain discharges it directly into the Lehigh River. Why aren't we sending him...he might have something to say about whether it's the landfill odor or the odor that comes from the waste management site. How come Ed's not on there?

Ms. deLeon said okay, Jason. Mr. Carocci said can we add Ed on there? Mr. Banonis said if she is singling out the landfill here, to the exclusion of other potential sources, which have already been identified previously as being sources of malodors. It makes no sense to him. He doesn't understand the purpose of this other than to grandstand. All these entities already have these reports. DEP does its job. He trusts that DEP does their job effectively. He's not here to second guess what they are doing. They are the experts in this. Mr. Carocci said she's sending DEP their own reports. She's sending DEP their own reports to grandstand. Mr. Banonis said brilliant. Mr. Carocci said brilliant. Ms. deLeon said Victoria.

Ms. Opthof-Cordaro said so first, she just wants to point out a few things. The list of cc'd people are not people that have received the DEP inspection reports. Some of them may have generated the DEP inspection reports, but certainly a letter that has yet to be issued by the Township would not be received by any of those entities. The other important thing she thinks is very important to say is what Mr. Banonis just said he really appreciates the DEP. He respects their professional opinion. He thinks they do a really good job. Mr. Carocci said they do. Ms. Opthof-Cordaro said the recitation of the violations, the DEP specifically identified and attributed to BLC, not any other entity and she thinks because he respects them so much, it would make sense that he would appreciate that they are the ones that made this determination. It was not an opinion of anybody else or a resident. It's the DEP's own determination. She thinks this is a long time coming considering that they've had odor complaints going on and on and on and she knows the DEP has been trying to have BLC do some corrective action and to BLC's credit, they have been working on it, but working on it and seeing a result are two different things and we've waited long enough and she thinks it's appropriate that the Township urge DEP to issue those violations.

Mr. Carocci said you aren't going to tell...Mr. Banonis said it's landfill inspection reports, it's not called the sewage treatment inspection reports...Mr. Carocci said are you going to tell the residents your parents have a lawsuit against the landfill. Ms. Ray said no, she thinks they are sending these letters so that a NOV to be issued, if appropriate, and it seems like it is, as these have been going on forever. Ms. deLeon said okay, public comment, Maryanne.

Maryanne Garber said thank you, she represents the Bethlehem Landfill (BL). She does think it's very important to put the inspection reports that have been discussed tonight into context. They all relate to the same condition. The issues with respect to odor and leachate seeps relate to the same condition, which is the adequacy of the intermediate cover to control the landfill gas odors and the leachate seeps in the SE corner of the landfill resulting from the elevated precipitation levels in our region. This is something that BL was on their radar well before the inspection reports that are being discussed tonight. They've been in constant communications with DEP about how to take proactive steps to respond to these kinds of weather-related conditions, which are not unique to the BL. She means, she thinks we've heard, you know, not only at tonight's meeting, but at multiple meetings that they've had, you know, they've had very unusual weather events that are becoming more and more typical and so, they need to be able to respond to those and they have identified the issue and they've taken a series of steps to remedy the situation. It's, you know, she's disappointed because she thought they had a very productive meeting with the Landfill Committee at which Ms. deLeon and Ms. Opthof-Cordaro were present and there's been no discussion at this meeting about all of the information that the landfill relays. So, she's going to go through that information. She's going to let everybody know what the landfill has been doing to address the situation. It has and it will continue to monitor for and repair leachate seeps when they are identified as soon as the weather permits and allows for the equipment that's necessary to make the repairs able to traverse the site. In March of 2023, the landfill contracted with a third party to extend the landfill gas header around the SE corner of the landfill and bring in two, vacuum two of the leachate cleanouts located in the area. In November of 2023, BLC and Archaea Energy installed two horizontal gas collectors in the SE corner of the site. In November of 2023, BLC contracted with a third party to

put in suitable material for intermediate cover and put in soil and erosion netting and erosion control blankets in the SE corner of the site. These were series of actions that were taken each of which improved conditions and then they would get more rain. So, there were a series of actions taken and you know, actually when you look at the SEM results, and compare the October numbers to the January numbers in the DEP report, you can see that the numbers went down significantly. In fact, there were only two exceedances in January. The threshold level is 500 and the two exceedances were for 504 and 540. They were very nominal exceedances. So the work they were doing was effective; however, they also recognize that there were still odor issues and that was more that could be done and so even though they saw the improvement, they determined on their own, not on at the direction of DEP. They determined that the best way to address the issue is to install a temporary path in the area so that's what they are doing. In December of 2023, again, before they had these reports, they bid out a contract with a third party to install a temporary cap on the SE corner of the site. It's going to cover about 4.5 acres and to install over 6 acres of permanent cap. The materials are on site. They've been on site for a week or two now and they just can't get to work because of weather conditions but they are ready to go. They explained all of this at the Landfill Committee meeting and the Townships' Host Municipal Inspector acknowledged that that is the fix and he also acknowledged all of their efforts to date and that there's been improvement over time. So, the idea that they haven't been responsive or that there's some issue related to their inability to respond is patently false and she needs to make that very clear. In addition, once the temporary capping is in place, they are going to be exploring the ethnicity of installing additional gas vertical wells in the newly capped area. They purchased a new vapor system to neutralize odors. They've been using mister systems but in the winter the water freezes up so they have a new system on. It's up and running, 24/7. They've maintained complete transparency throughout this situation. They are in communication with DEP. They are in communication with the Host Municipal Inspector and they are using all of their best efforts to continue to improve the situation. So, any suggestion that they are not doing what they are supposed to do is frankly offensive. With respect to...Mr. Banonis said it's another lie. Ms. deLeon said you are out of order. Ms. Garber said pardon me. Mr. Banonis said gavel him. Ms. deLeon said Maryanne, go ahead. Ms. Garber said with respect to the storm water on the North Slope that was also discussed at the Landfill Committee meeting in January and that's been an issue that's been discussed, she means, at least as far back as 2012, Ms. deLeon, she knows she will remember there were issues with water down the North Slope and when they put in the 4-F and the MSE wall, that improved conditions and there's been acknowledgements by DEP and the Township engineers that time over time, every time they go on with a project, they improve the storm water situation and just as recently as the Landfill Committee meeting on January 18th, the Host Municipal Inspector acknowledged that the water situation on the North Slope has nothing to do with the landfill and she'll read the minutes, well not the minutes, the transcription. Ms. deLeon said she was there. Were you at the January 18th meeting? Ms. Garber said yes, she was there and here's what it says, this is the Host Municipal Inspector. She guesses in response to Ms. deLeon, her question. Okay, are we going to talk about the storm that happened with the water flow on Riverside Drive? Were we going to talk about that; and the Host Municipal Inspector said we can. "After I went down and saw where the video was taken and that's coming down from below the MSE wall, just left of the maintenance garage, and that was where the water is heading down there. There is very little landfill area, active area, next to nothing that flows down that way from above. We ran some quick calculations. There's about 11 acres that when we built the MSE wall, 11 acres of storm water used to flow to the north, now it flows to the south so they've actually decreased flow". So she doesn't see how the landfill contributed or caused the problem. That's just nature. She doesn't see what the landfill could do to alter that. With some of the new Northern Realignment, that will help because some of where that's heading is going south, so that's a much bigger area.

Ms. deLeon said she would suggest she reads this report. Ms. Garber said she's read the reports, yes. Ms. deLeon said and the North Slope, when she was at this meeting and this was a 4th quarter report, meeting, because you meet quarterly and it didn't seem like, they met on the 18th but this report was dated on the 11th and...Ms. Garber said no, the report is on the 22nd, the inspection was on the 11th. Ms. deLeon said so she didn't physically get the report. Ms. Garber said that's correct. Ms. deLeon said but the people that were, she doesn't have the full report here, the people present were, no she doesn't have to look. Ms. Garber said this is who was at the inspection. So this is the January 11th inspection. Ms.

deLeon said that's the one she talked about, yes. She has it here somewhere but she'd have to dig. Ms. Garber said it was Matthew Vipond, Ed McNulty, Astor Lawson. Ms. deLeon said right, so on January 11th when the DEP inspectors came, they were there so they knew about these issues because the DEP does not write them up unless you guys know about them so they were introduced. She'd also like to let her know that the last week or so, there's almost been daily complaints about odor issues all over in a wide spread area and...Ms. Garber said and she would...Ms. deLeon said she's not done. Ms. Garber said excuse her. Ms. deLeon said the DEP inspector came and visited at least four homes that she's aware of and smelled landfill gas on the people's property, so she's waiting for that report to come out.

Ms. Garber said okay, and on the issue of odors, there are other sources of odors other than the landfill and so with respect when you look at the odor complaint logs, DEP goes out and they try to identify the source. They encourage people to call the landfill in addition to DEP because they can get out there much faster than DEP but if you look carefully at those logs, they are largely unconfirmed. Usually not landfill or landfill gas odors, there are sewage treatment plant odors, there are wood burning odors and just as recently as January 30th when there was a DEP complaint called in for odors, they heard first-hand from a resident that there was a trash train. They talked about the trash train coming from NJ to Ohio that stops all along the tracks in Steel City uncovered and that's another source of odor. So listen, she understand when people smell odors, it's concerning, but she thinks the idea that they are always coming from the BL is unfair and without basis, so all she's asking is that they be treated fairly and with respect. They've been transparent and they run a tight operation and they are here to cooperate and they are here to work with the Township and she hopes they can maintain that relationship because she thinks it's best for the community, it's best for the residents, it's best for the businesses and that's really all she has.

Mr. Carocci said he thinks she should write a response to everybody that they cc'd with just what she said and pandering to their political supporters. It's who they are genning up these odor complaints from. Ms. deLeon said Victoria. Mr. Carocci said and her parents sued, she's got a conflict. Ms. Ophhof-Cordaro said she really appreciates all that clarification and information she provided. She thinks the thing that she really wanted to highlight with all of that, she understands they are trying to address it, but the point is that even with all the attempts to address it, there are still readings and levels and issues that go above and beyond what the acceptable levels that are appreciated by the DEP are and she's just citing the DEP report itself. So the odors that DEP identified in this report were not, they didn't say it could have come from the train. They didn't say it could have come from the waste water treatment plant. They didn't say it was tree burning. Their own report that they issued indicating a violation, which is part of the January 11th report, and she will say respectfully, she didn't have this report at the time of the Landfill Committee meeting. The Township did not receive this until January 22nd. Ms. Garber said the report didn't exist before that meeting but respectfully...Ms. Ophhof-Cordaro said just let her finish. So her point is that they are not making conjecture. She's using the DEP's own information. Their own DEP finding, it is the DEP finding. It is not her finding. It is not anybody's finding. It's the DEP finding. So, she's glad they are working with the DEP and that they are trying to address the issue and she appreciates that and she said that at the Landfill Committee meeting. The facts still remain, as they sit there today, that they are continuously finding readings that are beyond what they find acceptable. The DEP finds acceptable.

Ms. Garber said and that's fine and she wants to be clear, she wants everybody to very carefully read the reports in their entirety. When you talk about exceedances, they are talking about the SEM, and if you look what existed in October and you look at the readings in January, the readings in January are almost nothing in terms of exceedances. So, let's just not take things out of context. Ms. Ophhof-Cordaro said but we're not playing horse shoes. Ms. Garber said pardon me. Ms. Ophhof-Cordaro said we are not playing horse shoes, close doesn't count.

Ms. deLeon said okay, we can talk about this all night, or all morning, it's 1:40 a.m. everybody, so...Ms. Garber said she would just urge everybody to read these very carefully. Ms. deLeon said the regs are stated right here that you violated, okay, it's crystal clear, okay, so thank you, can she have a roll call please.

Mr. Banonis said may he be heard? There's a man back there with his hand up. Ms. deLeon said no, we are doing the roll call. Mr. Carocci said Jason hasn't been heard on this.

Kevin Reilly-Rice said he just wants to state that he was driving on Easton Road last night and you can smell waste gas, he doesn't know where it's coming from, but you can smell that on Easton Road at the intersection of Lower Saucon. Ms. deLeon said she appreciates his comment because...Mr. Reilly-Rice said he wanted to clarify that. You can probably drive out there right now and still smell it, so take a look for yourself. Ms. deLeon said thank you.

Mr. Banonis said may he be heard? Ms. deLeon said you know what, okay, she's going to allow him, then they are doing a roll call, okay, so go ahead Jason.

Mr. Banonis said he's sorry that his request to be heard is so offensive to her. Ms. deLeon said it is 1:40 a.m. in the morning. Mr. Banonis said it's not his problem she can't run an efficient meeting, Priscilla. Okay, it's not his problem, so just a couple comments...Ms. deLeon said your showing your ignorance Jason. Mr. Banonis said is that a personal attack. Follow your own rules. Ms. deLeon said that's being ignorant. Mr. Banonis said follow your own rules. Mr. Carocci said roll over. Mr. Banonis said in response to what Ms. Garber had said, she had said she would hope that the landfill would be treated fairly and with respect. He believes that's a pipe dream. He appreciates her advocacy and her sharing of those important details with this Council because you had not done that, the public would not know the other side of this narrative. He thinks he already established multiple times that there are people on this Council who are dishonest liars and they are going to continue to do this and...Ms. deLeon said wow. Mr. Banonis said he appreciate...Ms. Ray said she thinks that's slander. Mr. Banonis said on who? He didn't name her, did he name her? It's your guilty conscious. Ms. deLeon said she doesn't have a guilty conscious. Mr. Banonis said the other thing he would point out is he recalls, her point about people being mistaken about the source of the odors. He recalls there was a federal lawsuit where somebody had accused the landfill of having odors. That lawsuit was filed in the Eastern District of PA if he recalls. It went up all the way to the third Circuit Court of Appeals, which is one level below the U.S. Supreme Court. That court remanded it back down to the federal court and in that federal court proceeding there was a deposition that took place and, in that deposition, the person who was the plaintiff in that case, realized for the first time and acknowledged that they were mistaken about the source of the odor and they admitted, if he recalls, that the source of the odor was, in fact, the Bethlehem Sewer Plant. So, to that point, it's been adjudicated and it's been determined in litigation that there are people that are mistaken about the source of the landfill and they need to be looking at other sources here and to continually point and look to the landfill for this, is really dishonest and a disservice and the fact that to her point, these reports are being cherry picked for certain details that are going to be used to leverage against the landfill, he thinks is regrettable. It just shows the nature of the people you have on this Council and how they represent this community. He doesn't think they do. Again, they don't. You saw on the budget they don't. Ms. deLeon said okay, please call for the vote.

Mr. Hudson said Mr. Carocci how do you vote? Mr. Carocci said what are we voting on? Mr. Hudson said you are voting on sending a letter to everyone that was mentioned. Mr. Carocci said the people he mentioned too? Ms. deLeon said they can add...Mr. Hudson said everyone that was mentioned. Ms. deLeon said yes, the NC also. Mr. Carocci said the President. Mr. Hudson said everyone in the USA, everyone in the USA. Ms. deLeon said please. Mr. Carocci said he's unclear as to whether....Mr. Banonis said what's the motion, he doesn't understand what the motion is. Ms. deLeon said the motion is to send and direct the Manager in consultation with the solicitor to send a letter to DEP regarding the stuff she read in the DEP inspection report. Ms. Opthof-Cordaro said is that issue of notice of requests for a NOV. Ms. deLeon said to request to issue a NOV.

ROLL CALL: 3-2 (Mr. Banonis and Mr. Carocci – No) - Mr. Banonis said he sees no point in sending a letter to DEP to tell them something they already know.

F. ACCEPT RESIGNATION OF CURTIN AND HEEFNER LLP AS TOWNSHIP SOLICITOR

Ms. deLeon said Council will accept the resignation of Curtin & Heefner LLP as Township Solicitor and Labor Counsel.

MOTION BY: Ms. deLeon moved to accept the resignation of Curtin and Heefner LLP as Township Solicitor and Labor Counsel.

SECOND BY: Ms. Ray

Ms. deLeon said Council discussion, Jason? Mr. Banonis said have they ever received an explanation from Curtin and Heefner why they accepted the position and why they suddenly bowed out after 15 or 16 days. Ms. deLeon said she hasn't received anything. Mr. Banonis asked Mark if he received any explanation. Mr. Hudson said no. Mr. Banonis said they only lasted 16 days. He thought Priscilla she would know because she was instrumental in getting them. Mr. Carocci said yes, she hired them herself without any...Ms. deLeon said Tom. Mr. Carocci said yes, he wants to be recognized after Jason. Mr. Banonis said well he finds it disappointing that, you know, that they paid someone to become a solicitor who spent such a short period of time with them and it seems like a waste of taxpayer money to have somebody who was not abreast of Township issues, who came in, collected a paycheck for a couple of meetings and then departed. It seems like, have we been billed? Have we been billed for any legal service, Mark? Mr. Hudson said they have not. Mr. Banonis said will we be billed? Mr. Hudson said he can't answer that. Mr. Banonis said he doesn't, he thinks that any bills we get with regard to any legal services that were provided during that preliminary period of time really need to be reviewed very closely and scrutinized so that they are not wasting money on services that provided very little or no value to the Township. Ms. deLeon said she thinks the Township does that routinely. Mr. Banonis said he thinks in this case, it needs even greater scrutiny. Ms. deLeon said that's their job to do it, so they would do it regardless. Mr. Banonis said he thinks in this case, the scrutiny needs to be much greater in light of the circumstances, how this gentleman was brought on board and a sudden resignation. You know, 15 or 16 days, somethings not right there.

Mr. Carocci said he agrees. How many solicitors are we going to pay? We had one that was perfectly fine and now we are paying these guys. They just bill to learn. We aren't their training center. We're running some kind of intern program for solicitors here and we had one that was perfectly fine. It was fine for 23 years and even the time when Priscilla was Council President for a lot of those years so it's, you know, we have people who were never Township solicitors acting as Township solicitors. Who knows what type of trouble it will get us in with exposure and litigation and stuff like that. They should have left well enough alone, but they didn't. They went and hired another political partisan and you know, it's ridiculous. Can we at least send this guy a letter thanking him for his hard work and dedication to the Township, for his hard work and dedication to the Township or to you, Priscilla. Mr. Banonis said is that a motion, he'll second it. Mr. Carocci said we send him a letter thanking him for his hard work and dedication for 16 days. Ms. Ophhof-Cordaro said she thought there was a motion on the floor already. Ms. deLeon said you can't have two motions on the floor. So, Victoria, move to accept the resignation, discussion.

Ms. Ophhof-Cordaro said she doesn't have any comment, she's inclined to vote yes. Ms. deLeon said Laura. Ms. Ray said given the wonderful behavior of Council members to people up here, it's no wonder, so that's her comment. Ms. deLeon said she'd like to open it up for public comment. No. Okay please call for the vote.

ROLL CALL: 3-2 (Mr. Banonis and Mr. Carocci – No)

G. AUTHORIZATION TO PREPARE REQUEST FOR PROPOSAL FOR A TOWNSHIP SOLICITOR

Mr. Banonis said may he be recognized? Ms. deLeon said Jason, we have to have some order here and we just can't...Mr. Banonis said he's asking her a question, may he be recognized? Ms. deLeon said for which agenda item? Mr. Banonis said the item you just read. Ms. deLeon said when they get to it, she will open it up to Council discussion. Mr. Banonis said and he just asked to be recognized. Ms. deLeon said she always recognizes Council.

Ms. deLeon said Council will authorize Township staff to prepare Request for Proposal for the position of Township Solicitor. Mr. Banonis said may he be recognized? Ms. deLeon said if authorized, staff will send out the "Solicitor Request for Proposal" by advertising an announcement in the local newspaper and an announcement will be placed on the Township website. Is there a motion? Mr. Banonis said may he be recognized? Ms. deLeon said yes, but we need a motion.

MOTION BY: Mr. Banonis moved for approval to authorize the preparation of a request for a proposal to Linc Treadwell for Township Solicitor.

SECOND BY: Mr. Carocci

Ms. deLeon said okay, so Jason and Tom. Any discussion by the rest of Council? Mr. Banonis said yes, Tom does he want to go first or should Mr. Banonis go first? Mr. Carocci said go ahead, you go first.

Mr. Banonis said yes, as Tom already said, they had a perfectly capable, competent, apolitical, Township Solicitor for 23 years. He was a Saucon Valley graduate. Knew the ins and outs of the Township operations very well. Kept the Township out of legal trouble. Provided appropriate legal advice to Council. Was readily available to Council. Conducted himself professionally. Could you please gather order? Mr. Carocci said she won't gavel the laughing, neither will the solicitor, he sits there waiting for his orders, waiting for his orders. Ms. deLeon said no, it's not selective gavel. Mr. Banonis said yes, it is, clearly it is. Ms. deLeon said everybody in the audience, please, it's late. We need to move on. Mr. Banonis said why is it always he has to be the guy that says, you know what, there's people clowning around in the audience and he got to bring it to her attention. Why doesn't she pay attention to this and conduct the meeting. Ms. deLeon said he doesn't always. Mr. Carocci said our solicitor sits in silence. Ms. deLeon said go ahead, let's talk about the agenda item.

Mr. Banonis said so his point again is, we had a great solicitor. He was not retained. Mr. Banonis is not aware of him giving any explanation as to why he was not retained, and suddenly some other guy shows up who was handpicked and it makes no sense because we are now on our third solicitor, who is an interim solicitor, and it's just beyond comprehension. It really is. That's his motion and that's the reason he's making it.

Ms. deLeon said okay, Tom, discussion. Mr. Carocci said yea, he echoes a lot of what Jason says. He doesn't think the solicitor should be a partisan political person and he thinks that's what they had in the first one, and that's what they are having in the second one here. He just ran a five-hour conditional use hearing somehow. He's never seen in his life, letting everything under the sun go on. You know, he sits there and waits for orders from you. That's not how it's supposed to be. He means, you never asked them their opinion on getting rid of Linc. You never asked them an opinion on bringing in this Freed guy. You never asked them, you just picking these persons. You are not even an attorney. At least bring in like Victoria in the process or Jason in the process if you don't want to bring him in. You didn't. You are being a dictator like he said. Then you wonder why they are not happy with their choices. You know, if you are going to interview for this job eventually, put Jason or me on the committee to interview. Let them help out. You want them to buy in. You want us to buy in, she is just telling them who. He's not buying in for that. Just bring Linc back and everything will be fine. Mr. Banonis said respectful cooperation and transparency. Mr. Carocci said right, no transparency. Ms. deLeon said one at a time, you had your turn, now Tom is talking. When Tom is finished, is he finished? Mr. Carocci said no transparency about these selections. You know, they are told and then they expect them to buy in. That's just not going to happen. They were perfectly fine with Linc for both Republicans and Democrats for 25 years, 23 years, whatever it is, you know, and now they have this, now they have this. It's unacceptable to not be involved. He'll give you an example. You know, you replaced everybody on these committees, that...Ms. deLeon said they are talking about solicitors...Mr. Carocci said it's the same thing, it's about appointment. Ms. deLeon said no, Victoria. Mr. Carocci said it's about appointment. You appointed; you didn't reappoint Linc. Ms. deLeon said he is not on topic. Mr.

Carocci said you appointed George Gress after...Ms. deLeon said he is not on topic. Mr. Carocci said so they did appoint Linc, they didn't make it political.

Ms. Ophhof-Cordaro said she's inclined to vote no. She doesn't have any other comments. Ms. deLeon said Laura. Ms. Ray said she'll make one comment that a lot of people are very disappointed in the Host Agreement that was put forth and that was one thing that was very called out by a lot of people, so. Ms. deLeon said okay...Mr. Banonis said that just goes to the ignorance of Council because that Host Agreement has the highest rate of any landfill in PA. It actually changes the, it changes the...Ms. Ray said in about eight years they will be at the lowest rate and continuing on. Mr. Banonis said economic model to the detriment of landfills. Ms. deLeon said you already went, Jason. Mr. Banonis said and he's going to speak to that point. Ms. deLeon said public comment. Mr. Carocci said there's no limit, Priscilla. He's an elected official. He's allowed to speak. Ms. deLeon said he did. We take turns. Mr. Carocci said he can speak more than once. Ms. deLeon said we take turns. Mr. Carocci said that's right, but you can speak more than once.

Ms. Ray said she wasn't done. Mr. Banonis said oh, he thought she was done. Mr. Carocci said you can speak more than once. Ms. Ray said the way that model works, nobody put forth any financial analysis and with the rates they have now with the annual 4% increase, they'd be surpassing those highest rates in approximately eight years. So, the rest of the 10, 20 years that the landfill continues, they'll eventually, they are going to be the very lowest tipping fee there is and that's a disgrace. Mr. Banonis said can he be heard? Mr. Carocci said yes. Ms. deLeon said go ahead Jason.

Mr. Banonis said it's called the present value of money. Okay, the present value of money. You want to have the money up front so it's loaded up front, yea, it's the same amount in the subsequent years but the money is loaded up front and is the highest, it's the highest return, highest host fee of any municipality in PA. Prove him wrong. Go out there and do your homework and prove him wrong. Show him one that's anywhere close to it. You can't. And to suggest that it's a bad deal for the Township, there are Townships that have landfills that would kill for an agreement like that. They would kill for it because it provides financial security for a long period of time among other things. It provides other benefits to the Township besides just the money part of it.

Ms. deLeon said okay, she would like to open up public comment, would anybody like to speak in the audience on this subject. Okay, can they have the vote please? Mr. Hudson said RFP for Linc Treadwell, solicitor.

ROLL CALL: 2-3 (Ms. deLeon, Ms. Ophhof-Cordaro, Ms. Ray – No) – Motion fails

Ms. deLeon said okay, well then moving on from that subject. We have the approval of the January 2, 2024 Council minutes. Mr. Banonis said he's not ready to move on from that subject. He's going to make a motion.

MOTION BY: Mr. Banonis moved to authorize to prepare a RFP for Township Solicitor.

SECOND BY: Mr. Carocci

Mr. Carocci said they never did that. Ms. deLeon said so that would be Jason and Tom, and that would be to prepare an RFP. Okay, so discussion.

Mr. Carocci said he'd like to amend that motion that Jason be part of the interviewing committee.

MOTION BY: Mr. Carocci said he's like to amend the precious motion and add that Jason be part of the interviewing committee.

SECOND BY: Mr. Banonis

Ms. deLeon said they only have one motion at a time on the table. Mr. Carocci said it's an amended motion. Ms. deLeon said he amended it, sorry, she didn't hear that. Mr. Banonis said he agrees to the amendment. Mr. Carocci said he seconded it.

MOTION BY: Mr. Banonis said he'd like to amend the precious motion and add that he be part of the interviewing committee.

SECOND BY: Mr. Carocci

Ms. deLeon said okay, any other discussion by Council. Anyone in the audience would like to comment on that. If not, can they have a roll call, please?

ROLL CALL: 2-3 (Ms. deLeon, Ms. Ophhof-Cordaro, Ms. Ray – No) – Motion fails

Ms. deLeon said so moving back to her other item, approval of the January 2...Mr. Banonis said he's going to make another motion. He's not ready to move off of that item. Ms. deLeon said they are done with that agenda item. Mr. Banonis said no they are not. Ms. deLeon said they are here all morning. Mr. Banonis said he's going to make a motion. Ms. deLeon said he's been standing all night.

MOTION BY: Mr. Banonis moved for the authorization to prepare an RFP for a Township Solicitor.

Ms. deLeon said to do what? Mr. Banonis said a motion to authorize to prepare a RFP for a Township Solicitor. Ms. deLeon said so that's back to the original agenda item. So, that's a motion Jason, is there a second?

SECOND BY: Mr. Carocci

Ms. deLeon said okay discussion up here by Council? Hearing none, is there anybody in the audience. Hi. Someone said hi, it's 2:00 in the morning, she's been here since 7:00. Ms. deLeon said she knows.

Carol Reilly-Makos said she would just like to say, Jason and Tom, she has sat here all night and watched the two of them. She is embarrassed, embarrassed for their behavior. You as a lawyer, my God, what do the peer's think of him? She's ashamed of him and he should be ashamed of himself. You know what, us people here that care and all this...he can roll his eyes at her like he's a 5-year-old child because that is exactly what he is. The two of them can't get their own way anymore. We the people have voted them in because you did not do what we wanted you to do and now all you want is Linc so that they can do what they want to do. Well, you know what, he's not coming back, so forget about him. He is now gone. These ladies are in control, whether they like it or not. So, all this bantering back and forth needs to stop. It is ridiculous to be at a meeting till 2:00 a.m. That is all she has to say right now. The two of you better check yourselves. Ms. deLeon said thank you. Ms. Reilly-Makos said you can laugh at her all he wants. Ms. deLeon said okay, okay. So they have a motion on the floor, they had public comment. Please guys, we got to get through this meeting and can they have a roll call for a RFP?

Mr. Banonis said so the votes no, seek to keep in place...Ms. deLeon said they didn't all vote yet, so they don't know how the vote is going to go yet. Mr. Banonis said he knows. She voted no to authorize for a Township Solicitor, right. So when Mr. Goudsouzian was selected, it was represented to Council and to the public that Mr. Goudsouzian was going to be an interim solicitor. Ms. deLeon said that's right. Mr. Banonis said and now, what this simply does is take that issue off the table and backdoor Mr. Goudsouzian to becoming the full-time solicitor without any effort, even though it was represented by her when Mr. Goudsouzian was put into becoming the interim solicitor that it was a temporary thing and that it would be advertised and others would be sought. So that was another dishonesty by this Council, another lie by these clowns, unbelievable. He means unbelievable. Mr. Goudsouzian, he doesn't know how you could continue in the role as solicitor when he came forward and he represented at that podium that you were going to be an interim solicitor. He doesn't know how he can sit here and allow them, if he has any shred of integrity, he doesn't know how he could continue on in that role. He is voting

absolutely no. Mr. Carocci said it's a disgrace. Mr. Banonis said it's disgraceful. Mr. Carocci said absolutely disgraceful.

ROLL CALL: 2-3 (Ms. Opthof-Cordaro, Ms. deLeon, Ms. Ray – No) – Motion fails.

Ms. deLeon said motion fails. Mr. Banonis said congratulations Mr. Goudsouzian. Ms. deLeon said they already went through public comment. He's still interim solicitor. Mr. Carocci said okay. Mr. Banonis said and there's no effort to replace him by advertising. Mr. Goudsouzian said he's embarrassed if you guys don't know this. Every professional that you have serves at your whim. Every professional whether it's your engineer or your attorney, you can, the majority of Council can make a choice at any point in time to change. You are all interim solicitors. You are all interim engineers. You are all interim professionals, by definition. Your code says it. If you guys don't know that, it's embarrassing that you don't know that. Mr. Banonis said he knows Sir, but when he stood there and it was represented that he was going to be interim solicitor, interim, not interim for like interim for a year or five years or whatever. Yes, we are interim on this earth. We are all going to die at some point, alright, so don't give him that bullshit. Mr. Carocci said it's ridiculous. Ms. deLeon said okay, they are moving on.

6. MISCELLANEOUS BUSINESS ITEMS

A. APPROVAL OF JANUARY 2, 2024 COUNCIL MINUTES

Ms. deLeon said the January 2, 2024 Council minutes have been prepared and are ready for Council's review and approval. She asked if anybody had any corrections, deletions, additions. If not, is there a motion for approval.

MOTION BY: Ms. deLeon moved for approval of the January 2, 2024 Council minutes.

SECOND BY: Ms. Opthof-Cordaro

ROLL CALL: 4-0 (Mr. Carocci – Abstained, he wasn't there)

B. APPROVAL OF JANUARY 11, 2024 COUNCIL MINUTES

Ms. deLeon said the January 11, 2024 Council minutes have been prepared and are ready for Council's review and approval. She asked if anybody had any corrections, deletions, additions. If not, is there a motion for approval.

MOTION BY: Ms. deLeon oved for approval of the January 11, 2024 Council minutes.

SECOND BY: Ms. Opthof-Cordaro

ROLL CALL: 4-0 (Mr. Carocci – Abstained, he wasn't there)

C. APPROVAL OF DECEMBER 2023 FINANCIAL REPORTS

Ms. deLeon said the December 2023 financial reports have been prepared for Council's review and approval. She asked if anybody had any corrections, deletions, additions. If not, is there a motion for approval.

MOTION BY: Ms. deLeon moved for approval of the December 2023 financial reports

SECOND BY: Ms. Opthof-Cordaro

ROLL CALL: 5-0

7. COUNCIL AND STAFF REPORTS

A. TOWNSHIP MANAGER – Mark Hudson – No report.

B. JR. COUNCIL AND STAFF REPORTS

Rudra Thakkar – Ms. deLeon said they gave their report earlier and left.

Mr. Banonis

➤ He received an email that he was asked to read into the record. This is from Krista Buss, it's captioned "Clarification Issues – I'm emailing you specifically because I know you will read it into the record unlike the other members. I'm watching the 2-7-28 meeting and would like you

to clarify what you meant when you said they were lying about the Easton Road rezoning. Since now the Council has caused severe issues with this for those of us who have signed contracts and have already committed to other residences. There is no reason to change the zoning. Those who want to stay” excuse him “are more than welcome and has already been committed that warehouses will not fit on this side. I don’t understand why they are okay with messing up our lives and costing us even more money for their own unknown agenda that makes no sense. Also, I would really like it brought to the Council’s attention about Victoria. How absolutely inappropriate she is. I do not believe it is in the Council members’ right to try to get specific details from my mother on her signed contract with the ones who want to purchase our property. I mean, would she give me specifics on her defamation lawsuit she has filed against Council members.” He thinks she’s confused there; we have the defamation lawsuit against her for lying to the public, but “it is just inappropriate and extremely unprofessional of her to be asking for specific details on a private contract that has nothing to do with her. We have also been told that Council has denied meetings with Lou Pektor as he has tried to schedule multiple times now. I would like to know why they have not been willing to meet with him. Thank you, Krista Buss.” Mr. Banonis said so Mark is it true that there have been requests from a developer to meet with regard to Easton Road? Mr. Hudson said he has never gotten a request. Mr. Banonis said okay. If there was a request that would be submitted to him, would he accept it and have a meeting with the developer? Mr. Hudson said he will meet with anyone. Mr. Banonis said okay. He doesn’t know if Victoria will answer this question, but he doesn’t know why she’s asking for a private agreement of sale for a property or a contract with regard to the sale of the property. It makes no sense to him and it seems very intrusive but that’s what she chose to do. So, that’s one. Ms. deLeon said is there a two coming up? Mr. Banonis said hold on.

- He said here’s another one from Lisa Rogers. Mr. Hudson said Jason, he’s going to stop him. He has an updated one from her. Mr. Banonis said is that from January 31, 2024? Mr. Hudson said it’s a February 1st one. Mr. Banonis said he’s going to read the one from January 31st because it was requested that it be read into the record. Mr. Hudson said he has both, but that’s fine. Mr. Banonis said he’s just going to read it if he doesn’t mind. Mr. Hudson said no problem. Mr. Banonis said “Good evening, I’m Lisa Rogers at *(address removed from minutes)*, I just watched the video from last Town Council meeting discussing the rezoning back to R-40. One Council member said it wouldn’t be immediate. You would talk and vote, talk and vote, talk and vote. Well one woman from the community spoke. She was repeatedly interrupted because she was using too much time. You’re using too much time. You’ve used up your time. How much longer do we wait in the wings for you to decide what you think about? You haven’t considered what is best for the individual’s families living here. After years of talking and voting, it was decided to be rezoned as LM, March 2023. Stop wasting time that is not yours. The Councilwoman said she wanted to look at ways to make it more accommodating.” He guesses that’s Victoria. “Perhaps look at ways to make it more accommodating for small business. Wouldn’t that be a valuable accomplishment? Lisa.” Mr. Hudson said he’ll read the other section that he received from her just since it was brought up. Mr. Banonis said there’s another email earlier than that, which he’ll share from her as well. “I was recently made aware that there’s a proposal to rezone the property again. This is very frustrating to me. I believe an objection shouldn’t have come up and be considered a year ago before it was rezoned to LM. This just puts me in delay, unable to move forward with finding a new home and I’m unsure if I should go ahead with upgrades to my current home. My intention isn’t to be unruly but rather just to share my view. Thank you for taking the time to read my emails. Sincerely, Lisa.” Mr. Hudson said he has one from February 1st. “I have never complained to Council about noise, trains or dirt from traffic and factories. That is very frustrating. My biggest frustration is very much the delay. I need to make changes for my physical health needs. I need to relocate the laundry to the upper level of my home and I need a water softener for purification. Both of these are large expenses. I initially planned this a couple of years ago. I either need to upgrade where I currently live if I am to stay or find a home suited for my needs. This delay in talking it over and voting is frustrating and scary for me. My health struggles are increasing to put me on hold is very distressing. I appreciate your voice to let my voice be heard. Thank you, Lisa.” Ms. deLeon said okay. Mr. Banonis said he has another one.

- Mr. Banonis said this is from Denise VanBuskirk, this is January 31, 2024. Again, this was an email that was sent to everybody on Council. “Potential development of Easton Road. I’ve been informed that a request has been made several times to meet with one or all of this Council by the developers.” He doesn’t know what that refers to. “I have given you undeniable proof that this is no longer a viable residential area. You are dragging out this potential rezoning back to R-40 for no good reason than other to cause more unnecessary delay and anguish! You have now cost me money that I can’t afford to lose. I have had several potential homes ready to purchase and they fell through because of the waiting of the uncertainty of the sale of my home. I have been stressed to my max physically, emotionally and mentally. Can no longer function correctly on a daily basis! Make the right move here and drop the rezoning to R-40 and let us get on with our lives. Meet with the developers ASAP or purchase my home so I can leave. Oh, and by the way, there have been 12 trains in this week alone. Six of which were outside of normal business hours, all of which shook the house, blew their horns, brakes screeched and woke us up several times. Not like I can get any rest these days with all the stress not knowing where my next dollar is coming from to stay here. Sincerely, Denise VanBuskirk.” Ms. deLeon asked if he was looking for another one to read? Mr. Banonis said he is. Ms. deLeon said Mark, she’s sorry she forgot to ask him for his report.
- He said here’s one, it’s from Oscar Gray, January 24, 2024 Council meeting. “Jason is a jerk, but I think he’s right that you can’t have a solicitor who is also solicitor for an agency of lawsuits against.”
- He said here’s another one, this is January 24, 2024, this is from Melissa M. Miranda. “Please read into the record 1-25-24 meeting, Hello please hold on pushing the change for Easton Road zoning until such time as the new solicitor has an opportunity to become acquainted with all concerns. For the record, I respectfully request that Council to leave the new zoning as LI/LM alone and not to revert to residential. I will prepare a more appropriate reasoning for a future meeting. Thank you. M. Miranda.” Ms. deLeon said can we move on to somebody else while he’s searching. Mr. Banonis said he that’s all. She said Mark, she apologizes, she forgot to ask him. Mr. Hudson said he doesn’t have a report.

Mr. Carocci

- He said yea, he received a lot of those same emails that Jason did and he thinks you know, they owe it to those residents. This was rezoned last March and on January 2nd, you throw out this thing that you are going rezone it and throw these people’s plans all out of whack and nothing can get done out there. You need to make a decision one way or the other. It’s unfair to these people. You are just stringing them along for some reason. It should be left the same. The people made plans. He’d love to get an update from our solicitor about if you do rezone this back, what type of liability the Township is facing with some of the properties out there and some of the agreements that have been entered into but he guesses that might be too much to ask. He doesn’t seem willing to do it. Mr. Banonis said is that a motion? Mr. Carocci said yes.

MOTION BY: Mr. Carocci moved to direct the solicitor to give an update as stated above.

SECOND BY: Mr. Banonis

Ms. deLeon said you can’t make a motion. It’s not on the agenda, so they can’t vote on it. Mr. Goudsouzian said it should be on the next agenda if they want it on. Ms. deLeon said it should be on the next agenda to take an action. Mr. Carocci said okay.

Ms. deLeon

- She wants to thank Mark and his staff during this transition. She really appreciates all their teamwork, so please pass that along.
- She’d like to talk about the RTK request 1821. She’d like the public to know that the Township has been inundated with voluminous amount of RTK requests, which requires our administration to spend time reviewing these documents, spending your tax dollars to provide the requested information. She supports the spirit of the RTK law and the public’s right to obtain information from government. She knows how frustrated she felt as a resident prior to the law in trying to obtain government information. She also feels that the public should know

how certain Council members are spending tax dollars. She felt this is an abuse of public resources. On January 2, 2024, the day the new Council majority was sworn in, Mr. Banonis submitted to the Township a total of 469 pages of RTK requests, 119 of which were directed at her. No problem, she complied. The request included 35 individual...Mr. Banonis said and he hasn't received a damn record. Ms. deLeon asked him if he was interrupting her. Mr. Banonis said yes, he is. Ms. deLeon said that's out of order. Mr. Banonis said yes, he is. Ms. deLeon said he's out of order. The request included 35 individual names of people owning property on Easton Road and 39 individual parcel numbers and addresses. She doesn't want to read them out loud because she wants to protect their privacy. She will mention that is also contained landfill consultant, Hellertown Area Library, Hellertown Library, library services, Hellertown Borough, 2024 budget, ordinance change Easton Road from LM to R-40, virtual meetings, zoom, Hellertown Library unpaid invoices, litigation landfill consultant. During her campaign and subsequent election, she feels very strongly about restoring library services, providing the proper landfill oversight and balancing proper zoning to the needs of our residents, balancing their quality of life. Like she said, she supports to spirit of the RTK law and the public's right to obtain information from government, but also feels that the public should know how certain Council members are spending their tax dollars. She feels this is abusive public resources. With that, she's going to end. Victoria? Mr. Carocci said the RTK, she said it was plural. You said Council members, he has not filed one RTK. Can you clarify that, Priscilla. Ms. Opthof-Cordaro said may she be recognized? Mr. Carocci said clarify that Priscilla, that's a lie. Mark Hudson, have you received one RTK from him? Mr. Hudson said no. Mr. Carocci said will she please clarify her comment? Mr. Banonis said if she was transparent, there wouldn't be a need for RTK, but she's not. Mr. Banonis said she's not so this is what she gets. Ms. Opthof-Cordaro said may she be recognized? Mr. Carocci said can she be at least clearer that he didn't file a RTK, Priscilla, she said Council members. You said plural. Ms. deLeon said she apologizes for saying members, she's trying to find out where it is in here. She meant member, well, Jason. Mr. Goudsouzian said why don't we recognize Victoria and move on, it's past 2:00 a.m.

Ms. Opthof-Cordaro

- She said because she delayed it last Council meeting because she was hopeful that this one would be shorter, but it wasn't, it was longer. All she wants to say is she did attend the Saucon Rail Trail meeting. They met in January and it was very productive and she appreciated going. It was held at Upper Saucon Township. The other thing is they did have a P/C meeting that discussed the Route 412 commercial center proposed by St. Luke's Hospital. Also at Planning, their board voted on a Chair, Craig Kologie and Vice-Chair Christopher Nagy with Secretary Jennifer Peters, so she wanted to just highlight that their P/C has met and it was very nice. Just for clarification of the record, there was a name of a resident who claimed that she had asked for some contract that they had entered into with Mr. Pektor, she didn't recognize the name of that particular resident. She will report for the record that she did receive an email from Ms. VanBuskirk who she thinks has sent a number of emails and for the record, she's reading her response to her. "Thank you for reaching out to me concerning the rezoning of Easton Road. I appreciate you providing the detail about the quality-of-life issues you are experiencing with the warehouses across the street and train that operates at night time. I appreciate you coming to Council last evening" referring to the former Council meeting "and sharing those concerns at the end of the meeting. At this time, Council requested the staff to review the ordinance passed in 2023 and to consider what other commercial uses could be suitable in this area. We have not received an update from staff on their review. I will be visiting Easton Road again to assess the conditions. I am happy to meet with you; however, I understand you are unavailable at this time." She would report just for the record that she offered that to her at the Council meeting that she would come meet with her and she said she had personal issues and was unable to meet her. She followed up in this email the following day. "Please let me know if your circumstances change and you are able to meet. I will ask our staff to advise you when they will be providing an update on our request. I am not sure when they will want to put this on the agenda. Please share any additional information you may have concerning Easton Road." Then she said "I understand" this is to Ms. VanBuskirk. "I understand you have an agreement with Mr. Pektor

and Ms. Reiman for the sale and development of your property. Any details you can share on the agreement will be helpful, helpful for me to weigh all of the issues with this matter. Thank you for reaching out with your concerns. Very truly yours, Victoria Opthof-Cordaro.” She will also note that she has been contacted by Ms. Reiman via text message. She asked her to please email her. She emailed her and requested that, she said “Good morning, Victoria, as you know I’m working with several of the residents along the section of Easton Road that’s in question for possible rezoning. If you’d be willing, I’d love to meet to discuss the project to show you some of the ideas that may have been tossed around and are progress this far. My intentions would not to pin you down, for info or anything in appropriate, but rather to explain the thoughts of the developers and so that we can hopefully arrive at a common goal effectively for all parties involved. If you are willing, please forward some dates and times and I’ll be happy to accommodate. Please feel free to contact me, via email, reply here to my phone number.” And this was sent by Ms. Reiman on Tuesday, January 30th. She responded to Cheyenne on Thursday, February 1st. “Hi Cheyenne, yes, I did get your email, thank you for reaching out. I’m available to meet next week, Monday” which would have been this past Monday “Tuesday” which would have been yesterday, “or Thursday” which would have been tomorrow, “during the daytime after 9:00 a.m. Morning time is best for me. Please let me know when you are available and we can confirm a time. Please also advise who will be joining us to meet. Thank you and look forward to seeing what you have in mind. Very truly yours, Victoria.” So that email was sent on February 1st to Ms. Reiman who she believes is representing the developer, but she’s not sure. She had requested to meet. Ms. Opthof-Cordaro has responded to her. That was February 1st, and she has not heard from Ms. Reiman about updated dates and her position has not changed, so she just wants to make the record clear there were some implications somewhere that people were not denying meetings and they were not being transparent, and she feels the residents need to see that they are continuing to honor what they had promised to do. Finally, she wants to say with regard to the information she did receive from the Manager about a RTK that came in 469 pages, she thinks, whatever that was, she concurs with Ms. deLeon about the situation they are facing in the Township and the residents should be well aware of the voluminous amount of records requests that they are getting and she doesn’t think it’s appropriate. Thank you.

Ms. Ray

- She said she’s running out of steam.

Ms. deLeon said wait one second, she doesn’t want to interrupt but she wants the record to reflect that Jason and Tom left the meeting at 2:20 a.m., okay Ms. Ray can go on.

- She said so, she has a lot of thoughts. Regarding the Easton Road, she wasn’t really planning on speaking of that tonight, but she just wants to point out to all the people that wrote the emails, and were talked about tonight, she did go back to the March 2023 meeting to re-visit, she actually did a count of, she means the room was packed, she remembers that, she was here and of all the people who spoke, there was about a dozen people who spoke that they were very upset about the zoning change to the LM district. They heard a lot of stories. There were two people who strongly were in favor of it and there was one person that was kind of borderline to go either way. So from what they saw, there was a lot of disfavor for that zoning change, and that’s why they wanted to look at it again. Now all of a sudden people are coming out of the woodwork that didn’t make their voice known before and they are complaining because we are concerned about the people that got ignored before so that’s why they wanted to look at it, so for the record. They have no financial gain either way personally. They were looking out for the residents that made their voices known.
- She will mention that she did attend the Parks and Rec meeting the other night and they reorganized, have a new Chair and a new Vice-Chair, and they are working on some neat, new ideas to go out and get familiar with the parks. They kind of want to each adopt a park and check it out every month and see what’s going on. She was happy to see that.
- She also did go to the Planning meeting whenever that was the other week where Mr. Goudsouzian sat and she thinks he did a great job. They had new members, so he did a good

job of explaining how the process works and that's very important. She doesn't think ever seeing that happen before.

- She will make some brief comments about RTK requests. They heard the big complaints here about not getting their turn-around in five days, which is crazy when you are making hundreds and hundreds of requests. She can say personally she made three individual requests over maybe the last two years. One of them was to another agency and she thinks two of the three she had to wait 30 days and it was just like a single question, so it wasn't hundreds of things so it's not outrageous and she doesn't know what they are complaining about and you know, you are withholding information is ridiculous. She knows some of the RTKs were regarding some of the things they are interested in knowing what, who we talked before we came on board here, and you know, what secret plans they were making and none of it is really secret. They are just following up on things that they did campaign on, one of them being the library so yea, they want to reach out and open the lines of communication that have been shut down for a couple of years. So there is no hidden secret agenda there. That's all she has.

B. SOLICITOR – No report.

C. ENGINEER – Absent.

7. **PUBLIC COMMENT – NON-AGENDA ITEMS – 5 MINUTE TIME LIMIT – OPEN TO EVERYONE**

- Mark Ozimek said he will probably be sleeping his afternoon away tomorrow. Actually, the reason he came up here was...Ms. deLeon said speak closer to the mic. Mr. Ozimek said he's sorry and he's the one that complains about that. The reason he came up here is because he wanted to get a total on all the RTK requests, no, you don't have to give them to him now. Ms. deLeon said she only knows about what she was given and there were 469 pages of RTK requests, 119 were for her. Mr. Ozimek said 119 were for her. Ms. deLeon said that's not all of them because he has more but this was due tomorrow. These are the ones that were due tomorrow. Ms. Opthof-Cordaro said 469 pages of responses are due tomorrow. Mr. Ozimek said okay. Ms. deLeon said today, today. Mr. Ozimek said so if he's correct in understanding this, he can do the same. Ms. deLeon said sorry, what. Mr. Ozimek said if he's correct, in understanding this, he can do the same. Ms. deLeon said you mean 469 pages? Mr. Ozimek said to Mr. Banonis. Mr. Hudson said it goes to him. Ms. deLeon said he can do what he wants, he is allowed to file. Mr. Hudson said you can't do it to Mr. Banonis, you have to do it to Mr. Hudson. Ms. deLeon said right. He can go on our website and there's a page. Mr. Hudson said he knows how to do it, he's done it. Mr. Ozimek said and then like normal, they all go to him, but does he like...Mr. Hudson said they all have to go through him. He has to touch every one of them. Mr. Ozimek said address them to him though. Mr. Hudson said it doesn't matter, it's him. He's the RTK officer. He answers every RTK. Mr. Ozimek said yea, he knows that. He's just wondering how to get to him. Well, he doesn't care what anybody else thinks, he thinks you guys are doing great and as far as the solicitor, congratulations for being tough and hanging out and he does appreciate his explanations on things. Have a nice night.

Ms. deLeon said you guys have been waiting all night. Ms. Opthof-Cordaro said you get like the platinum star. She was giving out gold stars before, now its platinum.

- Kevin Reilly-Rice said he wants to thank all you guys for hanging out and sticking to it. It means a lot because when he was here in March to talk about the rezoning, his concerns were just swept under the rug by the majority at the time and he feels like he wasn't given the chance to speak along with a lot of the other residents that couldn't make that one meeting that they had. He thinks that it should be returned to residential zoning because they didn't have a public, a very fair public discussion on it. You know, it's frustrating for him that he had to sit here from 7:00 p.m. till 2:30 a.m. just to have an opportunity to speak again because of two people. You know, he has to go to work at 5:00 a.m., so this is worth his time and he hopes everyone can recognize the amount of effort he took to be here and wait for this. You know, he has some pictures, which he can share at another meeting but he would like this to be on a meeting so they can have a group discussion. He would like to talk to all of those people that are for it because not one person came to them and gave them notification of this. The only reason he found out about that initial rezoning was because of a tiny orange tag that was put in the church, church grove that said notice of rezoning. It's a little poster and that was the only thing that he saw. He saw it for a couple of days and he was like maybe he should stop and read that and he was like, what is all this. He hasn't

heard anything about this before that. Then when you look back at the Council minutes, from April 15, 2020, this has been brought up back then. So the fact that it's going on for three years and he didn't know about it. His family didn't know about it. He's sure a lot of the other residents didn't know about it, is pretty sad that now all these people are going to come back and say, oh, it's been so long. This discussion could have been had a very long time ago, and it was not addressed then and he thinks we should have a very fair, dedicated time to discuss this as a community. He will accept the LM rezoning as long as warehouses, retail facilities, and store houses are removed from that list. You know, but he would like a formal discussion on this. Ms. deLeon said she had suggested that maybe they don't want to use the LM, maybe they can call it something different and put in better uses for people's properties that are more cohesive with that area. This has been going on, she remembers saying that. She's been talking about this from 2019, 18, and you know, Lou Pektor wanted to do that back then and they were at that time meeting with Saucon Valley Partnership and they were working together with Hellertown and concerned about the traffic coming off of I-78 onto Cherry Lane and making the left to go. She swears to God years ago they went to the city of Bethlehem and told them do not put an entrance or an exit, whatever that's called, an egress and ingress, on Easton Road that it had to be on 412. And they agreed to that and they approved LV whatever number it is site for the thing going on 412, not Easton Road because the road can't handle it. Then all of a sudden, there was five now they are starting, and they don't have to send us notifications of what they are doing in the City of Bethlehem, so sometimes you get a courtesy copy, sometimes you don't. Then all of a sudden, what four or five businesses started to be built on Easton Road and they are like what the heck, you know, so they are talking to them about truck traffic, you know, and Pektor came here, she thinks in 2020, well, he came here a couple of times before and they said what are you going to do with the truck traffic. You figure out the truck traffic and come back and she'll talk to him. He hasn't done that yet. There's no use to talk to him. Mr. Reilly-Rice said he'd also like to point out that Mr. Banonis who walked out, he in this report that Mr. Reilly-Rice has, Mr. Banonis stated he wanted to see a traffic survey. He didn't have a problem pushing that motion back in March without that traffic survey that he even requested. So, you know, sadly he's not here but you know. Ms. deLeon said she's here to listen to what the residents want and the zoning somehow to make it like she said cohesive for everybody but they have to have a meeting and they have a lot of changes up here so, to prepare an ordinance to put on the agenda, that can't happen next meeting. Mr. Reilly-Rice said that's fine. He will gladly wait. Ms. deLeon said as soon as they can get together and come up with something, you know, that's what they are going to do. That's what they all voted to do. Mr. Reilly-Rice sided he would definitely like to hear from all those people because when he was riding his motorcycle this past summer, and he went down to the bottom of Easton Road to make a left, to go into Hellertown, he almost got leveled by a semi-truck coming around that corner, so he does not make that left turn anymore when he's on his bike. Ms. deLeon said be safe. Mr. Reilly-Rice said so he has to go all the way up Apple Street and around to be safe. Ms. deLeon said to be safe. Mr. Reilly-Rice said he didn't expect an 18-wheeler to come barreling around the corner. Ms. deLeon said regarding the impacts they have living there, she doesn't see why, and she doesn't want to make a motion, but they can direct the Manager maybe to write to the city of Bethlehem and saying our residents have been complaining about these objectionable noises and whatever they have been complaining about. They can maybe do that in the interim to try to address some of the issues that they are having. Mr. Reilly-Rice said he knows people are bringing up the lights and the trains, well he hears them too. They might only have the lights from one or two warehouses, but they have the lights from all of the warehouses because they are on the top of the hill and if they want to put up more large buildings that have lights on all hours of the night, he doesn't want that at all because that's just going to exasperate the already terrible problem. Ms. deLeon said supposedly our ordinance has shields, they have things coming down to keep it off from bleeding off the property, but. Mr. Reilly-Rice said they clearly are not enforced. Thank you for your time and allowing him to speak. Ms. Opthof-Cordaro said thank you for staying so late. Platinum stars and obviously they heard a lot of people from January 2nd and she looks forward to hearing from more people and hopefully they can have meetings and discuss all the options, she appreciates it. Mr. Reilly-Rice said his family has lived in the area since the early 1800's so he thinks it's really sad they weren't reached out to. Thank you.

➤ Carol Reilly-Makos said in reference to the emails that Jason, she can't even call him Mr. Banonis, he doesn't deserve that respect, what he said about oh, reading the emails and how people are in between, oh I want to sell my house, oh, I can't do it, oh, this, that and the other things. She was at the March

meeting, she believes she helped pack this place for that March meeting and they were told and it should be in the minutes that if you do go forward and sell your property, that you should really look into the contingency process to see what that's based on the sale of their house, based on if these four people sell or you know what she means. So if those people are having issues selling their property, or they did sell it and now they can't move and what not, like that's on them. They should have come forward when they started seeing those changes across the street and they didn't, so it's unfortunate. Ms. deLeon said it is unfortunate. Ms. Reilly-Makos said it was a beautiful place to live and they just need to bring it back, whether that means putting up high fences and painting them green and planting bigger trees and whatever, we need to do that, so thank you.

8. ADJOURNMENT

Ms. deLeon said what time is it? 2:39 a.m. She doesn't ever, ever remember being here this late, in 36 years.

MOTION BY: Ms. deLeon moved for adjournment. The time was 2:39 a.m.

SECOND BY: Ms. Ray

ROLL CALL: 3-0 (Mr. Banonis and Mr. Carocci – Absent)

9. UPCOMING MEETINGS

- A. Environmental Advisory Council: February 13, 2024
- B. Council Meeting: February 21, 2024
- C. Planning Commission: February 22, 2024
- D. Zoning Hearing Board: February 26, 2024
- E. Parks and Recreation Board: March 4, 2024
- F. Saucon Rail Trail Oversight Commission: March 25, 2025 (Hellertown Borough)
- G. Landfill Committee Meeting: April 18, 2024

Submitted by:

Mark L. Hudson
Township Manager

Priscilla deLeon
Council President

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BEFORE THE TOWNSHIP COUNCIL
OF LOWER SAUCON TOWNSHIP

IN RE: :
 :
CONDITIONAL USE APPLICATION :
OF ALLENTOWN SMSA LIMITED :
PARTNERSHIP D/B/A VERIZON :
WIRELESS - 4235 LEWIS AVE :

TRANSCRIPT OF PROCEEDINGS
CONDITIONAL USE HEARING - VOLUME II
February 7, 2024

6:38 p.m.

Lower Saucon Township Building
3700 Old Philadelphia Pike
Bethlehem, Pennsylvania

BEFORE: THE TOWNSHIP COUNCIL

PRISCILLA DeLEON, President
LAURA RAY, Vice President
JASON BANONIS, Member
TOM CAROCCI, Member
VICTORIA OPTHOF-CORDARO, Member

STEVEN N. GOUDSOUZIAN, ESQ., Interim
Solicitor
MARK HUDSON, Township Manager
CATHY GORMAN, Assistant Manager/Finance
Director
BRIEN KOCHER, Township Engineer
STACY WERKHEISER, Administrative
Assistant

* * *
COOPER REPORTING
427 East Landis Street
Coopersburg, PA 18036
267-377-7435
stenoscooper@gmail.com

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APPEARANCES OF COUNSEL

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Also Appearing:

Sonja Miller, Interested Party
Stacie Misczenski, Interested Party

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(All exhibits were retained by Lower Saucon Township.)

1 MS. DeLEON: So with that, we'll move on
2 to presentations and hearings.

3 First on the agenda, we have conditional
4 use application of Allentown SMSA Limited Partnership
5 doing business as Verizon Wireless - 4235 Lewis Avenue.
6 Council will continue --

7 MR. CAROCCI: Before that hearing
8 starts, I'd like to renew my objection to Priscilla's
9 participation in this hearing. I'd like to make a
10 motion for Council to request that Priscilla recuse
11 herself from the hearing because of a property that she
12 owns, her home, is right near the site we're talking
13 about; and I think she's biased.

14 MR. BANONIS: I'll second the motion.

15 MR. GOUDSOUZIAN: Before we go into a
16 first and second of a motion --

17 MR. CAROCCI: No, not before. We just
18 did. That's what I did. I made a motion, and he
19 seconded it. It's not before.

20 MR. GOUDSOUZIAN: Before we go to first
21 and second the motion, the identification of what we're
22 hearing should be done. We should then be ready to move
23 forward to that. Then, if you're ready to make a motion
24 at that time, that's when you should make it.

25 So for now --

1 MR. CAROCCI: I'm making it now, and I
2 made it.

3 MR. GOUDSOUZIAN: You have not been
4 addressed, and you have not been identified by the
5 chair.

6 MR. CAROCCI: There's a motion on the
7 floor.

8 MR. GOUDSOUZIAN: But you can't just
9 simply --

10 MR. CAROCCI: Yes, you can. Yes, you
11 can.

12 MR. GOUDSOUZIAN: No.

13 MR. CAROCCI: Where? Show me where.

14 MS. DeLEON: Council will continue the
15 hearing on the conditional use application of Allentown
16 SMSA Limited Partnership doing business as --

17 MR. CAROCCI: May I be recognized? May
18 I be recognized?

19 MS. DeLEON: -- for the purpose of
20 construction of a cell tower to be located on the
21 property located at 4235 Lewis Avenue.

22 And at this time, I'd like to turn the
23 hearing over to our solicitor, Attorney Goudsouzian.

24 MR. CAROCCI: Well, I'd like to be
25 recognized.

1 MR. BANONIS: We have a court reporter
2 here who's taking this down. So the motion and second
3 has been made, and we are now being denied on that
4 motion. So the record speaks for itself. There may be
5 litigation on this and, you know --

6 MR. CAROCCI: I want to be recognized as
7 to why I'm making this motion.

8 MS. DeLEON: Okay.

9 MR. GOUDSOUZIAN: So right now, where we
10 are is we have merely identified what's before us.

11 Counsel, if you want to come forward and
12 take your seats.

13 MR. CAROCCI: So, Ms. deLeon, did you --
14 did you call Jim Young to your house on January 7th?

15 MR. GOUDSOUZIAN: All right. Hold on.
16 Hold on. Hold on.

17 Now is the appropriate time, sir. If
18 you want to make a motion, go ahead and make it.

19 MR. CAROCCI: I just made my motion.

20 MR. GOUDSOUZIAN: Now that we -- let's
21 do this in the correct order. Now that we have
22 identified the item that's before us, if you'd like to
23 make a motion, this is the time.

24 MR. CAROCCI: I make a motion that
25 Council requests Priscilla deLeon to recuse herself from

1 these hearings because the location of her home is
2 adjacent to this property, or in the very near vicinity
3 of this property, is my understanding.

4 MR. BANONIS: I second the motion.

5 MS. DeLEON: There's a motion on the
6 floor and a second.

7 MR. BANONIS: I'll second it. And I'll
8 just add -- if I may be recognized?

9 MS. DeLEON: You did second, so I'm
10 going to ask for any discussion by Council. And at that
11 time, I'm going to ask Tom to go first. Lead the
12 discussion?

13 MR. CAROCCI: Yes, I do. Your property
14 borders this property we're discussing right now, is my
15 understanding, Priscilla?

16 MR. GOUDSOUZIAN: There's no requirement
17 to answer.

18 MR. CAROCCI: That's fine. It does.
19 It's my understanding that there's been a right-to-know
20 request to the Township, Mark Hudson, regarding
21 Priscilla's communication with yourself, Jim Young, and
22 Rocky Viscito regarding this -- this subject that the
23 hearing is on, the cell phone tower.

24 MR. HUDSON: There is a right-to-know
25 request I have.

1 MR. CAROCCI: And when was that -- when
2 was that request initially made?

3 MR. HUDSON: I don't know.

4 MR. CAROCCI: Early January?

5 MR. HUDSON: Yes.

6 MR. CAROCCI: Did you ask for an
7 extension?

8 MR. HUDSON: Yes. It's due the 23rd.

9 MR. CAROCCI: The 23rd of February?

10 MR. HUDSON: Correct.

11 MR. CAROCCI: Now, we're having this
12 hearing tonight; so we don't have that information to
13 show we're biased.

14 MR. HUDSON: Correct.

15 MR. CAROCCI: Are you aware that she
16 requested Jim Young come to her house on January 2nd?

17 MR. HUDSON: I know he's been out there.
18 I don't know the date.

19 MR. CAROCCI: Mr. Young, you're here.
20 Isn't Mr. Young here?

21 MR. YOUNG: I don't recall the date.

22 MR. CAROCCI: Did you go out to her
23 house in early January?

24 MR. YOUNG: It's possible.

25 MR. CAROCCI: Okay, it's possible. So

1 we have no communication on that.

2 What was the nature of the visit,
3 Mr. Young?

4 MR. YOUNG: It was in regard to the
5 logging going on.

6 MR. CAROCCI: So it's possible you went
7 out there. You know exactly what it was. It was the
8 logging going on.

9 MR. YOUNG: Right. I don't know the
10 possible date.

11 MR. CAROCCI: Okay. And what was the
12 problem with the logging going on?

13 MR. YOUNG: She was concerned that it
14 was too close to her property.

15 MR. CAROCCI: Okay. All right.

16 Now, we haven't been provided any -- we
17 requested communications on all of this. We received
18 nothing. Was anybody else with you, Mr. Young?

19 MR. YOUNG: Yeah. Officer Haggerty.

20 MR. CAROCCI: Okay. We requested the
21 body-camera footage. Did you turn that over,
22 Mr. Hudson?

23 MR. HUDSON: No. We're working on that
24 right-to-know now.

25 MR. CAROCCI: But we're having the

1 hearing tonight. We have a motion about Ms. deLeon's
2 bias tonight.

3 MR. HUDSON: Yep. And it'll be handed
4 over by the 23rd.

5 MS. OPTHOF-CORDARO: I make a motion to
6 quash the motion.

7 MR. CAROCCI: I'm not done. I'm not
8 done.

9 MR. BANONIS: You can't make a motion
10 because a motion's pending on the floor.

11 MR. CAROCCI: The motion's pending.

12 MS. OPTHOF-CORDARO: I make a motion to
13 quash the motion.

14 MR. CAROCCI: So we don't have the
15 body-camera footage. Now, Mr. Hudson, when does
16 body-camera footage delete?

17 MR. HUDSON: It's not deleted.

18 MR. CAROCCI: No, that's wrong. I was
19 informed --

20 MS. OPTHOF-CORDARO: I renew my motion
21 to quash the motion.

22 MR. CAROCCI: -- it's deleted every
23 60 days; that every 60 days, that it's deleted. It's
24 deleted every 60 days. Is that accurate, Mr. Hudson?

25 MR. HUDSON: Not to -- not to my

1 knowledge.

2 MR. CAROCCI: Okay. So we would get
3 this body-camera footage before it's deleted?

4 MR. HUDSON: It'll be processed as part
5 of the right-to-know.

6 MR. CAROCCI: So you're not going to
7 guarantee you won't delete it before it's required to
8 turn it over?

9 MR. HUDSON: I will not delete it, no.

10 MR. CAROCCI: You will not delete it,
11 okay. Thank you. Let me see what else I have.

12 Was the second -- is this the second
13 request for an extension or the first request for an
14 extension on these?

15 MR. HUDSON: It's the first -- there's
16 only one extension permitted per right-to-know.

17 MR. CAROCCI: Okay. So this is the
18 first 30 days?

19 MR. HUDSON: It's the only 30 days.

20 MR. CAROCCI: Well, you know what?
21 Mrs. deLeon has made comments, she's publicly stated her
22 opposition on this, and I don't think that she should be
23 able to -- I think she should recuse herself. I don't
24 think -- she's shown her bias. It's supposed to be a
25 hearing.

1 And, you know, I think there's a problem
2 that the Township could be putting itself at legal risk
3 of being sued because she's not only going to not recuse
4 herself in the hearing, I don't believe, or she's going
5 to actually conduct the hearing.

6 I mean, Victoria is perfectly capable of
7 conducting the hearing. You could knock that off the
8 table right away, but she won't even do that. She'd
9 rather -- again, she's putting her own personal
10 property, her own personal thing, over the benefit of
11 the Township and possible legal action against the
12 Township. She put her own interests ahead of Township
13 residents and taxpayers' dollars that would have to
14 defend that lawsuit and possibly pay any type of
15 settlement.

16 MR. GOUDSOUZIAN: Did you want to go
17 next?

18 MR. CAROCCI: Again, I --

19 MS. DeLEON: Okay. Victoria, did you
20 want to go next?

21 MR. BANONIS: No. I actually asked
22 before Victoria to be recognized. I know it's hard to
23 keep track of.

24 So, Tom, I can respond to your questions
25 about the right-to-know. There actually is not a

1 right-to-know. There's dozens of right-to-knows, and
2 they were directed to communications from
3 Priscilla deLeon, Victoria Opthof-Cordaro, Laura Ray,
4 Mark Hudson, and any member of the Lower Saucon Township
5 administration. And those were submitted, I believe, on
6 January 18, 2024.

7 I'm looking -- in those right-to-knows,
8 I'm looking for communication between January 1, 2023,
9 and January 18, 2024, specifically with regard to
10 Rocky Viscito -- or Rocco Viscito. He's the owner of
11 4235 Lewis Avenue, references to 4235 Lewis Avenue,
12 references the cell phone tower and/or tower, SMSA
13 Limited Partnership, which is the applicant that's here
14 before us, Verizon or Verizon Wireless, who would be --
15 or are the owners and I believe the builder of the
16 tower.

17 And also, you may recall from the last
18 meeting that we had that Mark Reed {sic}, the interim
19 solicitor who lasted a grand total of 15 or 16 days,
20 that was Priscilla's hand-picked solicitor, who provided
21 a legal opinion at that time that Priscilla was
22 permitted to preside and participate and cast a vote on
23 this matter that is before us.

24 And among the things I requested in my
25 right-to-knows were the legal malpractice insurance of

1 Mr. Reed so that if and when the Township is sued, that
2 this Township can go back and pursue recovery from
3 Mr. Reed, his firm, and/or his insurance carriers, his
4 legal malpractice carrier, for the advice that he
5 provided if it is found that Priscilla should not have
6 been participating, presiding over this hearing, and
7 also casting a vote to the detriment of Lower Saucon
8 residents.

9 In addition, the right-to-know request
10 also inquired about the time restrictions and the time
11 limits that were placed on that January 17th meeting
12 unilaterally. You may recall, Tom, that we showed up at
13 the meeting. There was never any discussion of that.
14 Somebody made that decision. I don't know if we ever
15 got the answer to who made that decision to the
16 detriment of the applicant here, who brought their
17 witnesses from far away to testify and wasted their
18 time. And here we are again today.

19 So I think as a councilmember --

20 Excuse me?

21 UNIDENTIFIED SPEAKER: You're wasting
22 our time.

23 MR. BANONIS: Priscilla, can you calm
24 the crowd down? And can you keep order in the room?

25 So I think as a councilmember, I deserve

1 this information. Okay? And I think the public
2 deserves this information, and I think this information
3 should be brought to light. That's why right-to-know
4 requests exist.

5 There's a sunshine law. And this
6 information should be brought to light to potentially
7 establish and show the bias of somebody who's going to
8 be presiding over this hearing, as well as casting a
9 vote that may be the deciding vote on the matter that is
10 before us.

11 So I think -- you know, what raises
12 concern to me is why are all these issues being kept
13 secret?

14 MR. CAROCCI: Right.

15 MR. BANONIS: Right? So under the
16 right-to-know law, you have five days -- the Township
17 has five days to respond to it or request an extension
18 for 30 days.

19 What I'm asking for in these
20 right-to-know requests is not that complicated. I'm not
21 asking for complicated financial data or calculations or
22 anything else. I'm asking for some straightforward
23 communications, data information, emails, text messages,
24 and things like that that should be readily available.
25 But instead, they seem to be hidden, you know, from us;

1 and I'm not going to get them until after we're done
2 with this hearing today.

3 MR. CAROCCI: Did Priscilla tell you not
4 to respond on time, Mark?

5 MR. HUDSON: No. The quantities of
6 right-to-know requests --

7 UNIDENTIFIED SPEAKER: How many?

8 MR. HUDSON: -- there is not enough time
9 to answer them in five days.

10 MR. CAROCCI: You couldn't have
11 prioritized the ones for the hearing so we could have
12 them for tonight?

13 MR. HUDSON: They get prioritized by the
14 order they come in.

15 MS. DeLEON: Okay. Let's see.

16 Victoria, do you want to go next?

17 MS. OPTHOF-CORDARO: Thank you.

18 MR. BANONIS: I'm not done yet.

19 MS. DeLEON: Oh, I'm sorry.

20 MR. BANONIS: So the meeting has not
21 been called open yet, right? You have not moved to
22 reopen the meeting that was -- that was recessed
23 previously.

24 I'm putting my comments on the record
25 now, prior to this hearing opening up. I also want my

1 comments to be incorporated and made part of the meeting
2 and part of the hearing as well.

3 Do I have to repeat all these comments
4 again to make them part of the hearing? Or can I
5 incorporate them by reference so that I don't have to
6 say everything that I said so that it's very clear on
7 the hearing record? Because if and when there is an
8 appeal to state and/or federal court, I want those
9 comments to be part of the record so that the court can
10 consider those comments in its determination as to the
11 legality of what this Council does.

12 MR. GOUDSOUZIAN: If I can ask the
13 stenographer: Have you had the opportunity to get down
14 all that has taken place so far?

15 THE COURT REPORTER: Yes.

16 MR. GOUDSOUZIAN: So at that point,
17 there's no need to redo it.

18 MR. BANONIS: All right. Now, let me
19 ask --

20 MR. GOUDSOUZIAN: If I may?

21 MR. BANONIS: That's fine.

22 MR. GOUDSOUZIAN: If I may, before we go
23 any further, the motion is to recuse. And the recusal
24 is a decision that's made by an individual councilperson
25 based on their particular position.

1 And what I recommend we do is, number
2 one, it's not an appropriate decision for Council to
3 make.

4 MR. CAROCCI: It's a recommendation.

5 MR. GOUDSOUZIAN: Understood, sir.

6 MR. CAROCCI: Then get it clear. Get it
7 right.

8 MS. DeLEON: One person at a time.
9 You're out of order.

10 MR. GOUDSOUZIAN: And so, Ms. deLeon has
11 already indicated her previous position that she is not
12 going to recuse.

13 What I recommend we do at this point is
14 since it's not a vote that Council can impose, we move
15 on with the hearing. We actually open and take the
16 testimony. It'll allow these people who have come from
17 a distance today.

18 I've already spoken with counsel. They
19 do not anticipate they're going to finish the case today
20 anyway. So we have plenty of time subsequently to
21 address whatever recusal issues may or may not exist; or
22 Ms. deLeon can address those, if and when appropriate.

23 But I suggest we move forward. People
24 are here. Let's get moving with the hearing.

25 MR. CAROCCI: We're not going to finish?

1 Is there a time limit?

2 MS. DeLEON: You've already spoken.
3 It's not your turn.

4 MR. BANONIS: I'm not done talking. So
5 if you'll allow me to finish --

6 MARK OZIMEK: You know what? The
7 public's getting tired of this --

8 MS. DeLEON: Please, Mark. You cannot
9 interrupt us. No one can interrupt us.

10 I have the meeting under control.

11 MR. BANONIS: Clearly not, but...

12 MS. DeLEON: No. That's your opinion.
13 We know what we can do with them.

14 MR. BANONIS: I'm not done.

15 So the solicitor answered my question.

16 My question is to Ms. Durso, who's
17 representing the applicant at this point. Are you
18 satisfied that my comments that I said before the
19 hearing will be incorporated by reference once the
20 hearing is opened up, once I say I'd like to incorporate
21 those comments? Is that satisfactory to you for the
22 purpose of creating the record that your client needs
23 for the determination by this Council, as well as any
24 legal appeal that you file?

25 MS. DURSO: The fact that the

1 stenographer has the --

2 MS. DeLEON: Speak into the mike,
3 please.

4 MS. DURSO: I can't move it any closer
5 than it is. I'm sorry.

6 MS. DeLEON: Is the green light on?

7 MS. DURSO: Yeah, the green light's on;
8 but this is as far as it goes.

9 The fact that the stenographer has taken
10 down all of the -- I mean, since the meeting started --

11 MS. DeLEON: Hearing.

12 MS. DURSO: -- hearing started, yeah,
13 I --

14 MR. BANONIS: The hearing hasn't
15 started. We can't open the hearing --

16 MS. DURSO: I meant as far as the
17 conversation goes, the stenographer has taken down your
18 information. I am comfortable if you just reaffirm it
19 when the record officially opens because she has it as
20 part of the transcript.

21 MR. BANONIS: I will gladly do that.
22 Thank you.

23 MR. CAROCCI: I have a question for the
24 solicitor.

25 MR. GOUDSOUZIAN: Okay.

1 MS. DeLEON: We already -- Tom, we've
2 already heard your question. We've already --

3 MR. CAROCCI: You have --

4 MS. DeLEON: Tom, you're out of order.
5 Victoria, would you like to go next?

6 MR. GOUDSOUZIAN: Why don't we -- if I
7 may?

8 MS. OPTHOF-CORDARO: Thank you. I --
9 Go ahead.

10 MR. CAROCCI: Can he answer the
11 question?

12 MS. DeLEON: No. You already had your
13 turn. We have to go -- two other -- three other
14 councilpeople haven't even spoken yet.

15 MR. CAROCCI: They can speak.

16 MS. DeLEON: Victoria?

17 MS. OPTHOF-CORDARO: I think that the
18 solicitor had a comment. Do you still want to go back
19 through --

20 MR. GOUDSOUZIAN: Right. What I
21 anticipate we do is since this is a vote that will --
22 cannot take place in the sense of he cannot force a
23 recusal or nonrecusal, my recommendation is we move
24 forward with the hearing. We formally open the hearing.
25 And we can address the time issues that you just raised,

1 sir, as well as other procedural issues and move
2 forward.

3 MR. CAROCCI: There's a motion that's
4 been seconded. There needs to be a vote.

5 MS. DeLEON: But it's an illegal motion.
6 It's not a proper motion.

7 Am I understanding the law?

8 MR. GOUDSOUZHIAN: (Nodded head
9 affirmatively.)

10 MR. CAROCCI: Motion for a request --

11 MS. DeLEON: Okay. Thank you.

12 MR. CAROCCI: -- the vote be taken.

13 MS. DeLEON: So I would like to ask the
14 solicitor to read --

15 MR. GOUDSOUZHIAN: Well --

16 MR. CAROCCI: No, you're not following
17 the rule. There was a motion that was seconded.

18 MS. DeLEON: It's an illegal motion.

19 MR. CAROCCI: It's not an illegal
20 motion. It's a motion to request that you recuse
21 yourself. It's a request. It's a formal request from
22 Council, if it passes. If it doesn't pass, then it's
23 not a formal request from Council. There's nothing
24 illegal about it. You're completely wrong.

25 MR. GOUDSOUZHIAN: Sir, apparently what

1 you're doing is you're amending your motion, which is
2 fine.

3 MR. CAROCCI: No, I didn't. I always
4 said it was a motion to request that she recuse herself.

5 MR. GOUDSOUZIAN: Now, with that
6 clarification, your motion is to request --

7 MR. CAROCCI: That was always the
8 motion.

9 MR. GOUDSOUZIAN: Your motion is to
10 request -- I want to make this record clear.

11 If your motion is to make a request that
12 she recuses herself --

13 MR. CAROCCI: Council makes the request.

14 MR. GOUDSOUZIAN: Council makes --
15 there's a first and a second. If you want to call it
16 for a vote now, we can call it for a vote and just move
17 on.

18 MR. CAROCCI: Well, why would we call it
19 for a vote after?

20 MR. GOUDSOUZIAN: I'm just -- what are
21 you talking about?

22 MR. CAROCCI: She should recuse herself
23 from the meeting.

24 MR. GOUDSOUZIAN: The motion that's
25 before you, that you have made --

1 MR. CAROCCI: Yes.

2 MR. GOUDSOUZIAN: -- is to ask Council
3 to ask her to recuse.

4 MR. CAROCCI: Right.

5 MR. GOUDSOUZIAN: Okay. We have a first
6 and a second.

7 MR. CAROCCI: Right.

8 MR. GOUDSOUZIAN: We have not had all of
9 Council yet even comment on that.

10 MR. CAROCCI: That's right. You don't
11 want a vote?

12 MR. GOUDSOUZIAN: No, no, no, no. Now
13 that you've clarified what you're asking, the
14 councilmembers --

15 MR. CAROCCI: I didn't need to clarify
16 what I'm asking. It was exactly what I said in the
17 beginning. You're not listening.

18 MS. DeLEON: Stop being argumentative.

19 MARK OZIMEK: Talking in circles.

20 MS. DeLEON: Please, please. Please, we
21 have enough problems up here. We don't need any
22 comments from the audience. Please.

23 MR. GOUDSOUZIAN: So what I was
24 recommending is if councilmembers want to speak on this
25 issue, they can. Then after they're done, we call for a

1 vote and then move on with the understanding it's a
2 recommendation or request.

3 MS. DeLEON: Right, okay.

4 So did you have anything else, Victoria?

5 MS. OPTHOF-CORDARO: I think that it's
6 inappropriate to make this motion at this time. I take
7 exception to the opinions and assertions made by
8 Mr. Banonis and Mr. Carocci. I think Ms. Durso is very
9 happy today that she has two additional counsel with
10 her. So she's stacked today with not one, but three
11 attorneys working in favor of the applicant. That's all
12 I have to say.

13 MS. DURSO: And that's not my --

14 MR. BANONIS: What does that have to do
15 with anything?

16 MS. DeLEON: Okay. Laura?

17 MS. DURSO: Okay. Wait a second. I
18 knew you were --

19 MS. DeLEON: Sorry, no comments from the
20 floor. This is Council discussion.

21 MS. DURSO: Yeah, but that's insulting
22 to me.

23 MS. DeLEON: Counsel, excuse me, you're
24 out of order.

25 Laura, would you like to speak to this?

1 (Multiple voices speaking at one time.)

2 MS. RAY: Yes, I would, because it's my
3 turn.

4 So it's very confusing, all the
5 confusion going on. I would think that whether she
6 recuses herself or not, I thought the understanding was
7 you could still participate and ask questions and
8 whatever until this ever comes to an end, if it ever
9 comes to an end, and we vote on whatever we're doing
10 with this application. Then that would be the time a
11 person would recuse or not recuse.

12 That's my understanding. Maybe that's
13 totally wrong. So I don't know why we're arguing about
14 it now. We're wasting a lot of time.

15 MS. DeLEON: Yes, we wasted a half hour.

16 MS. RAY: And as far as bias, I think
17 bias was clearly shown already on the other side with --
18 when this came through as a variance and went to
19 Zoning Hearing Board.

20 So all those variances were being okayed
21 by a couple councilmembers that are up here now. And
22 not only that, but they voted to send the solicitor to
23 the Zoning Hearing Board, which is not typical. So I'm
24 going to say, to me, that seemed like bias in the
25 opposite direction.

1 So everybody's biased. So...

2 MR. CAROCCI: Only one person that owns
3 property --

4 MS. RAY: You've already --

5 MS. DeLEON: Excuse me. You already had
6 your turn.

7 (Multiple voices speaking at one time.)

8 MR. CAROCCI: -- adjacent to this
9 property, and that's Ms. deLeon. Ms. deLeon owns
10 property adjacent to this property.

11 MS. DeLEON: I'm going to recess the
12 meeting, and nobody is going to --

13 MR. GOUDSOUZIAN: Hold on. Hold on.
14 Everybody stop talking. Everybody stop talking.

15 Laura, is there anything else from your
16 end?

17 MS. RAY: No.

18 MS. DeLEON: Okay. So what I'd like to
19 say is, unfortunately, I was interrupted in my opening
20 of this agenda item. And I would like to -- just so
21 that everybody doesn't -- that believes me here, I'd
22 like the solicitor to read what I have here.

23 MR. GOUDSOUZIAN: It says: At this
24 time, I would like to turn the hearing over to our
25 solicitor, Attorney Goudsouzian.

1 MS. DeLEON: So that's what I was saying
2 as you interrupted. So because I was not -- had no
3 intentions of doing this hearing. Okay? It's right
4 here in my notes. Okay? So at this time --

5 MR. CAROCCI: Because you're biased,
6 you're admitting bias then.

7 MS. DeLEON: -- we need to --

8 You are out of order, Tom. And like I
9 said, I don't have a problem recessing this meeting.

10 MR. CAROCCI: I don't either.

11 MS. DeLEON: I don't want to do that
12 because we have an applicant here for a hearing; and out
13 of respect, I don't want to --

14 MR. CAROCCI: Then just recuse yourself.

15 MS. DeLEON: But can we please have a
16 roll call?

17 MR. BANONIS: May I be heard again,
18 please?

19 MS. DeLEON: No. We --

20 MR. CAROCCI: Yes.

21 MS. DeLEON: We --

22 MR. BANONIS: I'm going to speak again.

23 (Multiple voices speaking at one time.)

24 MS. DeLEON: (Banging gavel.)

25 MR. CAROCCI: You're an elected

1 official. You can speak.

2 (Multiple voices speaking at one time.)

3 MS. DeLEON: You're not listening.

4 Mark, can you give a roll call, please?

5 MR. BANONIS: I'm also going to respond
6 to Victoria's comments, which I see as an attack on the
7 applicant's attorney, suggesting that she and her client
8 are overly lawyered up and somehow all powerful in
9 regard to this matter.

10 I think that that's an inappropriate
11 attack because counsel's supposed to be. And it shows a
12 lack of bias. And I think that that indicates on its
13 face a perceived bias to start this hearing.

14 MR. GOUDSOUZIAN: Now, it's time for the
15 roll call.

16 MR. BANONIS: Thank you.

17 MS. DeLEON: Okay.

18 MR. HUDSON: Mr. Banonis, how do you
19 vote?

20 MR. BANONIS: This is the motion to
21 request Priscilla to recuse herself from participating
22 in this meeting or casting a vote with regard to this
23 matter?

24 MR. HUDSON: Yes.

25 MR. BANONIS: Is that what the motion

1 is?

2 MR. HUDSON: Yes.

3 MR. BANONIS: I will vote yes.

4 MR. HUDSON: Ms. Opthof-Cordaro?

5 MS. OPTHOF-CORDARO: I vote no.

6 And I just want to say to Ms. Durso, it
7 was not any disrespect to you. It was not any
8 disrespect to you, and I want you to know that. And I
9 appreciate your comments. Thank you.

10 MR. HUDSON: Mr. Carocci?

11 MR. CAROCCI: Yes.

12 MR. HUDSON: Ms. Ray?

13 MS. RAY: And I'll vote no.

14 MR. HUDSON: Ms. deLeon?

15 MS. DeLEON: No.

16 MR. HUDSON: Motion does not pass.

17 MS. DeLEON: Okay. So with that --

18 MR. GOUDSOUZIAN: Okay. Now we'll get
19 to the point where now, we are formally opening the
20 hearing.

21 And for the purposes of clarification of
22 the record, the stenographer will make as part of the
23 record all the pre-discussion that took place prior to
24 the formal opening of the hearing.

25 Before we start with testimony or

1 otherwise, I'd like to go over some status as to where
2 we are with counsel, as meaning the lawyers, and
3 Council, Lower Saucon Council.

4 To date, as of now, there's no
5 indication that there's going to be a time limit on the
6 hearing; and I've communicated that to the attorneys.

7 The anticipation is that testimony will
8 hopefully be concluded tonight, but the record will
9 remain open. And then the lawyers, counsel, will then
10 file legal memoranda in support of their respective
11 positions. Depending on timing, we'll have closing
12 arguments here tonight or some other night.

13 And I say this to the lawyers: Do you
14 both agree so far with what I have identified?

15 MS. DURSO: Yes, I do. I believe that
16 we were hoping to close the record but for the
17 submission of the legal memoranda and the briefs and
18 closing argument, not new testimony.

19 MR. GOUDSOUZIAN: Correct. But the
20 record would remain open for time period purposes and
21 otherwise.

22 MS. DURSO: Correct, yes.

23 MR. BANONIS: Counsel that's here, he
24 wasn't here at the last meeting. Can you identify
25 yourself?

1 MR. DESCHLER: Good evening. I'm
2 Matthew Deschler for Bilal Khan, Danielle Yanchuk, and
3 Russell Sutton.

4 MR. BANONIS: So let me ask you a
5 question.

6 May I be recognized to ask counsel a
7 question?

8 MR. GOUDSOUZIAN: At this point, we're
9 merely identifying where we are with regard to --

10 MR. BANONIS: I have a question about
11 whether we want to proceed in this matter. When you
12 look at -- I have here Exhibit C-9, and it identifies
13 the minutes from the Lower Saucon Township Zoning
14 Hearing Board meeting, November 15, 2004. I was
15 actually on the Zoning Hearing Board back then.

16 And I recall vaguely when this came
17 before us. And at that time, I believe that
18 Mr. Viscito, who's the property owner here, was
19 represented by your father, who was before us at the
20 last hearing. He didn't disclose to us that he had
21 represented the property owner.

22 Does that seem to be a conflict of
23 interest that puts you into some sort of ethical
24 dilemma, to allow you to represent somebody who is now
25 adverse to somebody that was represented by your firm,

1 intimately represented by your firm, by your father,
2 with regard to the consolidation of the development of
3 this property originally?

4 MR. DESCHLER: No, sir. I was in high
5 school at the time and --

6 MR. BANONIS: I know, but it was your
7 father. Your father was here as an attorney and --

8 MR. GOUDSOUZIAN: Hold on. The
9 question's been asked. We should allow him to answer.

10 MR. DESCHLER: It was actually a
11 different firm. Actually, it was a couple of firms ago
12 when that occurred. Mr. --

13 MR. BANONIS: It was your father.

14 MR. GOUDSOUZIAN: Sir, please let him
15 answer.

16 MR. DESCHLER: Yes, it was. What I
17 would say is that given the time that has gone by,
18 certainly Mr. Viscito at this point would be a former
19 client of my father's and multiple firms ago.

20 As long as my father -- actually, I
21 think it was -- Ms. Durso indicated to me or somehow I
22 became aware that my father did, in fact, represent
23 Mr. Viscito on the lot consolidation back in 2004. He
24 had no recollection of that. He had to kind of jog his
25 memory. It's been a while.

1 What I would suggest is that for there
2 to be a conflict regarding a former client, either I or
3 my firm or my father would have had to have some
4 information in hand that could be used in some way
5 against Mr. Viscito in this action.

6 I can represent to you, Mr. Banonis,
7 that I don't really see what the information would be.
8 My father was involved in the lot consolidation in 2004.
9 We're not here on the lot consolidation now. I don't
10 really see what information he would have gleaned if --
11 again, like I said, he didn't -- he has no recollection
12 of what went on back then, aside from what we see in the
13 paperwork.

14 Obviously he was involved, but there's
15 no information that he would have obtained -- and he
16 doesn't remember what really happened -- that he could
17 share with me that could be used adverse to Mr. Viscito
18 in this action.

19 MR. BANONIS: Have you and/or your
20 father shared this with Mr. Viscito and gotten any sort
21 of written approval from him to say, hey, I agree there
22 is no conflict here? Have you given him the opportunity
23 to look into that?

24 Because it seems to me that you made a
25 decision, but it seems that Mr. Viscito would be the

1 person that's harmed by this. And it seems to me that
2 he should at least have had communication from his
3 attorney and/or former attorney about this potential
4 conflict so that he could consider whether or not
5 information that may have been shared with your
6 father -- again, I think you said your father doesn't
7 remember this. But maybe Mr. Viscito has a greater
8 memory than your father does about some details that
9 were shared that may have some impact on the outcome of
10 this hearing.

11 MR. DESCHLER: Well, again, sir, the
12 information depends upon what my father has retained and
13 whether that information could somehow be used against
14 Mr. Viscito in this action.

15 MR. BANONIS: You keep records, right?

16 MR. DESCHLER: What's that?

17 MS. DeLEON: Would you please stop
18 interrupting?

19 MR. BANONIS: You keep records. I mean,
20 your firm keeps records --

21 MS. DeLEON: You're interrupting the
22 speaker.

23 MR. DESCHLER: At this point, sir,
24 enough time would have gone by in the regular course of
25 things that those records would have been destroyed.

1 This was done in 2004. Even with the -- I think at the
2 old firm back in 2004, they might have had a ten-year
3 records retention policy. Certainly it wouldn't have
4 retained them to this date.

5 But with a former client, there's only
6 a -- a client only is obligated to or allowed to waive
7 something if there's a conflict. In the first instance,
8 it's the attorney's judgment as to whether there's a
9 conflict in the first place.

10 Again, with a former client, there is no
11 issue here because there's no conflict. We would not
12 have to go to Mr. Viscito and obtain some sort of waiver
13 in the absence of any conflict.

14 MR. BANONIS: I'm going to disagree with
15 your interpretation of the Rules of Professional
16 Conduct. I think that they go beyond what he just said.

17 It says -- well, I'll direct you to
18 Rule 1.7, Conflict of Interest, Current Clients: Except
19 as provided in paragraph (b), a lawyer shall not
20 represent a client if the representation involves a
21 concurrent conflict of interest. A concurrent conflict
22 of interest exists if -- and under (2) -- there is a
23 significant risk that the representation of one or more
24 clients will be materially limited by the lawyer's
25 responsibilities to another client, a former client, or

1 a third person or by a personal interest of the lawyer.

2 I just bring that to your attention.

3 MR. DESCHLER: Thank you.

4 MR. GOUDSOUZIAN: Okay. Now back to
5 where we were.

6 Mr. Deschler, would you agree so far
7 with my summation as to where we stand procedurally?

8 MR. DESCHLER: Yes. I think it was
9 perhaps the intention of -- just because of the way the
10 rules work in terms of when the board must issue its
11 formal written decision, the idea is that we would
12 finish the testimony tonight but leave the record open
13 until the next hearing. In the intervening time, we'll
14 submit briefs and then, I think, reconvene for oral
15 argument at the next hearing. And that was the --
16 that's my understanding, yes, sir.

17 MR. GOUDSOUZIAN: Very good. Thank you.
18 And that was mine also.

19 MS. DURSO: Yes.

20 MR. GOUDSOUZIAN: So for the members of
21 the Lower Saucon Township Council, as well as the
22 audience, what that means is that the record will not be
23 closed today for timing purposes. We will come back.
24 They will provide us with their closing arguments and
25 written documents in advance. And then from that point

1 forward, we'll have 45 days to issue a decision.

2 Now, before we go forward with regard to
3 the actual testimony, I want to confirm where we stand
4 with regard to certain exhibits. There were certain
5 Council exhibits that were identified, C-1 through 8;
6 and then there was a C-9, a C-10, C-11, and C-12 which
7 may have been later discussed, but not formally
8 introduced.

9 C-9 was the minutes from the Zoning
10 Hearing Board hearing on January 15, 2004.

11 C-10 was a letter from Lincoln Treadwell
12 to the Zoning Hearing Board dated November 12, 2004.

13 C-11 is a letter from the State Ethics
14 Commission dated June 9, 2023.

15 C-12 is a letter from the State Ethics
16 Commission dated December 27, 2023.

17 (Exhibits C-9 through C-12 were marked
18 for identification.)

19 MR. GOUDSOUZIAN: I previously forwarded
20 these documents to the lawyers with the understanding
21 that we would introduce them and make them part of the
22 record as -- or part of the record tonight.

23 Counsel -- Ms. Durso, do you have any
24 objection?

25 MS. DURSO: I do not have any objection,

1 but I think we should --

2 MR. BANONIS: Can I ask you a question
3 about the exhibits?

4 MR. GOUDSOUZIAN: Of course.

5 MS. DURSO: I just wanted to --

6 MR. BANONIS: So Exhibit C-12 is the
7 advice of counsel memo or letter December 27, 2023. And
8 it says: This responds to your e-mail -- this is to
9 Priscilla deLeon -- this responds to your e-mail
10 received December 15, 2023.

11 Has that e-mail which provides the basis
12 for the questions that the State Ethics Commission
13 looked into been identified and included as an exhibit?
14 Because I don't see it in the materials that I have.

15 MR. GOUDSOUZIAN: I don't believe it
16 has.

17 MR. BANONIS: Okay. So we're -- we're
18 being asked to consider an Exhibit C-12 which is an
19 opinion based upon a question that we don't know what
20 question was asked. Is that fair?

21 MR. GOUDSOUZIAN: C-12 is a document
22 which speaks for itself. The reason I believe why there
23 was discussion about putting it --

24 MR. BANONIS: I'm asking about the
25 document.

1 MR. GOUDSOUZIAN: Pardon me.

2 The reason why I was asking it be placed
3 in the record was there was a reference to it at the
4 prior hearing, but it wasn't introduced or identified.
5 So the purposes of doing this today was to make sure
6 that if people were talking about a particular document,
7 we all had that document. Okay? It was part of the
8 record.

9 MR. BANONIS: I understand that. I
10 understand where it came from. I understand who
11 generated it. I understand it was used previously.

12 My question is: Is there another
13 document that is the request, the e-mail that was sent
14 by Priscilla deLeon, supposedly on December 15, 2023, to
15 the Pennsylvania State Ethics Commission seeking
16 guidance? Because I don't see that. And this is being
17 presented to us and, presumably, it's being included as
18 an exhibit so we consider this and give it some weight
19 as we go through this proceeding.

20 And certainly Priscilla considers this
21 in allowing her to participate in this proceeding, but
22 we don't know what question was asked.

23 MR. CAROCCI: Why's she hiding it, the
24 e-mail?

25 MR. GOUDSOUZIAN: So the short answer to

1 your question is it's not part of the record tonight.

2 MR. CAROCCI: Why is she hiding it?

3 MR. GOUDSOUZIAN: Then, with regard to
4 the status of the applicant's exhibits, I just want to
5 be sure for the record we're all on the same page.

6 The applicant has identified but not yet
7 moved into the record Exhibits 1 through 10. Is that
8 correct, counsel?

9 MS. DURSO: That is correct.

10 MR. GOUDSOUZIAN: Okay. And then there
11 was an outstanding issue with regard to party status of
12 Mr. Khan and Mr. Sutton. And that has not yet been
13 finalized as of right now, correct?

14 MS. DURSO: That is correct.

15 MR. GOUDSOUZIAN: All right.

16 Mr. Deschler?

17 MR. DESCHLER: That's my understanding.
18 I think from my review of the transcript, there were
19 some questions asked of Mr. Sutton. I can supplement
20 those tonight, along with the questions to Mr. Khan.

21 MR. GOUDSOUZIAN: Okay. But a formal
22 determination was not yet made as to whether or not they
23 have party status?

24 MS. DURSO: That is correct.

25 MR. DESCHLER: Correct.

1 MR. GOUDSOUZIAN: However, for the
2 purposes of clarity, Sonja Miller had sought and was
3 granted party status at the prior hearing.

4 MS. DURSO: As well as Ms. Yanchuk.

5 MR. GOUDSOUZIAN: As well as, of course,
6 Ms. Yanchuk.

7 MR. DESCHLER: Yes.

8 MR. GOUDSOUZIAN: Thank you. Very good.
9 Then at this point, we're ready to open
10 up the hearing with regard to testimony.

11 And I believe where we left off -- I
12 wasn't here, but where I believe we had left off was
13 that there was a witness who had been -- there was
14 direct testimony from Attorney Durso, cross-examination
15 from Mr. Deschler. And we were in a position to have
16 members of Lower Saucon Council to ask questions of the
17 witness; is that correct?

18 MS. DURSO: That is correct.

19 MR. GOUDSOUZIAN: Okay. Is that -- that
20 witness is available?

21 MS. DURSO: He is available, yes. Do we
22 need to swear him in again?

23 MR. GOUDSOUZIAN: I would bring him up
24 and have him sworn again, just to --

25 MS. DURSO: Okay. That's fine.

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PETER ALBANO,

having been first duly sworn, testified as follows:

MR. GOUDSOUZIAN: And, sir, although we're continuing with the record, could you just identify yourself again, just for clarity's sake?

THE WITNESS: Peter Albano, of Colliers Engineering & Design.

MR. GOUDSOUZIAN: So where we are -- Lower Saucon Council, where we are right now is this is an opportunity to ask questions of this witness if you so choose.

I remind members of Lower Saucon Council they are to be questions, not speeches or statements. But this is an opportunity to ask questions of this witness, should you choose to ask them.

Normally, I understand we go in alphabetical order. So, Mr. Banonis?

MR. BANONIS: Yeah. I have a question.

* * *

EXAMINATION

BY MR. BANONIS:

Q. Sir, as I understand it -- and this has come up before Council last year where there was an application for the cell phone tower -- my understanding is that this proposed tower is intended to provide

1 greater coverage in certain areas of Lower Saucon
2 Township and other parts of the Lehigh Valley, including
3 along the river, the Lehigh River, where there are dead
4 zones. And as a result of those dead zones, there's a
5 lack of cell phone coverage, there's a lack of 911 phone
6 coverage.

7 Is that your understanding?

8 A. **That is my understanding. That can also be**
9 **answered further by the next witness.**

10 MS. DURSO: Yeah. I was just going
11 to -- I didn't want to cut you off.

12 The next witness is the radio frequency
13 engineer, whose testimony will be similar to the summary
14 you just gave. But --

15 MR. BANONIS: Well, that wasn't the
16 question. It was a question -- foundation.

17 MS. DURSO: I'm sorry. Sorry. I
18 apologize. Yes. That is -- yes.

19 BY MR. BANONIS:

20 Q. All right. So in addition to that, what's
21 being proposed here would provide greater coverage for
22 individuals who choose to use a cell phone tower as
23 opposed to having a hard line coming into their home for
24 internet access, correct?

25 In other words, an individual could connect

1 to the cell phone tower, receive high speed internet
2 into their homes by cell phone tower signal as opposed
3 to having a cable or a phone line into their home,
4 correct?

5 A. **That is correct.**

6 Q. Okay. I'll save the rest of my questions for
7 your other -- your counterpart, but I appreciate your
8 answers. Thank you.

9 MR. GOUDSOUZIAN: Mr. Carocci, do you
10 have any questions?

11 MR. CAROCCI: No.

12 MR. GOUDSOUZIAN: Victoria, do you have
13 any questions?

14 MS. OPTHOF-CORDARO: I think most of my
15 questions were related to the next witness.

16 * * *

17 EXAMINATION

18 BY MS. OPTHOF-CORDARO:

19 Q. I just want to confirm. I believe there was
20 testimony last time, forgive me, that there was going to
21 be a platform erected on the property to -- for leveling
22 purposes to then place the tower on top of. Was that
23 this witness's testimony or somebody else's?

24 A. **Yes, that was my testimony. But to clarify,**
25 **it is for the base station. It is not for the tower to**

1 **be placed on.**

2 Q. You said the base station?

3 A. **So -- yes. In the design of a cell site,**
4 **there are equipment cabinets that get mounted at the**
5 **ground level. To avoid having to put concrete pads or**
6 **level out -- you know, build excessive retaining walls,**
7 **we sometimes utilize steel-framed platforms to support**
8 **the equipment.**

9 Q. Okay. So how -- can you tell me the
10 dimensions of this platform?

11 A. **It is 12 foot wide by 19 feet 5 inches long.**

12 Q. How high is it?

13 A. **It is 3 feet above ground level.**

14 Q. And then you said there were cabinets placed
15 above it?

16 A. **On top of it.**

17 Q. On top of it?

18 A. **Yes.**

19 Q. And what is the dimension of the cabinets?

20 A. **They are typically about 6 feet tall.**

21 Q. 6 foot?

22 MS. DeLEON: 6 feet across?

23 THE WITNESS: 6 feet tall.

24 MS. DeLEON: 6 feet tall?

25 BY MS. OPTHOF-CORDARO:

1 Q. So -- and are there any other -- any on top
2 of the cabinets? Or is it the platform plus cabinets?

3 A. **There is a canopy that protects it from ice.**

4 Q. A canopy?

5 A. **Yes.**

6 Q. And does the canopy have any rods or
7 attaching materials that go to the top of the cabinets?
8 Like how high above does the canopy sit, above the top
9 of the cabinet?

10 A. **The canopy, it's usually about 2 feet above.**

11 Q. 2 feet above, okay. So we have 3 feet plus
12 6 feet plus 2 feet; that's 11 foot, right?

13 A. **Yes.**

14 Q. Okay. And forgive me if this wasn't your --
15 if this was you or somebody else, just please clarify.

16 There was testimony about a wall or
17 vegetation that was going around for screening purposes?

18 A. **Correct.**

19 Q. And was that your testimony? I just don't
20 want to ask a question --

21 A. **Yes.**

22 Q. Okay. And what was the screen, again?

23 A. **It was a deer-resistant evergreen screen.**

24 Q. Deer-resistant evergreen?

25 A. **Yes.**

1 MS. DURSO: It's shown on the -- just
2 for clarification, it's shown on the --

3 BY MS. OPTHOF-CORDARO:

4 Q. Okay. And remind us, how tall is that going
5 to be?

6 A. **At the planting height, they're supposed to
7 be 6 feet, but they will grow taller.**

8 Q. I'm sorry. Can you say that again?

9 A. **At planting height, they will be 6 feet. So
10 when they're planted in the ground, they'll be 6 feet
11 tall. But they are to grow taller.**

12 Q. Okay. Do you know how quickly they grow?
13 Like how many feet per year or what the -- what that
14 criteria is?

15 A. **Off the top of my head, I don't know.**

16 Q. You don't know?

17 A. **No.**

18 Q. Okay. So the screening is approximately half
19 the height at planting of the cabinets and the metal
20 base frame and the canopy; is that right?

21 A. **Correct.**

22 Q. And you don't know how many years it would
23 take for the screening to grow to a height that it would
24 screen that entire structure together to 11 feet?

25 A. **Off the top of my head, no, I do not have it**

1 **in front of me.**

2 Q. Okay. And forgive me, did you talk about the
3 decibels of the generator --

4 A. **Yes.**

5 Q. -- when it's running?

6 A. **Yes.**

7 Q. And did you -- I think you -- I have written
8 down -- so forgive me, it might be wrong -- 60 decibels?

9 A. **Yes. It's less than -- it will be less than**
10 **60 decibels at the property line.**

11 Q. At the -- on --

12 A. **At the property line.**

13 Q. At the property line.

14 A. **Yes.**

15 Q. Okay. And which side of the property line
16 did you measure that?

17 A. **It'll be at all of them.**

18 Q. At all of them. So all four edges of the
19 property line would all be 60 decibels or less?

20 A. **Correct.**

21 Q. I thought there was also testimony that if --
22 that would be like when it's like periodically running
23 for maintenance; but if there was a downage, if there
24 was a down time that you had to run it, it would be
25 higher? Am I -- is that correct, or no?

1 A. **No. No. So the 60 decibels is at maximum**
2 **capacity.**

3 Q. At maximum capacity?

4 A. **Correct.**

5 Q. And you said that the total length of time
6 that the generator could sustain was like -- I have two
7 to four weeks; is that right? Like if you had a really
8 bad...

9 A. **It depends on the amount of fuel consumption**
10 **that is -- you know, the amount of draw that's on the**
11 **network at the time. It could be about two weeks.**

12 Q. Okay. So it could take two weeks' worth of
13 diesel fuel; is that right?

14 A. **Yes.**

15 Q. And what type of vehicle brings the diesel
16 fuel in?

17 A. **A fuel truck, a standard fuel truck.**

18 Q. Okay. Do you know the amount of weight of
19 the fuel truck that would be servicing this type of
20 thing?

21 A. **It's going to vary, depending on who provides**
22 **the fuel.**

23 Q. Do you know any like minimum size that you
24 could provide us today?

25 A. **I do not know off the top of my head.**

1 Q. Okay. And do you know if they're double axle
2 or triple axle? Do you know the type of vehicle, like
3 what kind of axles it would have?

4 A. **It could be double. It could be single, you**
5 **know, a single axle. It really depends on who's**
6 **providing it.**

7 Q. Okay. And one fill-up would give you two to
8 four weeks, right, you're saying?

9 A. **At emergency -- at full power, emergency.**

10 Q. At full power, okay.

11 Is there periodically times where you have
12 to, like, flush the -- flush the generator with the
13 fuel? Do you leave fuel in it?

14 A. **Fuel is left in it, yes.**

15 Q. And it can sit?

16 A. **Yes.**

17 Q. How long can it sit, do you know? Does it go
18 stale?

19 A. **That, I don't have the answer to.**

20 Q. Okay. Do you ever have to -- for maintenance
21 purposes, not for like an emergency, but like for a
22 maintenance purpose, do they ever have to like drain it
23 and fill it with fresh diesel?

24 A. **Not that I am aware of.**

25 Q. Okay. Do you know how often you would run it

1 for maintenance purposes? I thought there was a time
2 that you said.

3 A. **Typically about every two weeks for maybe an**
4 **hour, at most.**

5 Q. For an hour. And then the highest, when it's
6 running at full capacity, it's not going to be greater
7 than 60 decibels from any property line?

8 A. **Correct.**

9 MS. OPTHOF-CORDARO: Okay. I don't have
10 any other questions for him. Thank you.

11 MR. GOUDSOUZIAN: Ms. Ray, do you have
12 any questions?

13 MS. RAY: Yeah. Victoria hit on some of
14 them.

15 * * *

16 EXAMINATION

17 BY MS. RAY:

18 Q. So since you're talking about the generator,
19 I'll keep on that topic. So I had written down less
20 than 65 decibels is the number that you said last time.

21 A. **Yes.**

22 Q. So just a little bit different. So I had no
23 idea what that means, so I Googled it. And it said
24 65 decibels is kind of like a loud speaking voice.

25 Now, to me, I'm thinking generators aren't

1 that soft. So I don't know how -- I don't know. Is the
2 generator inside of something that's soundproofed or
3 what? I mean --

4 A. **The generator comes with a sound enclosure,**
5 **so the sound -- the enclosure for it is provided to**
6 **deaden the sound.**

7 Q. Okay. So I didn't know that that was talked
8 about. Because it's like generators, you can tell when
9 the power's out because you hear them far away.

10 So then with the fuel and -- did you say --
11 do they store fuel on-site, then? Or whatever's in the
12 generator is all that's there; and when it runs out,
13 somebody has to make sure they get there to refuel it?

14 A. **The generator has alarms that'll alert when**
15 **it has a low fuel level. There is a fuel tank that the**
16 **generator sits on top of.**

17 Q. Yeah, but there's not like extra fuel stored
18 there?

19 A. **No.**

20 Q. Okay. I had questions about the platform
21 too. I wasn't sure, I thought the platform was being
22 built so that the cell tower would -- because it was on
23 a slope, that it needed to be flat and be on there.

24 And now, it looked like the property has been
25 regraded in a lot of ways. So I wondered if the

1 platform was still necessary, but I don't know if you
2 know that or not. Because the property looks like it's
3 been regraded a lot from pictures that I've seen.

4 A. **We have not taken that into consideration**
5 **yet, but it is possible that it could change.**

6 Q. So you don't always necessarily need a
7 platform? It could be like a slab maybe or something
8 like --

9 A. **Correct. Yes, it could be a slab on-grade.**

10 Q. Okay. And you had talked before, I guess --
11 or somebody did -- about the collocating of towers,
12 the -- on the tower so it can take up to three
13 additional people's antennas, I guess --

14 A. **Yes.**

15 Q. -- on top?

16 Does that make it taller or go somewhere
17 else?

18 A. **The intent is not to make it taller. The**
19 **intent is that it would provide space below the Verizon**
20 **Wireless antennas.**

21 (Reporter clarification.)

22 THE WITNESS: Below the Verizon Wireless
23 antennas.

24 BY MS. RAY:

25 Q. So does somebody else then have to come out

1 and inspect those? Or is that part of whoever's going
2 out there every month to -- they check the whole thing
3 out?

4 A. **Each carrier has their own maintenance**
5 **program, so they would --**

6 Q. Okay. So other people would go there and
7 look and make sure their piece is okay?

8 And the generator then, though, it would be
9 one generator would make the whole thing work, not like
10 everybody has to have their own generator somehow,
11 right?

12 A. **They would -- every other carrier would need**
13 **to provide their own generator if they wish to have one.**

14 Q. So there could be four generators there?

15 A. **If they wish to go for one, yes.**

16 Q. So where -- would they all fit in these
17 cabinets that are there? Or do they need to build more
18 stuff to put them in?

19 MS. DURSO: Are you asking if the
20 collocator would have their own equipment at the base of
21 the structure?

22 MS. RAY: Yeah.

23 THE WITNESS: Yes.

24 BY MS. RAY:

25 Q. So yes, they would have to build their own

1 set of cabinets in place and whatever --

2 A. **Yes.**

3 Q. Okay. So that would be a whole 'nother plan
4 and application or -- I don't know how that works here.

5 MS. DURSO: Your Township ordinance
6 requires the site to be built for collocation. And then
7 it has separate requirements if somebody is coming in
8 for a collocation, but the first requirement is that a
9 cell tower be designed to allow for collocation.

10 MS. RAY: Okay.

11 BY MS. RAY:

12 Q. Are you involved with the -- let's see -- the
13 gap analysis? Is that part of your --

14 MS. DURSO: That would be the next
15 witness.

16 BY MS. RAY:

17 Q. Okay. And the visual impact analysis, is
18 that --

19 MS. DURSO: That was Mr. Albano. He
20 presented the photo simulation that was submitted at the
21 last hearing.

22 MS. RAY: Okay.

23 BY MS. RAY:

24 Q. So then I would have a similar comment, then.
25 So all the pictures and everything that we had in here

1 are from a little bit before. And then as you know and
2 have heard -- and I know it wasn't your plan or part of
3 anything you did -- but the site has drastically changed
4 as far as what woods are there and the density and what
5 the visuals are. So would there be new site analysis or
6 pictures?

7 MS. DURSO: So what we explained at the
8 last hearing was that they did take recent pictures.
9 And the exhibit that was submitted as Exhibit 8 confirms
10 that the photographs were taken in January.

11 MS. RAY: Okay.

12 BY MS. RAY:

13 Q. And is the access to the site part of what
14 you talked about, or the other person?

15 A. **Yes.**

16 Q. Okay. So on the access, I was trying to
17 figure out this map and understand it 'cause I don't
18 know all these things here.

19 But -- so Randolph Avenue is not a street.
20 It was -- it's a paper road. And I believe -- was
21 Lewis Avenue the same thing, though? It looks like it
22 from the overhead picture. There's not actually a road.

23 MS. DURSO: If you're asking whether
24 Lewis Avenue is owned or maintained by the Township, it
25 is not.

1 MS. RAY: Okay.

2 BY MS. RAY:

3 Q. Is it actually -- is it paved or anything?
4 Because you don't see anything on the pictures. It's
5 just trees.

6 A. **It is paved, yes.**

7 Q. Okay. It is a paved --

8 A. **Paved road.**

9 Q. Is it a driveway? It's a paved road, okay.

10 A. **It is a paved road.**

11 Q. It's a paved road, okay. Like a real road?
12 Or like a driveway?

13 UNIDENTIFIED SPEAKER: Driveway.

14 MR. GOUDSOUZIAN: Well, hold up. I know
15 this could be emotional for people in the audience, but
16 I'd ask for everybody to restrain from making any
17 comments.

18 I apologize for interrupting.

19 And, Mr. Albano, while I'm interrupting
20 you, I know you're trying to keep your voice up as much
21 as possible; but you're somewhat soft-spoken. I know
22 the microphone is not that close to you. So if you
23 could try to keep your voice up.

24 THE WITNESS: Thank you.

25 BY MS. RAY:

1 Q. Okay. So it's a paved driveway. Is Lewis
2 the -- what they call Lewis Avenue is a driveway, and
3 then Randolph Avenue is just --

4 MS. DURSO: No. He did not say that
5 Lewis Avenue was a driveway. He said it was a paved
6 road not maintained by the Township.

7 MR. GOUDSOUZIAN: And pardon me. I want
8 the record to be clear.

9 If I may, Ms. Ray. I'm sorry to
10 interrupt.

11 MS. RAY: That's okay.

12 MR. GOUDSOUZIAN: Sir, I believe -- I
13 just want to be sure. You heard your counsel identify
14 the road, but I think it came from her rather than come
15 from you.

16 Would you agree with what she said?

17 THE WITNESS: Yes, I agree with what she
18 said.

19 MR. GOUDSOUZIAN: Thank you. I
20 apologize again.

21 MS. RAY: Okay. I think those were all
22 the questions that I had. Thank you.

23 MR. GOUDSOUZIAN: Ms. deLeon?

24 MS. DeLEON: Okay. Would he be
25 answering -- Kate, would he be --

1 MR. GOUDSOUZIAN: Well, no. You should
2 be asking this witness.

3 MS. DeLEON: Sorry.

4 * * *

5 EXAMINATION

6 BY MS. DeLEON:

7 Q. Would you be addressing this diagram?

8 A. **Yes.**

9 Q. Okay. Could you look at that page. I
10 believe it's L -- LE-2.

11 A. **I don't believe you have the correct --**

12 Q. I'm sorry.

13 A. **I don't believe that's the correct exhibit.**

14 Q. I found it in this (indicating). This was
15 given to me at the last meeting.

16 MS. DURSO: I don't think you have the
17 right one. Because the one in the packet --

18 MS. DeLEON: How could it not be the
19 right one when this was given to me at the last meeting?

20 MS. DURSO: I don't know which one you
21 have. All I know is that the plan is a -- I guess I
22 don't know what question you're going to ask, but he's
23 thinking it's not the right one.

24 THE WITNESS: Right. Because I do not
25 have an LE -- what was the page? LE what?

1 MS. DeLEON: Can everybody look in their
2 packets and see if they have an LE-1 in this?

3 MS. OPTHOF-CORDARO: Are you looking at
4 the numbers that are at the bottom right corner?

5 MS. DeLEON: Yes.

6 MS. OPTHOF-CORDARO: I have a Z-1 --
7 Z-1, Z-2.

8 MS. DeLEON: It says January 17th. Look
9 at this.

10 MS. OPTHOF-CORDARO: And then an A-2,
11 A-3...

12 MS. DeLEON: This is what I went home
13 with last meeting. This packet is -- this packet is
14 what I left here with.

15 MS. DURSO: All I can tell you is that
16 the exhibit packets that I submitted do not contain what
17 you have. I don't know what.

18 MS. DeLEON: This was the last meeting.

19 MS. DURSO: I don't know what it --
20 perhaps it's in your packet, but what --

21 MS. DeLEON: The ones with the tabs on
22 it.

23 MS. DURSO: Yes. But the plans that are
24 in the packets are G-1, Z-1, Z-2, Z-3, Z-4, Z-5, A-1,
25 A-2, A-3, A-4, A-5, A-6.

1 MS. DeLEON: Okay. Well, I did not find
2 that in that packet. I found it in this packet, and
3 it's -- I take that back. I guess I won't throw him a
4 question.

5 MS. DURSO: Okay.

6 MS. DeLEON: I'm confused. I don't know
7 where it came from, but it's in here. You see it,
8 right?

9 I guess I have no further questions.

10 MR. GOUDSOUZIAN: All right. Very well.

11 Is there any -- as I recall -- and I
12 address this to the lawyers, the only individual who is
13 not represented by counsel who might have party status
14 would be Sonja Miller, correct?

15 MS. DURSO: That's to the best of my
16 knowledge, yes.

17 MR. DESCHLER: I believe so.

18 MR. GOUDSOUZIAN: I don't know if
19 Ms. Miller is here today.

20 Ms. Miller, do you have any questions of
21 this witness? You have to ask him questions. There'll
22 be a time for you to talk later.

23 MS. MILLER: I'm just worried about the
24 pictures of before and after.

25 MR. GOUDSOUZIAN: Okay. First, I'd ask

1 you, if you're going to speak, I'd ask you to go to the
2 podium.

3 MS. MILLER: Sonja Miller,
4 2116 Saucon Avenue.

5 MR. GOUDSOUZIAN: And then the question
6 is: Do you have any questions of this particular
7 witness? As I indicated before, at the end, you'll have
8 an opportunity to tell us what you're concerned about or
9 otherwise. But if you have a question of this witness,
10 you can ask him, but make sure you do it in the form of
11 a question.

12 MS. MILLER: The Lewis Avenue is a paved
13 driveway. That is one thing.

14 MS. DURSO: Again, you have to ask a
15 question.

16 MS. MILLER: Sorry. Excuse me. I have
17 ADHD. Okay?

18 MR. CAROCCI: So do I.

19 MS. MILLER: Yeah, so you know how it
20 is.

21 MR. CAROCCI: Yeah, I do.

22 MR. GOUDSOUZIAN: And you should be
23 directing this question to Mr. Albano, would be the
24 person able to answer it.

25 * * *

EXAMINATION

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BY MS. MILLER:

Q. How many different companies could go on that property?

A. **The tower is designed to support four total, Verizon and three additional.**

Q. So there would be four additional formats besides the tower?

A. **There could be if someone else chose to collocate on this.**

Q. Okay. So therefore, is the property big enough for all that with no visual -- visual sight because of everything that's been happening with the logging? I mean, I never saw their house or their property before, and I can see it; and I don't even live across the street.

So I was just wondering if the property would be big enough and far enough from their home, since it is not that big of a property compared to 35 or whatever -- I think it was only 9 or 13 acres that they own.

A. **I believe it's over 10 acres. But yes, it would be.**

Q. So it would be very close to their homes?

MS. DURSO: No. You asked -- the

1 question you asked was whether it was going to be -- the
2 property was large enough if there was other
3 collocators.

4 MS. MILLER: Yes.

5 BY MS. MILLER:

6 Q. And plus, also how far does it have to be
7 from a property line to start with either foundation for
8 the generators or the tower itself?

9 A. **Are you asking what the setback is, required**
10 **setback is?**

11 Q. Yes. Sorry.

12 A. **No, I just wanted to make sure I answered the**
13 **right question for you.**

14 **The side, front, and -- the front, side, rear**
15 **setbacks are 50 feet, 40 feet, and 50 feet,**
16 **respectively.**

17 Q. So it's 40 feet from each individual property
18 line?

19 A. **The -- it varies depending on which property**
20 **line it is, if it's a front property line, a side**
21 **property line, or a rear, depending on how they're**
22 **classified.**

23 MS. MILLER: Okay. That's all I have
24 for now.

25 MR. GOUDSOUZIAN: Thank you, ma'am.

1 And before we move on, I just want to
2 ask of the audience, is there anyone else here who's
3 requesting party status, has not yet been granted party
4 status?

5 UNIDENTIFIED SPEAKER: (Raised hand.)

6 MR. GOUDSOUZIAN: Are you two
7 represented by Mr. Deschler?

8 MR. DESCHLER: Yes.

9 MR. GOUDSOUZIAN: Okay. Then, ma'am,
10 could you go to the podium and identify yourself?

11 MS. MISZCZENSKI: Yes, hi. I'm
12 Stacie Misczanski, 4231 Roberts Avenue.

13 (Reporter clarification.)

14 MS. MISZCZENSKI: It's Misczanski,
15 M-I-S-C-Z-E-N-S-K-I. S-T-A-C-I-E.

16 MR. GOUDSOUZIAN: And as an initial
17 matter, ma'am, we have not -- we have to determine
18 whether or not you qualify for party status. So --

19 MS. MISZCZENSKI: So I have a general
20 question on that, because the pictures --

21 MR. GOUDSOUZIAN: Hold on. Hold on.
22 Before we get to questions, we have to determine whether
23 or not you have party status.

24 MS. MISZCZENSKI: Right. That's why the
25 pictures are a relevant issue here.

1 MR. GOUDSOUZIAN: Well, where do you
2 live in comparison to this project, or proposed project?

3 THE WITNESS: If you look at those
4 pictures, my house is there in their pictures.

5 MR. GOUDSOUZIAN: Okay. Well, how far
6 away approximately do you live from the proposed
7 project?

8 MS. MISCZENSKI: I don't know. Because
9 you could see the proposed tower from my driveway.
10 That's in their pictures.

11 MS. DURSO: I don't know where she
12 lives. All I can say is she's --

13 MR. BANONIS: May I be recognized? I'm
14 talking to the solicitor, but --

15 MS. DeLEON: He's running the meeting.

16 MR. BANONIS: Okay.

17 MR. GOUDSOUZIAN: No, no, please.

18 MR. BANONIS: So at the last meeting,
19 before you were the interim solicitor, there was a
20 visual. It was a map of the neighborhood that showed
21 the properties in the cul-de-sac by color code. And I
22 don't recall -- I may be able to find that, but it
23 identified the properties and who was within a certain
24 distance of the property who would have standing here.

25 That may be helpful in your questions to

1 the -- Ms. Misczanski as to whether or not she has
2 standing or -- because that visual may help her identify
3 which is her property --

4 MS. MISCZENSKI: Exactly.

5 MR. BANONIS: -- and where it is in
6 relation to this property for her to have standing.

7 MR. GOUDSOUZIAN: Thank you.

8 MS. DURSO: I believe that he's
9 referencing Township Exhibit C-2, which had the list of
10 property owners within 300 feet. And then it also
11 included a map that we got from the GIS department to --
12 confirming the 300 feet.

13 MS. MISCZENSKI: On the website in the
14 Township for this -- for this project, there's a --
15 attached is a list of attachments. And one of those
16 attachments is pictures.

17 And in those pictures is not only my
18 house, but also my neighbor's house on Roberts Avenue.
19 And it shows that the tower can be seen from both of our
20 houses in a diagonal way, but we're not -- but we're
21 both not part of this at all.

22 MS. OPTHOF-CORDARO: Ms. Durso, did you
23 say that was C-2?

24 MS. DURSO: I'm sorry?

25 MS. OPTHOF-CORDARO: Somebody referenced

1 Exhibit C-2.

2 MS. DURSO: What Attorney Banonis was
3 asking the solicitor was what's marked as C-2, which is
4 a public notice and proof of -- oh, I'm sorry.

5 MS. OPTHOF-CORDARO: That's what I'm
6 trying to get to.

7 MS. DURSO: Oh, my goodness. Sorry.

8 C-5. My apologies. My apologies.

9 MS. OPTHOF-CORDARO: I remember looking
10 at this last time.

11 MS. DURSO: Yes. My apologies. So
12 sorry.

13 MS. OPTHOF-CORDARO: All right. I think
14 I got it.

15 MS. DURSO: So sorry.

16 MS. OPTHOF-CORDARO: Maybe it would be
17 helpful to the witness if somebody gave her that picture
18 and she could identify the number.

19 MS. DURSO: She is not one of those.
20 What she is --

21 MS. MISZCZENSKI: It's not on the list.
22 It's in the picture.

23 MS. DURSO: Yeah. Can I clarify?

24 MR. GOUDSOUZIAN: Yes, please.

25 MS. DURSO: I think we're talking about

1 two different things.

2 We, meaning Mr. Banonis, is talking
3 about what you just held up, which shows the people who
4 are within 200 feet. And she is not within that.

5 MS. OPTHOF-CORDARO: That's the bubble,
6 but there's other numbers. That's what I'm saying.

7 MS. DURSO: What the resident is talking
8 about is the photosimulation that was submitted as
9 Exhibit A-8. So we're talking about two different
10 things. That's all.

11 MS. OPTHOF-CORDARO: So are you saying
12 that -- so Exhibit C-5 -- is that what you said, C-5?

13 MS. DURSO: I'm saying on Exhibit C-5,
14 she is not within the radius; but that is not the map
15 she is speaking of.

16 MS. MISCZENSKI: Correct.

17 MS. OPTHOF-CORDARO: In the bubble?

18 MS. DURSO: Correct.

19 MS. MISCZENSKI: This bubble. But there
20 is -- no, no, not that one.

21 MS. DURSO: Could we go off the record
22 for a second?

23 MS. OPTHOF-CORDARO: Sure.

24 (Discussion off the record.)

25 MS. DURSO: It's this -- she's at the

1 corner --

2 MS. DeLEON: Do we have a pointer?

3 MS. DURSO: -- the corner of Roberts.

4 MR. HUDSON: Yeah, right where the -- he
5 got it.

6 MS. DURSO: Thank you.

7 THE WITNESS: Can't hold it straight,
8 but...

9 MS. DeLEON: Can you do that again?
10 Thank you.

11 MR. GOUDSOUZIAN: So before anybody else
12 says anything, for the purposes of clarifying the
13 record, we have been shown an exhibit which has been
14 marked -- counsel, can you help me? What is this
15 identified as?

16 MS. DURSO: That is -- it's just not in
17 color, but that is Township's Exhibit -- oh, he has my
18 packet, sorry -- C-5. C-5.

19 MR. GOUDSOUZIAN: So we're looking at
20 C-5.

21 MS. DURSO: Yes.

22 MR. GOUDSOUZIAN: And if we're looking
23 at C-5, there is a tax parcel map and there's a
24 number 7. And to the left of the number 7, there is a
25 parcel and then Roberts Avenue.

1 Now I'm going to ask of the witness.

2 Ma'am?

3 MS. MISCZENSKI: Yes.

4 UNIDENTIFIED SPEAKER: Two number 7s.

5 MR. GOUDSOUZIAN: Oh, my goodness, there
6 are two number 7s. Thank you.

7 So we're looking at, going from left to
8 right, it would be Roberts Avenue, then a parcel, then
9 number 7. Do you see that, ma'am?

10 MS. MISCZENSKI: Well, actually -- well,
11 no. Okay. So I'm -- that's -- 7 is Elsie's property,
12 and mine is the one to that.

13 MR. GOUDSOUZIAN: Correct. So your
14 property is between Roberts Avenue and the 7?

15 MS. MISCZENSKI: No. That's -- I am
16 only on Roberts Avenue. It's that -- yeah, you got it
17 right there (indicating). That one, that's mine.

18 And then also Elsie's -- Yeager's is 7,
19 and she can also see the tower.

20 MR. GOUDSOUZIAN: Okay. Now that we
21 have identified where you are, counsel, do you have any
22 questions with regard to party status of this person?

23 MS. DURSO: I just would renew the
24 objections that I made at the first hearing, is that
25 she's not within the requisite radius of 300 feet and,

1 thus, would not -- has been determined by the Township
2 as not being one that is within that radius of interest
3 and having an application affect her.

4 MR. GOUDSOUZIAN: Mr. Deschler, do you
5 have an objection with regard to her party status?

6 MR. DESCHLER: I have no objection. I
7 would say that the Township's notice requirement is not
8 dispositive of whether someone could be a grieved party
9 such that their interests are directly and adversely
10 affected by an application. So I have no objection to
11 her being -- their being designated party status.

12 MR. GOUDSOUZIAN: Now, I say this to
13 Lower Saucon Council.

14 The rules with regard to party status
15 are as follows: Is there is a requisite requirement to
16 provide notice within a certain amount of time -- or a
17 certain amount of space, rather. This witness does not
18 fall into that category; but that is not dispositive,
19 meaning that doesn't control.

20 The question is whether or not she is
21 affected by this property to an extent. Normally, what
22 happens in these cases is party status is generally
23 provided -- and it's better to provide -- from a
24 practical standpoint, it's better to provide party
25 status at this level, municipal level, compared to not

1 providing party status. Because if you don't, then
2 there's an appealable issue.

3 If we were ever found to be incorrect by
4 granting somebody party status, it's fixable for the
5 court if this is appealed. Because the court can say,
6 you shouldn't have done this.

7 But if we preclude somebody from
8 becoming involved, then it creates a real problem where
9 we'd have to essentially come back and do this again.
10 There's a unique case, and this is by far more
11 information than most of you need to know, but it's
12 South Bethlehem Associates v. Zoning Hearing Board of
13 Bethlehem Township, which Attorney Durso was involved in
14 until a recent decision from the Supreme Court where it
15 says, essentially, there's a looser standard when you're
16 in front of a municipality and a different standard when
17 you're in front of a judge.

18 So my recommendation is to interpret
19 this liberally, allow this woman to have party status,
20 let her ask whatever questions she has, and then we can
21 move on with the hearing. That would be my
22 recommendation.

23 MR. BANONIS: May I ask you a question?
24 So you're presiding over this hearing, and you assume
25 the role of the hearing officer.

1 So as the presiding person over this
2 hearing, is it your determination to -- is it your
3 authority to make a determination? Or are you asking
4 Council to cast their vote as to whether or not to give
5 this person party status?

6 MR. GOUDSOUZIAN: I'm happy to do it on
7 my own if that's -- I was trying to become accommodating
8 to Council, and I didn't want to simply just say, this
9 is what we're doing. I wanted to at least identify what
10 the issues were, identify what my recommendation is,
11 identify what I think we should do.

12 But if Council is perfectly fine with me
13 just making the decision, I'm happy to make that
14 decision. I just didn't want to do it without asking.

15 MR. BANONIS: Well, I mean, Council
16 didn't identify you or appoint you to be the hearing
17 officer. That was done by Priscilla.

18 MR. GOUDSOUZIAN: Priscilla, who is the
19 president of the board, has the authority to run the
20 meeting as she sees fit. She opened up the meeting and
21 authorized me to move forward. She said, we're going to
22 open it up.

23 MR. BANONIS: And that was in response
24 to the questions that we had about her bias and other
25 issues.

1 MR. GOUDSOUZIAN: So if your question
2 is -- if it's Council's informal intention to allow me
3 to simply make a decision, I'm happy to. If Council
4 wants to be heard on it --

5 MS. DeLEON: I'll make a motion to
6 direct our solicitor to --

7 MR. CAROCCI: I think Council should
8 vote.

9 MS. DeLEON: I'm in the middle of a
10 motion, to direct our solicitor to take --

11 MR. GOUDSOUZIAN: To make evidentiary
12 decisions and control the hearing?

13 MS. DeLEON: -- to make evidentiary
14 decisions and control the hearing. Would there be a
15 second?

16 MS. OPTHOF-CORDARO: I second.

17 MS. DeLEON: Okay. Can I have a roll
18 call, please?

19 MR. CAROCCI: No. I want to discuss it.
20 You made a motion. We get to discuss it.

21 MS. DeLEON: Okay. Go ahead.

22 MR. CAROCCI: I want to be recognized.

23 MS. DeLEON: Go ahead. Be recognized.

24 MR. CAROCCI: I mean, it's an
25 abdication. Councilmembers are the ones elected by

1 voters, and then we should make the decision, shouldn't
2 abdicate that to anybody, pawn it off.

3 I do appreciate the explanation, the
4 analysis. It's fine. I wish you could have done the
5 same with Ms. deLeon's bias when that came up, but it
6 seems you weren't prepared for that. But again, I think
7 we were elected and we're the ones who should make the
8 decision.

9 And I'd be up for granting her party
10 status. But I still think it should be councilmembers
11 that make that vote. We're the ones responsible.

12 MS. DeLEON: Okay. So yeah, I guess,
13 Jason, you want to go next for discussion?

14 MR. BANONIS: I have no comments.

15 MS. DeLEON: Okay. Victoria, did you
16 want to go next?

17 MS. OPTHOF-CORDARO: I don't have any
18 comments. I think it's appropriate.

19 For evidentiary, I just want to clarify
20 we're not using the term from Mr. Carocci. We're not
21 abdicating our ultimate authority to make a ruling on
22 conditional use. We are simply directing the solicitor
23 to make evidentiary rulings like in a court and -- so he
24 can properly proceed in a good fashion.

25 MS. DeLEON: That's my understanding.

1 Laura?

2 MS. RAY: Yeah, I have no comment.

3 MS. DeLEON: The only comment I would
4 like to make is I believe Council previously abducted
5 {sic} their authority when they appointed -- I forget
6 the attorney's name for the landfill hearing, and you
7 gave him full authority to do everything.

8 So with that, can we have a roll call,
9 please?

10 MR. HUDSON: Ms. Opthof-Cordaro, how do
11 you vote?

12 MS. OPTHOF-CORDARO: This is a vote to
13 give the evidentiary ruling to our solicitor,
14 Mr. Goudsouzian. Yes.

15 MR. HUDSON: Mr. Carocci?

16 MR. CAROCCI: No. He has no Township
17 experience as a solicitor.

18 MR. HUDSON: Ms. Ray?

19 MS. RAY: Yes.

20 UNIDENTIFIED SPEAKER: Neither do you.

21 MR. CAROCCI: That's right.

22 MR. GOUDSOUZIAN: Hold on. Pardon me.

23 Pardon me.

24 MR. CAROCCI: Somebody called out in the
25 audience.

1 MS. DeLEON: You're talking out of
2 order, Tom. You're talking --

3 MR. BANONIS: Why don't you call the
4 person in the audience out of order?

5 MR. CAROCCI: Yeah, I think they were
6 out of order first.

7 MR. GOUDSOUZIAN: I say this to the
8 members of the audience. This is inappropriate for you
9 to call out. This is not the appropriate time to do
10 this. You should not be doing that.

11 So I say this generally to everyone here
12 in this room.

13 MR. HUDSON: Ms. deLeon, how do you
14 vote?

15 MS. DeLEON: The motion is to appoint --
16 yes.

17 MR. HUDSON: Mr. Banonis, how do you
18 vote?

19 MR. BANONIS: No.

20 MR. HUDSON: Motion passes.

21 MR. GOUDSOUZIAN: Okay. Thank you.

22 So I am granting party status to this
23 individual.

24 So, ma'am, so we can move forward now,
25 now you have an opportunity to ask Mr. Albano questions.

1 Do not give a statement, just ask him questions.

2 MS. MISCZENSKI: No, I have a question.

3 * * *

4 EXAMINATION

5 BY MS. MISCZENSKI:

6 Q. Does Lewis Avenue fall under a liquid fuels
7 tax? Do they receive liquid fuels tax -- does this
8 Township receive liquid fuels tax for Lewis Avenue?

9 A. **I don't have the answer to that.**

10 Q. Well, in that situation then, therein is
11 your -- therein lies your answer for whether it is
12 considered a right or not --

13 MS. DURSO: Again, she has to be asking
14 questions.

15 MR. GOUDSOUZIAN: Yes, ma'am.

16 Again, so --

17 BY MS. MISCZENSKI:

18 Q. So how do you not know or know that
19 Lewis Avenue is a road?

20 MS. DURSO: That's not the question you
21 asked him. You asked him whether a --

22 MS. MISCZENSKI: I'm asking two
23 questions.

24 MR. GOUDSOUZIAN: Okay. Ma'am, I know
25 it's difficult because you might not do this regularly.

1 But ask one question at a time.

2 MS. MISCZENSKI: Okay.

3 BY MS. MISCZENSKI:

4 Q. So my first question --

5 MR. GOUDSOUZIAN: Hold on. Hold on.

6 MS. MISCZENSKI: Okay.

7 MR. GOUDSOUZIAN: Ask one question at a
8 time, then give him an opportunity to answer it.

9 MS. MISCZENSKI: He did.

10 MR. GOUDSOUZIAN: I'm not arguing with
11 you, ma'am. I'm just asking you to do this.

12 MS. MISCZENSKI: Okay.

13 MR. CAROCCI: Our solicitor doesn't do
14 this regularly, so you're fine.

15 MS. DeLEON: Tom --

16 MR. GOUDSOUZIAN: Go ahead.

17 BY MS. MISCZENSKI:

18 Q. The second question is: How do you recognize
19 Lewis Avenue as a road, as a recognized Township road,
20 if it does not receive liquid fuels tax?

21 A. **It's not maintained by the Township.**

22 Q. So do you believe that this is an actual
23 road?

24 MS. DURSO: I don't know -- hold on a
25 second. I mean, you don't understand --

1 THE WITNESS: I don't know what she's
2 asking, but it has a right-of-way that is deeded.

3 BY MS. MISCZENSKI:

4 Q. Yes or no?

5 A. **Can you repeat your question?**

6 Q. Do you recognize this as a real road? Yes or
7 no?

8 A. **It has a deeded right-of-way, so it is**
9 **recognized as a road.**

10 Q. Are you certain? Yes or no? Are you
11 certain? Yes or no?

12 MR. GOUDSOUZIAN: Ma'am, ma'am --

13 MS. MISCZENSKI: I need to know because
14 actually, by the definition of this county, that is not
15 the case; but I want to hear it from him.

16 MR. GOUDSOUZIAN: He's already answered
17 that question.

18 Do you have another question to ask him?

19 MS. MISCZENSKI: No. I got the record
20 now. I'm good. Thank you.

21 MR. CAROCCI: I've changed my mind. I
22 think I want to make a motion to let Priscilla run the
23 hearing.

24 MR. BANONIS: May I ask a question on --
25 I guess it would be recross or redirect, based upon the

1 questions that were raised by Ms. Misczenski?

2 MS. OPTHOF-CORDARO: Do you represent
3 the client?

4 MR. BANONIS: What are you talking
5 about?

6 MS. OPTHOF-CORDARO: Well, you want to
7 recross somebody on --

8 MR. BANONIS: I want to ask this
9 gentleman a question. Because what Ms. Misczenski
10 brought up raised a question that had not been asked
11 yet. So I don't represent anybody here. I don't
12 suggest that I do. I think you know that I don't. It
13 was a stupid question from a stupid person, but that's
14 --

15 (Multiple voices speaking.)

16 MS. DeLEON: Order. (Banging gavel.)

17 Did you not hear anything that I said in
18 the beginning?

19 MR. BANONIS: She accused me of
20 representing this party, which I do not represent this
21 party. I simply --

22 MS. DeLEON: That's fine. You said it
23 once.

24 MR. BANONIS: Why don't you correct her
25 behavior? Why don't you correct her for a comment like

1 that? That's a stupid comment.

2 MS. DeLEON: Keep it up, and I will
3 recess the meeting.

4 MR. CAROCCI: You can't. The solicitor
5 can. You gave the solicitor --

6 MR. BANONIS: Who's running it? I would
7 like to know the answer to that.

8 MR. CAROCCI: Yeah.

9 (Multiple voices speaking at one time.)

10 MR. CAROCCI: Our solicitor is under
11 Priscilla's thumb.

12 MS. DURSO: Mr. Albano is available to
13 answer any questions that the Council may have.

14 MR. GOUDSOUZIAN: Understood. I
15 appreciate that.

16 Now, back to your question, Mr. Banonis,
17 is now that we've gone through a round of questions --

18 MS. MISZCZENSKI: Did he just call me
19 stupid?

20 MR. BANONIS: No, I didn't call you
21 stupid. I called Ms. Opthof-Cordaro stupid for asking a
22 stupid question.

23 MS. DeLEON: And that is out of order.

24 MR. BANONIS: That was the question to
25 me. Why don't you call her out of order?

1 (Multiple voices speaking at one time.)

2 MR. BANONIS: Look, Priscilla, who's
3 running at this point?

4 MS. DeLEON: We need to behave as adults
5 in here. We're not.

6 MR. GOUDSOUZIAN: So here's where we
7 are. We made a round of questions. Before we get to
8 re-question, which you have a right to --

9 MR. BANONIS: Thank you.

10 MR. GOUDSOUZIAN: -- I just want to
11 clarify and do this in a proper order.

12 Based on the questions that have been
13 asked of this witness from Lower Saucon Council, is
14 there anything else from -- we're going to go around.

15 Do you have anything, Ms. Durso, for
16 this witness?

17 MS. DURSO: Yes. I have a number of
18 questions on redirect based not just on Council's
19 questions, but on Attorney Deschler's questions at the
20 last hearing.

21 MR. GOUDSOUZIAN: So what I recommend we
22 do and what I'm saying we're going to do is Ms. Durso
23 will ask and go to redirect. Mr. Deschler will have an
24 opportunity to recross. And then Lower Saucon will have
25 an opportunity to ask questions.

1 MR. BANONIS: Thank you.

2 MR. GOUDSOUZHIAN: Thank you.

3 MS. DURSO: And with that, I'm going to
4 present an exhibit packet of Exhibit A-19, A-20, and
5 A-21. I numbered it those just so that I kept them in
6 the packet order.

7 (Exhibit A-19, Aerial map with
8 visibility notations, was marked for identification.)

9 (Exhibit A-20, Monopine photosimulation,
10 was marked for identification.)

11 (Exhibit A-21, Photos of Lewis Avenue,
12 was marked for identification.)

13 (Document distribution.)

14 MR. GOUDSOUZHIAN: Ms. Durso, prior to
15 moving forward, just so we have a clear record, you had
16 previously identified A -- I'm sorry -- Exhibits 1
17 through 17. They're not all introduced yet or
18 identified yet, but you provided them in a packet.

19 MS. DURSO: Yes, I did.

20 MR. GOUDSOUZHIAN: And these start with
21 A-19. So there's no A-18 for now.

22 MS. DURSO: I think my numbering is just
23 off.

24 MR. DESCHLER: I think it's in --

25 MS. DURSO: No, there's an 18. There's

1 18 in the packet.

2 MR. GOUDSOUZIAN: All right. Very well.
3 Thank you.

4 MS. DURSO: So we're all -- okay, good.

5 MR. GOUDSOUZIAN: I will say that I have
6 the -- I must have the old packet, also, that ends at
7 17. That's why I'm asking. It's not your fault. We'll
8 get it cleaned up.

9 MS. DURSO: Okay. I have an extra one.

10 MR. GOUDSOUZIAN: If you have one, I
11 would take it. That would be great. Thank you.

12 MS. DURSO: (Handed packet.)

13 MR. GOUDSOUZIAN: Thank you.

14 MS. DURSO: You're welcome.

15 I'm going to talk as loud as I can by
16 sharing the microphone.

17 * * *

18 REDIRECT EXAMINATION

19 BY MS. DURSO:

20 Q. Will the project be required to meet erosion
21 and sedimentation standards for the proposed
22 improvements?

23 A. **Yes.**

24 Q. Is there any question from you as a civil
25 engineer that the standards can be met by this project?

1 A. **No.**

2 Q. As it relates to Hanover Engineers' review
3 letter marked as Exhibit C-6, are all of those items
4 will-comply items by the applicant?

5 A. **Yes.**

6 Q. And when I say "will-comply," meaning the
7 applicant will meet all of the site plan comments set
8 forth in Exhibit C-6.

9 A. **Yes.**

10 Q. Going back to the photosims that were
11 submitted as Exhibit A-8, a question was made of you as
12 to visibility. What percentage of the monopole is
13 visible from the noted locations?

14 A. **Between 30 and 50 percent of the monopole
15 will be visible.**

16 Q. And that is what's shown in Exhibit, again,
17 A-8?

18 A. **Correct.**

19 Q. Does the photosimulation show -- identify
20 just those areas where there would be visibility?

21 A. **It also -- there is some -- there is a
22 location that shows where it is not visible.**

23 Q. Included in that packet?

24 A. **Yes.**

25 Q. Were there other areas where photographs were

1 taken that showed the lack of visibility?

2 A. **Yes.**

3 Q. I'm going to show you what's now marked as
4 Exhibit A-19. And A-19 consists of a map and a blowup
5 of a portion of the map; is that correct?

6 A. **That is correct.**

7 Q. Can you explain, just briefly, what
8 Exhibit -- how Exhibit A-19 was used by the Colliers
9 representatives when performing the photosimulation?

10 A. **This is the map that we used to be able to**
11 **translate and communicate where we were taking photos at**
12 **in the field. This is our field notes. It is just an**
13 **internal record that we use.**

14 Q. And the blue circles represent what's set
15 forth in the photosimulation analysis?

16 A. **That is correct.**

17 Q. And the second page to it, because it's hard
18 to read on the color, it showed the number of locations
19 and it says NV BV NZ. What does NV mean?

20 A. **Not visible.**

21 Q. And what does BV mean?

22 A. **Barely visible.**

23 Q. Okay. So when Colliers did the
24 photosimulation, they -- approximately how many
25 photographs did they take?

1 A. **There was hundreds of photos taken.**

2 Q. And so the photosimulation that was submitted
3 was representative of where the visibility would be?

4 A. **Correct.**

5 Q. Can you confirm the time of day the photosims
6 were prepared?

7 A. **The photos were taken between 9:30 and 11:00
8 in the morning.**

9 Q. And then as a follow-up to the question
10 raised at the last hearing, you testified as to
11 whether -- or you were asked whether the monopole would
12 be designed to be less -- could the monopole be designed
13 to be less intrusive, such as a tree, flagpole, silo, or
14 windmill. And your testimony was that the monopole, you
15 thought, would be the least intrusive?

16 A. **That is correct.**

17 Q. Based on those other types?

18 A. **Yes.**

19 Q. Did your company look into what the facility
20 would look like if it was designed to resemble a tree
21 and what's known in the industry as a monopine?

22 A. **Yes.**

23 Q. I'm going to show you what's marked in the
24 exhibit package as Exhibit A-20. What is Exhibit A-20?

25 A. **Exhibit A-20 is a set of photosims showing a**

1 **monopine.**

2 Q. Are the photographs the same photographs that
3 were part of Exhibit A-8?

4 A. **Yes.**

5 Q. And in this situation, instead of showing
6 what the monopole would look like, it's showing a
7 monopine?

8 A. **That is correct.**

9 Q. Again, at the same location?

10 A. **Correct.**

11 Q. And when a monopine is designed, it is a
12 monopole structure with what?

13 A. **With fake branches that are attached to it.**

14 Q. And is that accurately depicted in the
15 photosimulation?

16 A. **Yes.**

17 Q. If required or requested of Council, would
18 Verizon Wireless be willing to have the design be a
19 monopine as opposed to a galvanized steel monopole?

20 A. **Yes.**

21 Q. From a construction standpoint, as far as
22 space and fence compound, would any of that change?

23 A. **No.**

24 Q. So it would really just be the structure,
25 instead of galvanized steel, being a monopine?

1 A. **Correct.**

2 Q. With regard to access to the site, is it your
3 understanding that the portion of Lewis Avenue that
4 provides access to Mr. Viscito is maintained by
5 Mr. Viscito and the other two properties that use it?

6 A. **It is our understanding of that, yes.**

7 Q. And do you have photographs -- or scratch
8 that.

9 I'm going to show you what's been marked in
10 the exhibit package as Exhibit A-21. Does Exhibit A-21
11 consist of four photographs?

12 A. **Yes.**

13 Q. And what are the photographs depicting?

14 A. **They are showing the entrance and condition**
15 **of Lewis Avenue.**

16 Q. And in fact, the second picture in that
17 packet identifies that you can see the Lewis Avenue
18 street sign?

19 A. **That is correct.**

20 Q. And again, you can see that in the third
21 page --

22 A. **Correct.**

23 Q. -- where it enters?

24 A. **Yes.**

25 Q. And then the last photograph is showing,

1 again, looking into Lewis?

2 A. **Correct.**

3 Q. Is it your understanding that Lewis Avenue
4 was paved by Mr. Viscito and one of his neighbors?

5 A. **That's right.**

6 MR. DESCHLER: Objection. I would ask
7 that a foundation be laid for that testimony.

8 MR. GOUDSOUZIAN: Would you please
9 rephrase your question?

10 MS. DURSO: Which one, the paving one?

11 MR. GOUDSOUZIAN: Yes. The question
12 was, was it paved. He answered yes. There was an
13 objection. I think the question is could you lay a
14 foundation for that.

15 BY MS. DURSO:

16 Q. Have you been out to the site?

17 A. **Yes.**

18 Q. Have you physically walked Lewis Avenue?

19 A. **Yes.**

20 Q. What does Lewis Avenue comprise of?

21 A. **An asphalt road base.**

22 Q. Is it your understanding that PPL,
23 Service Electric, and other utility providers provide
24 services?

25 MR. DESCHLER: Again, I understand that

1 the Rules of Evidence are more liberal here; but I do
2 object on the basis of a lack of foundation. Seems like
3 we're sort of absorbing hearsay testimony to establish a
4 foundation for this witness to testify to things that
5 are his understanding without him personally observing
6 anything.

7 MR. GOUDSOUZIAN: I'd ask that he
8 testify with regard to his knowledge, rather than
9 hearsay.

10 BY MS. DURSO:

11 Q. Are you aware of there being other utilities
12 in the area?

13 A. **Yes.**

14 Q. And are you aware of where those utilities
15 serve?

16 A. **They serve the houses that are off of**
17 **Lewis Avenue.**

18 Q. From a construction or maintenance technician
19 visits, you as a civil engineer, do you foresee any
20 issues with regard to access for construction and/or
21 maintenance?

22 A. **No.**

23 MS. DURSO: That's all of my redirect
24 questions.

25 MR. GOUDSOUZIAN: Thank you.

1 Mr. Deschler?

2 MR. DESCHLER: Thank you.

3 MS. DURSO: Oh, I'm sorry. I did have
4 one more. I apologize. Sorry.

5 BY MS. DURSO:

6 Q. Council asked you about the landscaping
7 around the fence compound; is that correct?

8 A. **That is correct.**

9 Q. And does the ordinance require an evergreen
10 screen in accordance with Section 180-97(B)?

11 A. **Yes.**

12 Q. Does 180-97(B) require plant materials to be
13 a minimum of 5 feet high and shall produce within three
14 years a complete visual screen of at least 6 feet in
15 height?

16 A. **Yes.**

17 Q. Are the plants that are proposed, meaning the
18 evergreen screen, going to be planted at a minimum
19 height larger than that?

20 A. **Yes.**

21 MS. DURSO: Sorry. That was my
22 question.

23 * * *

24 RE-CROSS-EXAMINATION

25 BY MR. DESCHLER:

1 Q. So, Mr. Albano, the photos of Lewis Avenue
2 that have been marked as Exhibit A-21, did you take
3 those?

4 A. **I did not.**

5 Q. Okay. But you said you did walk the site?

6 A. **Yes.**

7 Q. In some of the photos, and I think it's my --
8 I believe it's like the second one in, there is a sign
9 on the right-hand side of the road leading into
10 Lewis Avenue. Were you able to get a close look at that
11 sign?

12 A. **I mean, I walked by it. I don't remember
13 what it specifically said on it.**

14 Q. Did it say private road or anything like
15 that?

16 A. **I can't recall.**

17 Q. And I know there's been some questions about
18 the nature of Lewis Avenue. Regardless of the, I guess,
19 physical characteristics of the road, in terms of how we
20 define this, is Lewis Avenue a public street?

21 A. **No.**

22 Q. I think that's clarifying. So, I mean, the
23 phrase "paper street" has a specific legal definition
24 that you as an engineer, you're aware of what that
25 means, right?

1 A. **That is more so a surveying question.**

2 Q. Okay. But, in essence, it's a street that's
3 laid out but not open for public use, right?

4 A. **Yes.**

5 Q. That was a yes?

6 A. **Yes.**

7 Q. And so even if a paper street is paved, it
8 may still not be a public street, correct?

9 A. **That is correct.**

10 Q. All right. So just one more question.

11 In the applicant's supplemental statement
12 that's Exhibit C-1 -- or included in Exhibit C-1 --

13 MR. DESCHLER: And, Ms. Durso, this is
14 the first page of the supplemental statement. All
15 right?

16 BY MR. DESCHLER:

17 Q. So, Mr. Albano, where --

18 MS. DURSO: You can use mine.

19 MR. DESCHLER: Oh, I have it in front --
20 yeah.

21 BY MR. DESCHLER:

22 Q. I highlighted it because I can remember where
23 things are. Where it says in my highlight: Access to
24 the site will be over the existing access to the Viscito
25 residence, which will be paved as required. The

1 existing access to the property was previously improved
2 by the Township off Lewis Avenue. Lewis Avenue and
3 Randolph Avenue are paper streets, as they are on
4 Township maps but were never opened by the Township.

5 That's a correct statement, right?

6 A. **Yes.**

7 Q. And the reference to "access to the site will
8 be over the existing access to the Viscito residence,
9 which will be paved as required," just to clarify, this
10 would be the, I guess, driveway from Lewis Lane into the
11 Viscito property leading to the cell tower, right?

12 A. **From Lewis Avenue into the property to the**
13 **cell tower, yes.**

14 Q. From kind of the Viscito entrance on
15 Lewis Avenue back into the property to the cell tower,
16 right?

17 A. **Yes.**

18 Q. That's all that refers to, correct?

19 A. **Yes.**

20 MR. DESCHLER: That's all I have.

21 MR. GOUDSOUZIAN: Thank you.

22 Now, this would be the opportunity for
23 members of Lower Saucon Council to ask questions. We
24 can go the way we have in the past.

25 Mr. Banonis?

1 * * *

2 EXAMINATION

3 BY MR. BANONIS:

4 Q. Yeah. I'm not sure if this question is
5 appropriate directed to you, but Section 180-127.1 of
6 the Township ordinance, this is the commercial
7 communications facilities provision.

8 Is what is being proposed here, does that
9 meet all the requirements of that section of the code?
10 It's 180-127.1. And it's several pages long. It talks
11 about the design and the structure and everything else
12 with regard to the cell phone tower.

13 A. **Yes.**

14 Q. Okay. The question I have, and this was
15 brought up by Ms. Misczenski and piqued my interest:
16 Back in 2004, Rocky Viscito, the property owner here,
17 sought and received a variance from Section 180-91 of
18 the Township ordinance. And that section says: Every
19 principal building or structure shall be built on a lot
20 abutting a street improved to meet municipal
21 requirements.

22 And then it also says: Private improved
23 roads shall satisfy the requirements of this section if
24 they are approved as private roads on a subdivision plan
25 approved by the Township or are paper streets improved

1 as required by Ordinance 91-5 or amended thereto.

2 So back in 2004, the applicant received the
3 variance; and that was approved unanimously by the
4 Zoning Hearing Board. And essentially that approval, if
5 I understand it correctly, allowed Mr. Viscito to
6 essentially consolidate the multiple lots into a single
7 integrated property and to also use that property in
8 accordance with the Township's permission and without
9 requiring him to do anything else with regard to
10 improving Lewis Avenue.

11 In other words, he received approvals for
12 relief from the zoning ordinance without anything else
13 being required of him to make any other improvements on
14 Lewis Avenue by the Township, and he could use his
15 property as permitted under the ordinance. Is that a
16 fair understanding?

17 A. **Yeah. Yes.**

18 Q. Okay. So all this hullabaloo about
19 Lewis Avenue being a paper street or being paved or not
20 paved or being wide enough or whatever really doesn't
21 matter because Mr. Viscito already received approval
22 from the Township to consolidate the lots and to not do
23 anything else to his property and to be able to use
24 Lewis Avenue in the way that it is currently being used
25 without any further requirements or restrictions for his

1 free use of the property in accordance with the Township
2 ordinance. Is that fair?

3 A. **Yes.**

4 Q. So we have wasted now an hour and a half on
5 that point, which is a nonissue as far as I'm concerned.
6 Thank you.

7 MR. GOUDSOUZIAN: Mr. Banonis?

8 MR. BANONIS: No.

9 MR. GOUDSOUZIAN: Thank you.

10 Mr. Carocci, any questions?

11 MR. CAROCCI: No.

12 MR. GOUDSOUZIAN: Ms. Opthof-Cordaro,
13 any questions?

14 MS. OPTHOF-CORDARO: Just one.

15 * * *

16 EXAMINATION

17 BY MS. OPTHOF-CORDARO:

18 Q. Mr. Banonis referred to the cell phone tower
19 zoning ordinance and then asked if you met all of those
20 requirements, and I just want to clarify. It's your
21 assertion that you meet all the requirements of the cell
22 phone tower ordinance; is that right?

23 A. **Yes.**

24 Q. It's your opinion, right?

25 A. **Yes.**

1 Q. You're not a judge, right?

2 A. **Correct.**

3 Q. You're not overseeing and making a legal
4 conclusion; is that right?

5 A. **That is correct.**

6 Q. Thank you.

7 MR. GOUDSOUZIAN: Ms. Ray, any
8 questions?

9 MS. RAY: Yes. Let me go over to this
10 microphone here.

11 * * *

12 EXAMINATION

13 BY MS. RAY:

14 Q. All right. So I read through the
15 Ordinance 180-127.1 myself. And looking in Section 2,
16 there's so many letters in here, but there's a --
17 there's a section in here on "Gap in Coverage," where it
18 discusses all that.

19 So it says: An applicant for a tower-based
20 CCF must demonstrate that a significant gap in wireless
21 coverage exists with respect to all wireless operators
22 in the applicable area and that the type of tower-based
23 CCF being proposed is the least intrusive means to fill
24 that gap in coverage.

25 I don't really see where that is in all this

1 stuff. I saw the maps with all the speckled coloring
2 on --

3 MS. DURSO: So the next witness is going
4 to -- is a radio frequency --

5 MS. RAY: Okay. So we'll talk about
6 that for that part?

7 MS. DURSO: Yes. I didn't mean to cut
8 you off, but he would be able to answer those questions.

9 MS. RAY: Okay. That's fine.

10 BY MS. RAY:

11 Q. And then the access road, then. So there is
12 a section in this part of the regulations regarding the
13 access. And there, it does say: Access shall be
14 provided to the facility by means of a public street or
15 easement to/from a public street unless waived in
16 writing by the Township Council.

17 And then it goes on about the size, the
18 20 feet, 10 feet, et cetera, the size of that. It also
19 mentions a turnaround area that has to be available
20 within the fenced area to allow adequate access by all
21 service and emergency vehicles. I think that may have
22 been pointed out in the Hanover letter, as it didn't
23 look -- and it doesn't look like to me, looking at the
24 little picture, that there would be enough space for
25 that to happen.

1 MS. DURSO: Are you asking him that
2 question?

3 MS. RAY: Well, I guess we were debating
4 here public street, not public street. And it does
5 clearly say that in the ordinance here.

6 MS. DURSO: Well, it --

7 MR. CAROCCI: I thought we were talking
8 about questions.

9 MR. GOUDSOUZIAN: Hold on. Everybody's
10 talking.

11 Ms. Ray, if you wouldn't mind, if you
12 have a question -- I know you made a statement. But if
13 you have a question for the witness, please ask.

14 MS. RAY: Okay.

15 BY MS. RAY:

16 Q. So do you think there's a turnaround area for
17 emergency vehicles?

18 A. **We have provided one at the cell site for**
19 **being able to turn around. It's in the plans that have**
20 **been submitted and updated.**

21 Q. All right. I guess I didn't see that. I
22 don't have any further questions.

23 MR. GOUDSOUZIAN: Ms. deLeon, any
24 questions?

25 MS. DeLEON: Yes, I have one question.

1 * * *

2 EXAMINATION

3 BY MS. DeLEON:

4 Q. That monopine, is that what you referred to,
5 how tall is that?

6 A. **It would be the same height.**

7 Q. Which is? Remind me.

8 A. **The top of the pole would be 125 feet, with a**
9 **130-foot -- with a 5-foot lightning rod, total of 130.**

10 MS. DeLEON: Okay. Thank you.

11 MR. GOUDSOUZIAN: And then is there
12 anyone -- I say this -- is there anyone here who has
13 party status who has questions about this witness only
14 on what was just the last round of questioning?

15 MS. MISCZENSKI: (Raised hand.)

16 * * *

17 EXAMINATION

18 BY MS. MISCZENSKI:

19 Q. Who clears that road as far as snow and ice
20 and those types of things?

21 A. **That is -- I don't have knowledge of that.**

22 Q. 'Cause it's not done by the Township, right?
23 Correct?

24 A. **To my knowledge, it is not.**

25 MS. MISCZENSKI: That's my question.

1 MR. GOUDSOUZIAN: Thank you.

2 Counsel, I presume nothing else of this
3 witness?

4 MS. DURSO: I have nothing else. No.

5 MR. GOUDSOUZIAN: Ready to call your
6 next witness?

7 MS. DURSO: I am.

8 MS. OPTHOF-CORDARO: Can I just ask for
9 a quick three-minute bathroom break?

10 (Discussion off the record.)

11 MS. DeLEON: Why don't we just take a
12 recess?

13 MR. GOUDSOUZIAN: I think it's
14 appropriate if someone would like to use the bathroom,
15 we take a three-minute or five-minute break.

16 MR. BANONIS: So the question of --

17 MR. GOUDSOUZIAN: I'm running the
18 meeting. Let's take a three-minute break.

19 MR. BANONIS: I need an answer to the
20 question before we take a break. Are you the guy
21 running the meeting and controlling it? Because
22 Priscilla keeps interjecting herself and directing
23 what's going to be the case, and I'm not sure -- I want
24 to know, are you running the hearing?

25 MR. CAROCCI: The solicitor has never

1 run a Township conditional use hearing.

2 (Multiple voices speaking at one time.)

3 MR. CAROCCI: In over his head.

4 (Discussion off the record.)

5 (A hearing break was taken from

6 8:18 p.m. to 8:26 p.m.)

7 MR. GOUDSOUZIAN: We're back on the

8 record. It is 8:25, 8:26.

9 Ms. Durso, are you ready to proceed?

10 MS. DURSO: Yes.

11 Do you want to swear Mr. Petersohn

12 again, just to be safe?

13 MR. GOUDSOUZIAN: Yes.

14 ANDREW PETERSOHN,

15 having been first duly sworn, testified as follows:

16 * * *

17 DIRECT EXAMINATION ON QUALIFICATIONS

18 BY MS. DURSO:

19 Q. Can you state your name for the record?

20 A. **Andrew Petersohn, P-E-T-E-R-S-O-H-N.**

21 Q. And, Mr. Petersohn, where do you work?

22 A. **DBM Engineering.**

23 Q. And can you explain and describe your
24 educational background?

25 A. **Yes. I have undergraduate and graduate**

1 degrees, both in electrical engineering, both from
2 Lehigh University; specifically, a bachelor of science
3 in electrical engineering, also a master of engineering
4 in electrical engineering.

5 I've been involved in the design of these
6 types of facilities now for about 25 years. I've
7 designed hundreds of them, and I've testified hundreds
8 of times before municipal bodies like this one. I've
9 also testified in federal court and state court as an
10 expert witness.

11 Q. And are you also a licensed professional
12 engineer in the Commonwealth of Pennsylvania?

13 A. **Yes.**

14 MS. DURSO: I'd like to submit
15 Mr. Petersohn as an expert in radio frequency
16 engineering.

17 MR. GOUDSOUZIAN: Mr. Deschler, do you
18 have any questions with regard to qualifications?

19 MR. DESCHLER: I have no questions, no
20 objections.

21 MR. GOUDSOUZIAN: Very well.

22 He's admitted as an expert.

23 You may proceed.

24 MS. DURSO: Okay.

25 * * *

DIRECT EXAMINATION

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BY MS. DURSO:

Q. Mr. Petersohn, can you explain to the Board how a carrier determines there's a -- well, let me just ask.

First of all, Ms. Manchel testified that Verizon identified there was a need for this site. Is that your understanding?

A. **Correct.**

Q. And can you explain to the Board how Verizon Wireless would determine that there's a need for a site?

A. **They do that in a number of ways, including analyzing their network statistics, drive test information, customer complaints, and then propagation modeling. And we'll look at some examples of propagation modeling as we move along through testimony.**

Q. And as it relates to what people were talking about as being a gap, who makes the determination as to whether or not there's a gap?

A. **The FCC has ruled that the wireless provider, in this case Verizon Wireless, makes the determination of whether they have a gap in service. And they are the body that decides the level of service that they want to provide to their customers.**

1 Q. And is that level of service pursuant to the
2 FCC licenses that they maintain?

3 A. **Yes.**

4 Q. I'm going to show you what's marked as
5 Exhibit A-11. Thank you, yeah. Or if we have to, we
6 can put it on the screen. Just for the record, A-11
7 consists of two drawings. One is entitled
8 Verizon Wireless existing reliable coverage; and the
9 other, which actually is not up there, is a surrounding
10 terrain map; is that correct?

11 A. **That's correct.**

12 Q. Okay. Can you first explain what a
13 propagation model is?

14 A. **Sure.**

15 **A propagation model is a sophisticated**
16 **computer software program. Verizon uses the propagation**
17 **model called "Atoll." It's manufactured by Forsk. It's**
18 **become an industry standard propagation modeling**
19 **software package.**

20 **Verizon and the other wireless providers use**
21 **a propagation modeling software package in order to**
22 **model the coverage and other aspects that the network is**
23 **providing to their customers. So we're looking at some**
24 **rather simple functions of the propagation model and**
25 **just showing pure coverage.**

1 The modeling tool can also examine throughput
2 speeds, dominant server areas, some other -- some other
3 lenses to view the network through. But the function
4 that is of most interest to us in what we're displaying
5 here is that of coverage.

6 Q. And let me just ask: And the map that we're
7 showing coverage is just Verizon Wireless coverage?

8 A. **That's correct.**

9 Q. Can you explain what the different colors and
10 what the plot shows?

11 A. **Sure.**

12 First and foremost, this is a map of the area
13 that surrounds the proposed facility. I'll indicate
14 with the laser pointer here. We see the Township
15 boundary of Lower Saucon, as well as the other
16 surrounding municipal boundaries. We see the interstate
17 in the southeast corner.

18 We also see the other major roadways are
19 depicted. We also see the Lehigh River running
20 east-west on the north side of the exhibit. So we have
21 a lot of typical map features.

22 There's also a bit of relief that we can see
23 on the map. We can see the ridgeline that is just south
24 of the proposed facility. And then some of the other
25 terrain features are also shown in the map.

1 Q. And just for purposes of the exhibit, the
2 circle that says "ALL Sofia," is that the proposed
3 location?

4 A. That is. That is the proposed location.
5 Beyond the typical map features that we're displaying,
6 there is some Verizon Wireless specific information.
7 That includes the location of the existing surrounding
8 sites. Those dot the periphery of the exhibit. There
9 are four of them shown, and the details of those are
10 included in the exhibit packet on page 2 of the design
11 report.

12 Q. (Looking through packet.)

13 Continue with your testimony.

14 A. Okay.

15 Q. Just why don't you explain what each one
16 consists of.

17 A. Right. So the existing facilities -- and
18 I'll just talk about them clockwise -- starting with the
19 one most north, there's a facility called Freemansburg.
20 It is a monopole, so it's a similar design to what we
21 are proposing here. Verizon Wireless is installed on
22 that monopole at 110 feet above ground. And that is at
23 1600 Freemansburg Ave.

24 There's a facility that Verizon calls
25 Lower Saucon. That is due east of the proposed

1 facility. That's a lattice-type structure Verizon
2 installed at 108 feet, and that's at 4105 Sherry
3 Hill Road.

4 There is a facility called Hellertown. That
5 is southwest of the proposed facility. That is also a
6 lattice-type structure that Verizon installed at
7 137 feet at 100 -- sorry -- 1022 Hellertown Road.

8 And then there's a facility called
9 Lehigh Canal, which is a monopole west of the proposed
10 site. That's at 930 East Market Street. And Verizon
11 installed at 150 feet there.

12 So those facilities are providing the
13 existing coverage, and we're showing three tiers of
14 coverage thresholds on the map. In red, we are showing
15 a coverage level that would provide service on-street.
16 So an individual, let's say out walking their dog, would
17 be able to reliably use their device for voice calls and
18 some data services.

19 The yellow footprint, which is a bit smaller,
20 illustrates the areas where a Verizon subscriber could
21 reliably use their device in their vehicle. It's a
22 little bit smaller because to penetrate the material of
23 the vehicle, there's some attenuation of the signal. So
24 there's a more stringent requirement for signal
25 strength, thus, the smaller footprint.

1 And then yet the -- yet a smaller footprint
2 in green is illustrated. That shows the reliability in
3 building coverage where an individual, a
4 Verizon Wireless subscriber, would be able to reliably
5 use their device, let's say in their home, in their
6 place of business, et cetera, when they are -- when the
7 signal is attenuated further by the building material of
8 the structure they're in.

9 So what we can see is there is a significant
10 gap in coverage in the Township bounded roughly by the
11 Lehigh River to the north and to south by the ridgeline.
12 That gap in coverage extends north into Bethlehem
13 Township, as well across the river where there is some
14 dense residential usage that also lacks the building
15 coverage and on-street coverage.

16 Q. And then the exhibit also includes a terrain
17 map. Can you just explain what the terrain map shows,
18 for the record?

19 A. Sure.

20 The terrain map shows that there is obviously
21 a significant ridge to the south of the proposed
22 facility. That ridge blocks signal coming into the area
23 from the south. So it explains why the sites to the
24 southeast and southwest don't cover into the area.

25 It also shows that the other two facilities,

1 the Freemansburg and Lehigh Canal site, they are located
2 in some low-lying area. And their signal is blocked by
3 some terrain before it can reach the area that's
4 currently suffering from lack of coverage.

5 So the surrounding terrain map does a good
6 job illustrating as to why -- as to why there is an
7 issue in coverage and it's really terrain-driven.

8 Q. So is it your testimony that Verizon Wireless
9 currently has a significant gap in coverage in this
10 general area?

11 A. **Yes.**

12 Q. Did you also perform an analysis to confirm
13 that by locating the site as proposed, that it would
14 satisfy the -- and eliminate the gap in coverage?

15 A. **Yes, I did.**

16 Q. Okay. I'm going to show you what's marked as
17 Exhibit 12 in the package. And it's entitled
18 "Verizon Wireless Proposed Reliable Coverage."

19 Can you explain to the Board what this
20 shows -- or Council. Excuse me.

21 MS. WERKHEISER: I'll have to go to the
22 next slide. Hold on.

23 (Discussion off the record.)

24 THE WITNESS: So this slide is identical
25 to the last. The only exception now to that is that in

1 this exhibit, the proposed facility is activated with
2 the antenna centerline proposed at 122 feet. And we're
3 adding a significant portion of green and yellow strong
4 in-building and strong in-car service, mainly to the
5 geography bounded by the Lehigh River to the north and
6 the ridgeline to the south.

7 There is also a significant area across
8 the river into Bethlehem Township that will also be
9 improved with strong in-building coverage.

10 BY MS. DURSO:

11 Q. And is this propagation plot showing the
12 proposed site at the proposed location with the antennas
13 at the proposed elevation?

14 A. **Yes, it is.**

15 Q. And is it your testimony -- or let me ask
16 you: Will the proposed site, then, address Verizon's
17 gap in coverage?

18 A. **Yes, it will.**

19 Q. Is Verizon Wireless proposing the minimum
20 height necessary in order to address that gap in
21 coverage as proposed?

22 A. **Yes, they are.**

23 Q. Are there any existing tall structures in a
24 two-mile radius on which Verizon Wireless could attach
25 its antennas rather than constructing a freestanding

1 tower?

2 A. There are none that were available and
3 congruent with the Verizon Wireless network need that
4 could serve as a collocation in lieu of the construction
5 of a new site. It's always Verizon Wireless' preference
6 to install on an existing tall structure. It's much
7 cheaper, it's much faster to market. So that is their
8 overwhelming preference.

9 In this case, there were no structures within
10 2 miles that were tall enough, that were available, and
11 that were in the right location to meet the network
12 need.

13 There is a line of PPL high-tension
14 transmission towers just south between the proposed
15 facility and Skyline Drive. Those facilities -- those
16 towers were not available for collocation because PPL is
17 replacing those towers in the near future.

18 There are two existing sites across the river
19 and one on the south side of the river that
20 Verizon Wireless has already installed on within the
21 2-mile radius. There is also a 65-foot monopole that is
22 just under 2 miles southwest of the proposed site, just
23 too far and on the wrong side of the ridge to provide
24 any type of improved service.

25 There is a utility structure -- actually,

1 there are two utility structures with collocators, again
2 on the north side of the river. They are too far to
3 help the service here. They're about as far as
4 Verizon Wireless's existing site. And they are on a
5 utility line, and there are operational and maintenance
6 issues with the use of the utility lines.

7 And then there is another monopole about
8 1.75 miles west of the proposed facility that, again, is
9 too far to address the need. So those were all the tall
10 structures within 2 miles that were examined.

11 Q. If the PPL wasn't replacing the transmission
12 towers, would they still be viable?

13 A. The issue with transmission towers is that
14 they're no longer compatible with the 4G and 5G network
15 architecture. It used to be that we would use those
16 occasionally because we just had the antennas at the top
17 of the tower. But with the 4G and 5G architecture, the
18 radios are now up next to the antennas, which is great
19 for performance, but now we have an active element
20 that's up by the antennas that we have to maintain; we
21 have to replace, we have to upgrade, we need access to.

22 And to schedule an outage on a high-tension
23 line can be a two-year, three-year process sometimes.
24 So it's really not an arrangement that's tenable. So
25 the short answer is no, they're really not compatible

1 with the -- with the modern architecture.

2 Q. And nowadays, are Verizon Wireless
3 subscribers and even other carrier subscribers just
4 using their cell phones to make calls?

5 A. Yes, they are. There is a phenomenon known
6 as wireless substitution that the CDC tracks. And
7 during the second half of 2022, just to hit a couple
8 high notes on the statistics, the demographic of folks
9 aged 25 to 29, so a younger demographic, over 87 percent
10 of those individuals live in wireless-only households.
11 The -- overall, there are 72.6 percent of adults now
12 across the U.S. that live in wireless-only households
13 who have effectively cut the cord.

14 So as this wireless substitution continues to
15 spread, the availability of strong in-building wireless
16 coverage becomes increasingly important. Also worth
17 mentioning now is that Verizon Wireless in some markets
18 is offering the fixed wireless service, which would be a
19 suitable replacement for the broadband connection. So
20 the fiberoptic or cable broadband internet service
21 provider that you may have in your home that powers your
22 Wi-Fi system, that can be replaced with an over-the-air
23 link only if there is robust coverage to provide that
24 link.

25 So that is another competitor in the

1 marketplace for an internet service provider that can
2 only -- and would act as wireless substitution to
3 another degree where not only are you cutting the cord
4 on your phone service, you'd be able to cut the cord on
5 internet service, television service, and benefit the
6 consumer.

7 Q. And what are people using their phones -- are
8 people using their phones for things other than calls?

9 A. **Absolutely. The vast majority of the network**
10 **traffic is data services. Voice calls comprise a small**
11 **fraction of the overall data service -- or the overall**
12 **network traffic.**

13 Q. Did you prepare an RF design analysis that
14 sort of summarizes your testimony that you just gave?

15 A. **Yes, I did.**

16 Q. And is that what's marked as Exhibit 13 in
17 the package?

18 A. **Yes, it is.**

19 Q. And did you also perform an analysis to
20 confirm that once operational, that the emissions would
21 adhere to the FCC-approved levels?

22 A. **Yes, I did.**

23 Q. I'm going to show you, then, what's marked in
24 the packet as Exhibit A-14. It's entitled "Electric
25 Magnetic Exposure Analysis." Can you describe for the

1 record what this represents?

2 A. Sure.

3 The FCC has very specific guidelines as to
4 how individuals like myself are to evaluate proposed
5 facilities, proposed cellular facilities. Because it
6 doesn't exist, we can't go out and measure the exposure
7 level surrounding the facility. But what we can do is
8 apply the FCC-prescribed formulas that are found in the
9 Office of Engineering & Technology Bulletin 65.

10 And that's what I've done in this case. I've
11 used multiple upper-limit assumptions that include
12 100 percent ground reflection, maximum power output,
13 24/7 365 maximum exposure, maximum patterning of the
14 antenna, and some other upper-limit assumptions.

15 And using the FCC-prescribed formulas in
16 OET 65, I've found that the worst case upper-limit
17 exposure would be less than 5.7% of the applicable
18 standard at all locations of public access.

19 Q. So it would be well below the FCC maximum
20 exposure guidelines?

21 A. Yes. It would be compliant by a wide margin.

22 Q. Did you also, as required by the ordinance,
23 prepare a report to confirm that the facility, once
24 operational, would not cause interference with other
25 users of the radio spectrum?

1 A. **I did.**

2 Q. I'm going to show you what's marked in the
3 exhibit packet as Exhibit A-15. It's entitled
4 "Interference Analysis for Proposed Telecommunications
5 Facility." Can you explain for the record what this
6 represents?

7 A. **Yes. Verizon Wireless is licensed by the**
8 **FCC. That licensure dictates the very specific portions**
9 **of the radio frequency spectrum in which they can**
10 **operate. Other users of the radio frequency spectrum,**
11 **so other wireless providers, television broadcasts,**
12 **AM/FM broadcasts, consumer electronics like garage-door**
13 **openers, baby monitors, they all have their specified**
14 **portions of the radio frequency spectrum in which they**
15 **can operate.**

16 **So by virtue of that licensure, there'll be**
17 **no overlap in any channels that could cause any harmful**
18 **interference to other users.**

19 Q. And I'm not sure whether you mentioned this.
20 But if the facility were operational, would it allow 911
21 calls then to be placed if somebody's in the area using
22 the Verizon Wireless spectrum?

23 A. **Absolutely, yes. About 70 percent or more**
24 **nationally of 911 calls originate from wireless devices.**
25 **That's only possible if there is good service. And with**

1 **Phase 2 911, an individual can be located even if**
2 **they're hurt so badly they can't speak to the dispatch.**
3 **Or let's say they're in unfamiliar territory and they**
4 **witness an accident and place a call reporting that**
5 **accident, the dispatch can get police or fire or**
6 **whatever is necessary out to them.**

7 Q. Did you contact the Pennsylvania Bureau of
8 Aviation to confirm that the PA Bureau of Aviation would
9 not have any issues or concerns with regard to the
10 proposed facility?

11 A. **Yes, I did.**

12 Q. I'm going to show you what's marked in the
13 packet as Exhibit A-16. It's the PA Bureau of Aviation
14 screening. Can you explain for the record what this
15 represents?

16 A. **Yes, the PA Bureau of Aviation screening is a**
17 **record of the Form AV-57 that I submitted to the bureau.**
18 **In this case, Mr. Drake Burns, who is an aviation**
19 **specialist with the bureau, reviewed that and has deemed**
20 **that the facility is not an obstruction under**
21 **Pennsylvania Aviation Code and that the bureau has no**
22 **objection to the proposal.**

23 Q. Did you also then perform an analysis to
24 determine whether or not the FAA would require any
25 marking or lighting of the facility once constructed?

1 A. **Yes, I did.**

2 Q. I'm going to show you what's marked in the
3 exhibit packet as Exhibit A-17. It's entitled "FAA
4 Notice Criteria Tool Screening." Can you explain for
5 the record what this represents?

6 A. **Yes. I used the FAA's notice criteria tool.**
7 **In that tool, I input the pertinent information,**
8 **including the latitude, longitude, ground elevation, and**
9 **the overall structure height, including any**
10 **appurtenances, in this case the lightning rod extending**
11 **to 130 feet.**

12 **And the screening indicates that the facility**
13 **will not exceed any notice criteria, will not need to be**
14 **lit or marked.**

15 Q. Did you -- was the required notice also sent
16 to the Lehigh Valley International Airport, given its
17 proximity to the facility?

18 A. **Yes, it was.**

19 Q. And is it your understanding the airport gave
20 a response to that notice?

21 A. **Yes.**

22 Q. I'm going to show you what's marked in the
23 exhibit package as Exhibit 18. Can you, for the record,
24 explain what A-18 shows?

25 A. **Yes. Matthew Hill, who's the training and**

1 compliance coordinator with the Lehigh Northampton
2 Airport Authority, indicates that based on his
3 assessment, the proposed communications would not
4 penetrate the FAR Part 77 surfaces, both current and
5 planned for the Allentown-Bethlehem-Easton Airport.

6 Q. So they did not express any concerns with
7 regard to the installation?

8 A. **That's correct, no concern.**

9 Q. Is the proposed installation the least
10 intrusive means to satisfy the significant gap in
11 coverage that you testified about?

12 A. **Yes, it is.**

13 Q. With regard to gaps in coverage, are you
14 familiar with the FCC's various mandates?

15 A. **Yes, I am.**

16 Q. And does the FCC mandates now require that a
17 carrier only need to show that it has a significant gap
18 in coverage?

19 A. **Yes. Since at least prior to 2007, that has**
20 **been the rule known as the "One-Provider Rule," where**
21 **the carrier need only demonstrate that they have a**
22 **significant gap in coverage.**

23 The rule prior to that was one that was --
24 that is similar to the Township ordinance requiring that
25 the provider demonstrate all carriers have a gap. That

1 **is no longer the federal rule, and that's been upheld by**
2 **federal courts and state court as well in Pennsylvania.**

3 Q. And is it your understanding most recently by
4 the U.S. Court of Appeals for the Third Circuit in 2023?

5 A. **Yes.**

6 Q. So although the ordinance when it was written
7 provides that you would need to -- an applicant would
8 need to demonstrate a significant gap with respect to
9 all wireless operators in the applicable area, is that
10 no longer the case -- you're saying that's no longer the
11 case as dictated by the FCC and the Federal Third
12 Circuit?

13 A. **Correct.**

14 MR. DESCHLER: I object to that. That
15 is a legal conclusion for this body.

16 MR. GOUDSOUZIAN: Objection's sustained.

17 BY MS. DURSO:

18 Q. Will the improvements meet all current FCC
19 and FAA requirements?

20 A. **Yes.**

21 Q. In your opinion, would the installation of
22 the facility which is permitted as a conditional use
23 have an adverse impact on public health, safety, or
24 welfare?

25 A. **No, it would not. Just the opposite.**

1 MS. DURSO: That's all the questions
2 that I have for Mr. Petersohn.

3 MR. GOUDSOUZIAN: Mr. Deschler?

4 MR. DESCHLER: Thank you.

5 * * *

6 CROSS-EXAMINATION

7 BY MR. DESCHLER:

8 Q. Mr. Petersohn, I guess, I understand that
9 under -- I think this is in Exhibit 18, it's reflected
10 that the FCC doesn't require lighting of the monopole,
11 right?

12 A. **The FAA does not --**

13 Q. FAA.

14 A. **Correct. And the FCC wouldn't impose that.**

15 Q. There is lighting designed for the monopole,
16 right?

17 A. **There is usually some lightning in the**
18 **compound, some downlighting in the case there's a need**
19 **to visit the facility at night. It's usually on a --**
20 **like a bathroom heater-type of timer. That way it can't**
21 **stay on overnight.**

22 Q. And with regard to -- in looking at these,
23 the maps, one of them was an Exhibit 11,
24 Verizon Wireless existing reliable coverage, and the
25 other one in Exhibit 12, Verizon Wireless proposed

1 reliable coverage, just to compare these briefly, do you
2 have those in front of you?

3 A. I do, yep.

4 MR. HUDSON: Mr. Deschler, is your mike
5 on?

6 MR. DESCHLER: Oh, you know what? It is
7 not.

8 BY MR. DESCHLER:

9 Q. So if I can kind of follow along with your
10 testimony -- and if there are better phrases or terms,
11 just please let me know -- but it sounds like in terms
12 of red, yellow, green, much like a -- I guess a traffic
13 light, like red is the least penetrating type of cell
14 coverage? Is that the idea?

15 A. Well, it's all coverage from the same
16 surrounding sites. What the different colors show are
17 the different signal strengths or thresholds that would
18 be required to, in the case of the red shading, provide
19 coverage to an individual, let's say out walking their
20 dog.

21 And then a stronger signal strength would be
22 required to service someone in their vehicle who's
23 behind the glass and steel of that vehicle. And then
24 the third coverage threshold in green is illustrating
25 yet a more stringent threshold that would be required to

1 **service someone in a building.**

2 **So they are all -- it is all coverage coming**
3 **from the same set of surrounding sites. We're just**
4 **showing three thresholds of coverage, if that makes**
5 **sense.**

6 Q. I think it does. So -- but red, yellow,
7 green, it's sort of like an escalating scale of signal
8 strength. Is that fair to say?

9 A. **That is, yes.**

10 Q. So I guess when it's red, someone's on the
11 street, you know, walking their dog, obviously they're
12 not surrounded by a car, let alone a building, so a
13 weaker signal could still get to them, right?

14 A. **Right.**

15 Q. That's the idea? Okay.

16 Even in the zones depicted red, can you
17 still -- would you still be able to get cell coverage if
18 you're in your car, say?

19 A. **I would say not reliably, no.**

20 Q. But you may still be able to get it, right?

21 A. **Depending on many factors, you may; but the**
22 **goal of the provider is to have reliable service under**
23 **worst case conditions, which would include traffic**
24 **loading, leaf-on conditions, so like spring/summer type**
25 **conditions where there's leaves on the trees.**

1 So we want to have some margin in the signal,
2 so we -- we adjust these thresholds accordingly to
3 demonstrate the predicted coverage levels at those
4 different thresholds. So areas that we're showing in
5 red, one would not have the reliable ability to make
6 calls, use data services while -- while in a vehicle.

7 Q. And the same question: If you're in the red,
8 with respect to the -- to being in a building and being
9 able to receive calls, I take it your testimony is that
10 the signal coverage would not be reliable, right?

11 A. **Correct.**

12 Q. But again, if you're in a building, in your
13 house, for example, in one of the red areas, might you
14 still be able to get cell coverage?

15 A. **You may, but I would -- I would say it would**
16 **not be reliably. You may be able to occasionally, but**
17 **not with any reliability.**

18 Q. And if we look at the maps here, looking at
19 Exhibit 12, so this is the exhibit where we have
20 installed the monopole cell tower and it's providing
21 coverage, right?

22 A. **Correct.**

23 Q. And it looks like it creates a bit of a green
24 area around the cell tower, right?

25 A. **Yes.**

1 Q. And, you know, and I would agree that there's
2 no similar-looking green area in Exhibit 11, which is
3 existing reliable coverage map, right?

4 A. **Correct.**

5 Q. Now, if we look at Exhibit 11 versus 12 --
6 sticking on 12 right now, if we move to the south of
7 where the cell tower is, we run out of green space
8 pretty soon, right?

9 A. **You're correct. There's a ridgeline to the**
10 **south that the facility's not able to penetrate.**

11 Q. And once we hit that -- I guess is the
12 ridgeline sort of where the -- in looking at
13 Exhibit 12 -- where the green part south of the tower
14 ends and the yellow strip begins, is that where the
15 ridgeline is?

16 A. **I'd say it's more along where the yellow is,**
17 **but...**

18 Q. Well, that's what I'm saying. And maybe
19 we're looking at the wrong thing. Like if -- sorry. If
20 this is cell -- well, this is on Exhibit 12.

21 So the cell tower's here. If we move south,
22 right when we hit the yellow, the first yellow we hit,
23 is that the ridgeline, about there?

24 A. **It's approximately the location. Yeah, I do**
25 **have --**

1 Q. Sure.

2 MR. BANONIS: Mr. Deschler, I can't see
3 what you're referring to. If you're trying to persuade
4 me, I think it may be more helpful for you to explain to
5 me in more detail later what it is that you're
6 explaining to him and describing with this witness
7 because I have no idea what you're talking about.

8 MR. DESCHLER: That's fine. I was
9 trying to describe it and place it on the record so the
10 witness could identify it, but I'm looking at -- well,
11 yeah.

12 THE WITNESS: I could illustrate here,
13 the approximate location of the high elevation here.

14 BY MR. DESCHLER:

15 Q. Right. I guess --

16 MS. DURSO: So for the record -- so for
17 purposes of the record, you're pointing to the area on
18 Exhibit A-12 that goes from green to the yellow to the
19 red as you go south --

20 THE WITNESS: Right --

21 MS. DURSO: -- towards Skyline Drive.

22 THE WITNESS: Correct. South of the
23 site, there is a drastic change in illustration from --
24 quickly from green, yellow, to red. And I'd say where
25 the yellow is is the approximate location of the peak of

1 the ridge.

2 BY MR. DESCHLER:

3 Q. All right. And again, just so it's
4 identified -- because we are making a record here,
5 right? -- so if we take where the cell tower is on the
6 Exhibit 12, move south through the green, when we first
7 hit that yellow, that's where the ridge is, about,
8 right?

9 A. **That's right, approximately.**

10 Q. And if we're looking at -- now that we kind
11 of know where the ridge is, if we're comparing
12 Exhibit 11 and 12, is it fair to say that once we hit
13 the ridge, there's -- to my mind, there's not a whole
14 lot of difference in the existing reliable coverage
15 versus the proposed reliable coverage?

16 Is that fair to say? Again, so we -- we hit
17 the ridge, and we keep moving south.

18 A. **There are some small areas of improvement --**

19 Q. But mostly the same?

20 A. **Yeah. The coverage is mostly the same south
21 of the ridge; but there are some small areas where
22 there's slight improvement, notably to the west.**

23 MR. DESCHLER: All right. That's all I
24 have.

25 MR. GOUDSOUZIAN: Thank you.

1 For members of Lower Saucon Council, any
2 questions? Mr. Banonis?

3 MR. BANONIS: I do.

4 * * *

5 EXAMINATION

6 BY MR. BANONIS:

7 Q. Sir, I understand your testimony about the
8 dead zone and dropped 911 calls and public safety and
9 cord cutters and people wanting to be wireless and
10 substituting, and that's all well and good.

11 As an engineer, a professional engineer,
12 you're designing this and looking at this; is safety one
13 of your concerns? You're concerned about public safety?

14 A. **I am personally, yes, and as an engineer.**

15 Q. So in conjunction with your concerns about
16 safety, do you factor into your decision-making and your
17 recommendations and your opinions the safety of
18 individuals who would be relying upon the cell phone
19 signal for regular communications, as well as emergency
20 communications where they need to access and get in
21 contact with 911 on an emergent basis because of health
22 conditions or a crime's underway or whatever it may be
23 that would require emergency services?

24 A. **That's certainly a factor, yes.**

25 Q. And what is being proposed here, would -- if

1 this was to be approved and constructed, would this
2 provide improved safety for residents of Lower Saucon
3 Township and others who may be in and around these areas
4 using a signal that comes from the cell phone tower?

5 A. **Yes, it would.**

6 Q. Is this tower, this monopole that you're
7 talking about constructing, would this be visible from
8 the Bethlehem Township side of the river, from the north
9 side?

10 A. **I would have to defer that question to Pete,
11 who was involved in the photosimulations, if he has a
12 record of that.**

13 MR. BANONIS: Can we call him back as a
14 witness to answer that question? Because I have some
15 questions that follow up on that point. My question is,
16 is the monopole --

17 Is that acceptable?

18 MR. GOUDSOUZIAN: Well, we wouldn't do
19 it right now, but ultimately --

20 MR. BANONIS: Well, I've got some
21 questions about --

22 MS. DURSO: Are you talking about --
23 just so he's prepared, you're talking about physically
24 being able to see it? Or -- or --

25 MR. BANONIS: Yeah. Yeah. Can somebody

1 who's on the Bethlehem Township side of the river, the
2 north side, I guess it would be, of the river, would
3 this tower be visible to -- to --

4 MS. DURSO: Okay. So I'll make sure he
5 is prepared.

6 MR. BANONIS: -- people on the other
7 side?

8 MR. ALBANO: We didn't go over there.
9 We didn't go there to visit it, to --

10 BY MR. BANONIS:

11 Q. Has Bethlehem Township -- since you're the
12 engineer involved in the design of this, has anybody
13 from Bethlehem Township, the municipality of Bethlehem
14 Township, contacted you with regard to this project?

15 A. **No, they've not contacted me.**

16 Q. Has anyone from St. Luke's University Health
17 Network, particularly the Anderson campus, contacted you
18 with regard to this project?

19 A. **No.**

20 Q. Proposed project.

21 A. **No.**

22 Q. They seem to stick their nose in Lower Saucon
23 affairs from time to time. That's why I'm asking if --

24 (Multiple voices speaking at one time.)

25 MR. GOUDSOUZIAN: Hold on. Everybody

1 stop.

2 Members of the audience, it is improper
3 for you to make noise or to make comments when people
4 are asking questions. So you have to stop.

5 MR. BANONIS: May I make a request?
6 Because I asked you this before we took a break. I
7 said, who's running this meeting? Is it you, or is it
8 Priscilla?

9 Can you take the gavel and run the
10 meeting since it's --

11 (Multiple voices speaking at one time.)

12 MR. BANONIS: -- Priscilla to run this
13 meeting because she continues to interject herself in
14 your deliberation, and you're presiding over this
15 meeting.

16 MS. DeLEON: I'd like the record to
17 reflect that I just handed Mr. Goudsouzian the gavel.

18 MR. BANONIS: All right. And the record
19 will reflect you did so at 9:07 p.m.

20 (Discussion off the record.)

21 BY MR. BANONIS:

22 Q. So I was saying earlier that Bethlehem
23 Township and St. Luke's seem to stick their nose in
24 Lower Saucon at times, what's in the best interest of
25 our Township residents and taxpayers.

1 Have they done anything like that with you?

2 Have they contacted you to raise any concerns of any
3 kind with regard to this tower?

4 A. **No.**

5 Q. As a licensed professional -- you're a
6 professional engineer, right?

7 A. **Correct.**

8 Q. And you went to Lehigh --

9 A. **Yes.**

10 Q. -- and have your PE?

11 Have you in your professional engineering
12 experience ever heard that looking at something like a
13 tower or something else has a negative effect on healing
14 that's taking place at a medical center?

15 A. **No.**

16 MR. DESCHLER: I object to his ability
17 to answer that kind of question. I mean, I don't think
18 he has the competence in terms of how the Rules of
19 Evidence define competence to answer that question.

20 MR. GOUDSOUZIAN: That's fine.

21 MR. BANONIS: He's an engineer. He's a
22 professional engineer to whom safety issues are of
23 concern, and I think it's a valid question to him. I
24 don't think I need to defend my question to an objection
25 by Mr. Deschler.

1 MR. GOUDSOUZIAN: Well, no. Actually,
2 he has an absolute right to object to your question if
3 it's improper. And I think what you're asking him is
4 something that's well beyond the scope of what he would
5 know.

6 However, for the purposes of a zoning
7 conditional use -- not zoning -- conditional use hearing
8 where the rules are somewhat relaxed, you can ask the
9 question. And then ultimately, the fact finders can
10 give it the weight that's appropriate.

11 BY MR. BANONIS:

12 Q. Can you answer that question for me, sir?

13 A. **So my understanding of the question was if I**
14 **had ever heard of this type of facility harming folks in**
15 **its viewshed who are healing?**

16 Q. Yes.

17 A. **No, I have not.**

18 Q. All right. Does a pole like this, like what
19 you're proposing, does this attract birds?

20 A. **There are certain predatory birds, golden**
21 **eagles, bald eagles, that will nest in -- I have heard**
22 **that they will nest in taller cellular facilities. I**
23 **wouldn't say it's a common issue, but I am aware that**
24 **that does happen, that they do nest in them**
25 **occasionally.**

1 Q. I'm obviously not testifying here, I'm asking
2 questions. But I have personally seen there's a bald
3 eagle that was nesting in the tower in Hellertown, and I
4 think it's great to have, you know, a bird like that
5 visible to the public.

6 But are you aware that there's a bald eagle
7 at the Hellertown -- was at one point a bald eagle at
8 the Hellertown tower?

9 A. **I wasn't aware of that specifically.**

10 Q. Now, you mentioned that this was reviewed by
11 the Pennsylvania Aviation Bureau; is that correct? Is
12 that the correct title of it?

13 A. **Yeah, the Pennsylvania Bureau of Aviation.**

14 Q. Bureau of Aviation.

15 A. **It's part of PennDOT.**

16 Q. As well as the FAA, as well as Lehigh Valley
17 International Airport, correct?

18 A. **Correct.**

19 Q. Right. And none of them gave you any
20 feedback that they had any concerns about this, right?

21 A. **Correct.**

22 Q. Okay. None of them raised any concerns about
23 a greater risk of bird strikes to any aircraft if this
24 tower would have been built -- or it would be built,
25 correct?

1 A. **They would be looking at it from a glide**
2 **slope perspective, not so much bird strikes. Just**
3 **whether it posed any type of hazard to air navigation,**
4 **the tower itself, not any -- not anything to do with**
5 **birds.**

6 Q. When you say the glide slope, you mean the
7 glide path that the aircraft is on coming from or going
8 to an airport, correct?

9 A. **Correct.**

10 Q. Have you ever received -- as an engineer, I
11 mean, you're looking at safety -- have you ever received
12 any reports of a bird that was roosting or attracted to
13 a monopole tower causing a situation where there was a
14 bird strike on the aircraft?

15 A. **No, I've never heard that.**

16 Q. I asked this question earlier to your
17 counterpart. I want to ask you as well.

18 I brought up Section 180-127.1 of the
19 Township ordinance. And that's the commercial
20 communications facility provision of our ordinance. I
21 would expect that you've seen that before, correct?

22 A. **I have.**

23 Q. Is it your representation to this Council
24 that what is being proposed here meets the requirements
25 of that Section 180-127.1?

1 A. **Yes.**

2 Q. I think those are all the questions I have,
3 sir. Thank you for coming to this. Appreciate it.

4 A. **Thank you.**

5 MR. GOUDSOUZIAN: Mr. Carocci, any
6 questions?

7 MR. CAROCCI: Yes.

8 * * *

9 EXAMINATION

10 BY MR. CAROCCI:

11 Q. I assume one of the reasons you want to put a
12 tower in is you get complaints from people about dropped
13 coverage.

14 A. **I don't have specific information on**
15 **complaints; but generally, there will be complaints in**
16 **an area like this, yes.**

17 Q. So by putting a tower there, you think it
18 will benefit like the thousands of people in the area?
19 We have 11,000 people in Lower Saucon Township. There's
20 people in Bethlehem Township as well that would benefit
21 from a better service?

22 A. **It would certainly benefit the**
23 **Verizon Wireless subscribers in the area.**

24 Q. Thousands of them?

25 A. **I don't know the numbers exactly, but...**

1 Q. What do we have, seven objectors there? How
2 many objectors do we have now?

3 MR. GOUDSOUZIAN: Wait, wait, wait. Are
4 you asking this witness how many objectors there are?

5 MR. CAROCCI: I'll ask Mr. Deschler.
6 I'll ask Ms. Durso.

7 MR. GOUDSOUZIAN: Well, right now -- no,
8 no, no. Right now, you're supposed to ask the witness
9 questions.

10 BY MR. CAROCCI:

11 Q. All right. Do you know how many objectors we
12 have?

13 A. **I don't know.**

14 Q. I count seven. We'll throw Ms. deLeon in
15 there as eight, just to make her feel good about
16 herself.

17 All right. So it'd be a benefit to thousands
18 of people, and you have -- the FAA says no problem, the
19 State of Pennsylvania says no problem, and you're doing
20 everything in accordance with the FCC guidelines?

21 A. **We are doing everything in accordance with
22 the FCC guidelines, yes.**

23 Q. Thank you. No further questions.

24 A. **Sure.**

25 MR. GOUDSOUZIAN: Ms. Opthof-Cordaro,

1 any questions?

2 * * *

3 EXAMINATION

4 BY MS. OPTHOF-CORDARO:

5 Q. Just to clarify, have you gone out to do site
6 visits in Bethlehem Township to see if there were any
7 sites that you could put a -- put a pole in Bethlehem
8 Township? Have you looked at that area?

9 A. **That I -- I missed the last part of the**
10 **question.**

11 Q. Have you investigated Bethlehem Township as a
12 location that you could place a pole?

13 A. **So the ordinance requires an examination of**
14 **an area of a 2-mile radius surrounding the proposed**
15 **facility, and that incorporates significant portions of**
16 **Bethlehem Township north of the river, as well as**
17 **Freemansburg.**

18 **And I did investigate those areas. And,**
19 **frankly, 2 miles is a very -- is a wide area. We would**
20 **need to be much closer than that. So we're certainly**
21 **casting a large net when we look for existing tall**
22 **structures. And other than the sites and structures**
23 **that I talked about earlier, there was nothing else that**
24 **could provide service in this area.**

25 Q. Okay. So I'm sorry I didn't distinguish

1 between existing tall structures and just properties
2 that are at least 10 acres in size.

3 Did you identify any properties that don't
4 have existing structures or that you're not trying to
5 fit your pole on top of, just a parcel that's 10 acres
6 wide within Bethlehem Township? Did you investigate
7 that?

8 A. **No, I didn't investigate any -- any vacant**
9 **parcels in Bethlehem Township.**

10 Q. Okay. How about the Freemansburg Borough?

11 A. **I didn't investigate any vacant parcels in**
12 **Freemansburg Borough, no.**

13 Q. Okay. And just, I'm looking at -- sorry. I
14 think it's your Exhibit 12 -- 11 and 12? I'm sorry.
15 I'm looking at a different thing.

16 But you'd agree with me that Bethlehem
17 Township and Freemansburg Borough are both areas in
18 which it looks like coverage would be improved if there
19 was a pole at this -- at the current location you're
20 proposing, right?

21 A. **Yeah. There's some, I'd call it, very modest**
22 **improvement in Freemansburg, almost not noticeable.**
23 **There is some significant improvement in Bethlehem**
24 **Township. But the over- -- the main focus of this**
25 **proposal and where the coverage is most obviously**

1 improved is in this portion of Lower Saucon, and that's
2 the objective.

3 So we want to locate the facility closest to
4 where we're looking to improve coverage. It's the most
5 efficient manner to improve the coverage in an area, is
6 to locate the facility close to it.

7 So if we were to, say, attempt to address
8 this gap with a facility across the river, it wouldn't
9 be an efficient use of resources. We wouldn't address
10 it that way because we're now creating unnecessary
11 distance between the solution and the issue.

12 Q. Okay. So again, I'm just trying to look at
13 these two exhibits. And I'm looking at the change in
14 color because you said that that was like the most
15 important thing, to change the colors from red to green,
16 hopefully more yellow, red to yellow, but mostly you
17 want to get them green, right?

18 And I'm just looking -- in Bethlehem
19 Township, you would agree with me that it seems to me
20 that there would be a change in color to green in
21 Bethlehem Township with this pole. So I'm just trying
22 to -- in my mind, I'm saying to myself, they could put a
23 pole in Bethlehem Township, why wouldn't that go in
24 reverse direction?

25 A. Well, it would to a certain extent, assuming

1 we could find somewhere to locate it. We do have the
2 benefit of terrain in this case. Where we are -- where
3 we are proposing the facilities is at a higher elevation
4 than we would achieve across the river in Bethlehem
5 Township. So that would -- that would degrade a similar
6 facility across the river to -- that would degrade its
7 ability to improve things commensurately with what we're
8 seeing in the opposite.

9 There's also a significant treeline across
10 the river into Bethlehem Township on the north side of
11 the river there that would -- that would hinder the
12 ability of now a site of a lower overall statue, if we
13 talk about ground elevation, to cover back.

14 But again, the goal here is to provide and
15 improve service in Lower Saucon and, in particular,
16 south of the river. So that's where we would want to --
17 that's where we want to place the site.

18 Q. Okay. I'm just -- and I'm sorry, did you say
19 that you visited Bethlehem Township and Freemansburg
20 Borough? Or you just looked at --

21 A. I did not, no.

22 Q. Okay. Are you familiar with the topography
23 of that general area, the lower areas and the higher
24 areas of Freemansburg and Bethlehem Township as it
25 relates to Steel City or the area in which you're

1 proposing your tower?

2 A. **Yeah, I am. And I have a terrain map.**

3 Q. Okay. So would you agree with me that when
4 you're looking at the proposed circle dot -- I'm
5 sorry -- it says ALL Sofia. I don't know if -- that's
6 the one we're talking about, right?

7 A. **Yeah, that's the internal name for the**
8 **facility.**

9 Q. Okay. And due north into -- I think that's
10 Bethlehem Township where it says Lehigh Street. When
11 you look at the topography map, is Lehigh Street higher
12 or lower in elevation than, for instance,
13 Johnston Avenue?

14 A. **Tough to say exactly. Probably somewhere**
15 **close. This terrain map has intervals of 50 feet. But**
16 **my point was that where we're locating or where we're**
17 **proposing to locate the site is significantly higher**
18 **than, let's say, Lehigh Street in Bethlehem Township.**

19 Q. Okay. But you're trying to get the green
20 areas down slope green; is that right? So you're not
21 trying to get things higher than ALL Sofia into green
22 because -- we talked about, I guess Mr. Deschler
23 discussed the line, the yellow line when it cut off
24 service at the ridgeline. So everything that you're
25 trying to get green is below the height of where

1 ALL Sofia's located, right?

2 A. That is where the coverage improvement --
3 there is some area to the north before we hit that
4 ridgeline that's also improved.

5 Q. Do you know if there's any houses back there?

6 A. I don't believe so, but it is at a higher
7 elevation. So it's -- unfortunately, radio frequency
8 doesn't penetrate terrain features very well. So, you
9 know, we are -- we're subject to the laws of physics
10 with propagation. So we can't really -- you know, it's
11 largely line-of-sight technology, will penetrate
12 building material to a certain extent, but --

13 Q. I just wanted to clarify that as far as the
14 vertical height of the area that you're trying to look
15 in -- trying to turn green is approximately the same
16 vertical height of the areas of Bethlehem Township that
17 have also turned green when you put ALL Sophia there.

18 So, again, I'm back to that concept of if you
19 had located a monopole on the other side or if you look
20 at any pole on the other side of the Lehigh River, can
21 you -- can you rule out that that monopole or pole would
22 be able to service Steel City?

23 A. So we do have a site, the Freemansburg site,
24 that is very close to where you're talking about. It's
25 just north of Lehigh Street, if we were to extend Lehigh

1 Street westward. And that facility does not cover into
2 the portion of Lower Saucon that we're looking to
3 improve.

4 So, yes, I can rule out facilities on the
5 north side of the river and the Lehigh Street, along
6 that latitude, if you will, as being potential. But
7 again, to my knowledge, there are no existing tall
8 structures over there other than, you know, the one that
9 we're -- that we're already installed on.

10 And just looking at the map, it looks like
11 pretty dense residential in that area. I don't know
12 that we would -- we wouldn't endeavor to locate another
13 facility there when we already have one that's not
14 serving into this portion of Lower Saucon. And I don't
15 think we could in the vicinity of Lehigh Street, just
16 based on -- just based on, you know, a very cursory view
17 of the area, density of the area.

18 Q. Okay. And just because you're discussing
19 this particular pole, you're looking at the -- the one
20 that's located -- it says just inside the boundaries of
21 Freemansburg. And I was asking you about Bethlehem
22 Township.

23 But from what I'm looking at, at least on
24 this map, it looks like Lehigh Street is not near where
25 that circle is in Freemansburg.

1 A. So my comment was that if we were to, say,
2 extend Lehigh Street westward into Freemansburg, that
3 site's kind of -- it's kind of in that vicinity of, you
4 know, that extension of Lehigh Street. So if we were
5 to -- you know, if we could inch that site over in the
6 propagation modeling here, I think we would see a
7 similar coverage footprint where the -- it seems to me
8 that tree line on the north side of the river is really
9 hindering the ability of that site to cover into
10 Lower Saucon. And also, the fact that there's some
11 dense residential use there that's also blocking the
12 signal as that signal passes through.

13 So it's a lower elevation over there relative
14 to -- I guess back to my first point -- relative to
15 where we're proposing the facility. So that lower
16 elevation, say along Lehigh Street, limits the line of
17 sight that that facility would have into Lower Saucon
18 Township; whereas where we're located, we have benefit
19 of a little -- well, significant elevation.

20 And so we then have that improved line of
21 sight into Bethlehem Township, which is why we're seeing
22 what we're seeing as far as the -- that extension of
23 coverage northward into Bethlehem.

24 So back to -- my original point was I don't
25 think we would see that like-for-like opposite

1 **phenomenon. And that's exhibited by what we're seeing**
2 **with Freemansburg.**

3 Q. Okay. And then to just go back to that other
4 question: You didn't go to Freemansburg or to Bethlehem
5 Township to look at properties that didn't have a
6 preexisting structure?

7 A. **No, I didn't. I wouldn't. That wouldn't be**
8 **part of my role.**

9 MS. OPTHOF-CORDARO: Okay. That's all
10 the questions I have for him.

11 MR. GOUDSOUZIAN: Thank you.

12 Ms. Ray, do you have any questions?

13 MS. RAY: Yeah, I have a couple.

14 * * *

15 EXAMINATION

16 BY MS. RAY:

17 Q. So on the map here -- and you went through
18 the four different sites that have cell towers, are
19 those all Verizon towers, then? Is that the only ones
20 that you showed on that map?

21 A. **So they are all towers that Verizon is**
22 **located upon. They have equipment on there. It doesn't**
23 **mean that Verizon is the only provider on them.**

24 Q. Okay.

25 A. **I don't know who owns them or what other**

1 providers, if any, are on those towers. But I suspect
2 that many of them are collocated upon.

3 Q. Okay. So then are those the only ones in the
4 area or just the ones that Verizon are on?

5 A. Those are the facilities that -- the
6 structures that Verizon is on. On page 4 of the design
7 report, there's an alternate candidate map and
8 discussion.

9 And in that map, I identify all of the
10 existing facilities in that 2-mile radius. And that
11 includes a handful that Verizon is not located upon that
12 were examined for their utility in addressing our gap.

13 Q. Okay. Which exhibit or which one is that in?

14 MS. DURSO: That would be A-13.

15 MS. RAY: A-13, okay.

16 THE WITNESS: Page 4.

17 BY MS. RAY:

18 Q. There's almost a thousand pages up here, so I
19 don't know what page 4 is.

20 Okay. So I'll go back to my other question
21 that I started to ask, and maybe it's still wrong.

22 So you gave the FCC guidelines that say you
23 don't have to show that other carriers have a gap in
24 coverage, only Verizon, only who we're looking at. So
25 what does that mean about our regulation which says that

1 you do? Like if we have a stricter regulation, wouldn't
2 that apply?

3 Maybe that's not a question for you. I'm not
4 sure.

5 MS. DURSO: It's probably a legal
6 question, because we would --

7 MS. RAY: Okay.

8 MS. DURSO: Yeah. I mean, that would --

9 MR. GOUDSOUZIAN: It would be a legal
10 question that ultimately would have to be determined by
11 the fact finders, meaning the board, ultimately.

12 MS. RAY: Okay. I think that's my
13 questions.

14 MR. GOUDSOUZIAN: Ms. deLeon?

15 MS. DeLEON: Yes, if I may.

16 * * *

17 EXAMINATION

18 BY MS. DeLEON:

19 Q. I guess for whoever has -- whoever is a
20 Verizon customer, an existing Verizon customer in
21 Steel City, where are we getting our coverage from?
22 Like where -- what monopole tower is it coming from?
23 Does that make sense?

24 A. **Yeah. So if we look at the existing reliable**
25 **coverage map --**

1 Q. Now, wait. What's the number of that?

2 A. I think it's A-11?

3 MS. DURSO: Yes.

4 BY MS. DeLEON:

5 Q. Okay. You're looking at the -- okay. I've
6 got it.

7 A. -- you'll see that there is some, I'll say,
8 scatter of green and yellow on the west side of the
9 ALL Sofia proposed location, between the location of the
10 river. That looks to be coming from the Freemansburg
11 site.

12 Q. So west being Freemansburg? Okay.

13 A. Yeah. It looks like it's -- when I mentioned
14 earlier that we can look at the network with a lot of
15 different views from the propagation modeling tool, we
16 can actually look at that view. It's called a best
17 server analysis, and we can tell exactly which site and,
18 even more granularly, which set of antennas is providing
19 the best service in a given area. Unfortunately, I
20 don't have that.

21 So I'm just basing this off of kind of
22 experience and also what I know about the terrain here.
23 And that looks to be like it's -- it looks to me like
24 it's coming from that Freemansburg site.

25 And then there is some yellow on the east

1 **side of the proposed location. And that's coming from**
2 **the Lower Saucon -- the site Verizon calls Lower Saucon,**
3 **which is east, close to 78.**

4 MS. DeLEON: Okay. Thank you.

5 MR. GOUDSOUZIAN: Are there any
6 members -- or any individuals who have status as
7 parties, do you have any questions?

8 * * *

9 EXAMINATION

10 BY MS. MILLER:

11 Q. Was the Bethlehem Township and the St. Luke's
12 notified of the tower going there?

13 MS. DURSO: We would not have been
14 required to give them notice.

15 MR. GOUDSOUZIAN: I think the question
16 is --

17 MS. DURSO: No.

18 MR. GOUDSOUZIAN: I think the question
19 to the witness is does he know if there was -- if they
20 had -- if they did or they didn't, I think was the
21 question.

22 THE WITNESS: Not to my knowledge.

23 BY MS. MILLER:

24 Q. Okay. Because Mr. Banonis said that nobody
25 notified you that there was a problem. That's why I was

1 wondering if they were notified that a tower was going
2 in the area.

3 Another question I asked, you didn't want to
4 put it over on the Freemansburg area or maybe the
5 Bethlehem Township area because of the trees, but it was
6 okay to have the property that we have with homes around
7 it, okay to move those trees. So was that -- is that a
8 reason?

9 A. No. My mentioning the trees is only to point
10 out that a stand of significant trees that exists over
11 there will attenuate the signal. My -- as a radio
12 frequency design engineer, my preference and best
13 practice is dictate that we locate the facility close to
14 the service improvement objective, which is
15 Lower Saucon. That's why it's on the south side of the
16 river.

17 Q. And how high are the lights? They're only
18 above where you said the generators are that go off and
19 on?

20 A. Oh, the -- so I think what you're asking is
21 about a service light that would be --

22 Q. Yes.

23 A. Yeah, it would be just in the compound
24 downward facing -- that would only be turned off if ever
25 there is a visit by a technician at night. It's not

1 **something that goes off and on or would --**

2 Q. Okay. So it wouldn't interfere with
3 anybody's property?

4 A. **No. They wouldn't -- that wouldn't**
5 **constitute a nuisance at any time. They're downward**
6 **facing and on a timer.**

7 Q. Okay. Another question is: For each -- say
8 there was four generators on there. Does each one have
9 to be covered the same way, say if you were available to
10 get four generators on there?

11 A. **We're only proposing the generator for**
12 **Verizon's use, and --**

13 Q. So you don't know what their procedures are
14 for their generators. Say if there was four on there,
15 would they all have the same boundary lines that you
16 wouldn't be able to see the generators?

17 A. **I --**

18 Q. You don't know?

19 A. **I don't know. I don't think I understand the**
20 **question.**

21 Q. If there was more than one generator on that
22 property, would they all be covered the same way, with
23 the trees?

24 A. **Oh, I don't know.**

25 Q. You don't know?

1 A. **I don't know.**

2 Q. Okay. And if there were four on there,
3 'cause that's what's -- you're capable of having up to
4 four, would they all run at the same time or at
5 different times? And if they all ran at the same time,
6 your decibels would be a lot higher.

7 A. **They would -- it's unlikely they'd be**
8 **exercised at the same time. And you know, in the case**
9 **of a commercial power failure -- again, we're assuming**
10 **that there's going to be four collocators here -- but in**
11 **the event of a commercial power failure, then they would**
12 **all be running. And I think everybody would be really**
13 **grateful that they're running because they're -- they're**
14 **able to use their wireless devices. My opinion.**

15 * * *

16 EXAMINATION

17 BY MS. MISCZENSKI:

18 Q. Will the tower emit a non-ionizing
19 electromagnetic field?

20 A. **Yes, it does emit non-ionizing**
21 **electromagnetic energy.**

22 Q. And how much energy are you talking?

23 A. **The power density at all areas of public**
24 **access will be compliant with the FCC guidelines.**

25 Q. That's not what I asked.

1 A. **We're required to demonstrate compliance with**
2 **FCC guidelines. And the electromagnetic exposure**
3 **analysis which I authored, which I signed and sealed,**
4 **does just that. I could go into detail and --**

5 Q. Please do.

6 A. **-- there's --**

7 MS. DURSO: I'm going to object to the
8 question. Because the only obligation under the FCC and
9 the Telecommunications Act is to show compliance with
10 the FCC maximum exposure limitations.

11 MR. GOUDSOUZIAN: Understood. But I
12 think what she's asking is where are you within those
13 limits. So I think if your witness can quantify the
14 limit is "X" and here's where -- I'm at "Y," I think
15 that's what the question is.

16 MS. DURSO: But he did testify to what
17 the percentage was of the --

18 MS. MISCZENSKI: No, I --

19 MR. GOUDSOUZIAN: I think he
20 clarified --

21 Ma'am, ma'am --

22 Sir, do you understand what the question
23 is?

24 THE WITNESS: I do. And I did testify
25 earlier that the maximum exposure at all areas of public

1 access would be less than 5.7 percent of the applicable
2 FCC standard. And that includes multiple worst case
3 assumptions, like 100 percent ground reflection, maximum
4 antenna gain, maximum traffic loading, 24/7 365
5 exposure.

6 So there is a further breakdown on
7 page 7 that breaks things down in terms of the maximum
8 power density and then how that compares on a per-band
9 basis. So those details are on Figure 2 on page 7 of
10 that report.

11 BY MS. MISZCZENSKI:

12 Q. Is there a way that we can see that report?

13 A. **I can give you my copy. Actually, it's part**
14 **of the exhibit packet.**

15 Q. I don't have the exhibit packet. That's why
16 I'm asking --

17 MR. CAROCCI: It's online, isn't it?

18 MS. MISZCZENSKI: Not the new packet, no.

19 MS. DURSO: This is not the new packet.

20 This is the packet that was submitted last week -- or
21 last hearing.

22 THE WITNESS: (Handed document.)

23 BY MS. MISZCZENSKI:

24 Q. Can I keep this copy?

25 A. **Sure.**

1 Q. Thank you.

2 Next question: Okay. So how many bird
3 strikes occur at cell towers in the ABE area in a
4 one-year time frame?

5 A. **So my familiarity with bird strikes and**
6 **cellular towers, or to the extent that I've heard of it,**
7 **it's only been associated with guyed towers. A guyed**
8 **tower is a thin lattice-type structure that is supported**
9 **laterally -- or it's stabilized laterally by guy wires**
10 **that extend -- and I think we have all probably seen**
11 **them or are familiar with them. And I have -- I've**
12 **heard that there have been bird strikes associated with**
13 **those types of facilities, on occasion.**

14 I couldn't tell you how many per year. But,
15 of course, this is not a guyed-type structure. This is
16 a monopole, what's being proposed. And I'm not aware of
17 and I've never heard of any bird strikes with this type
18 of installation.

19 Q. Does Verizon report and track the bird
20 strikes on their towers on a yearly basis?

21 A. **Not that I'm aware of.**

22 Q. Okay. So then your first statement is...

23 MS. DURSO: Objection.

24 BY MS. MISCZENSKI:

25 Q. You --

1 MS. DURSO: He answered your question.

2 MR. GOUDSOUZIAN: Yeah, ma'am. If you
3 could ask a question, please.

4 MS. MISCZENSKI: Okay. Yeah, I have
5 more. Don't worry.

6 BY MS. MISCZENSKI:

7 Q. So we have beekeepers in the area. Do cell
8 tower radiations damage trees and impact the honeybees?

9 A. **So there was a study done on what's called a**
10 **CCD, a colony collapse disorder. Because years ago,**
11 **cellular towers were being blamed for some honeybee**
12 **issues. And in my reading of those studies, that was**
13 **debunked; and there was some type of bacteria that was**
14 **causing that.**

15 I don't really know anything further than
16 what I've read when it comes to honeybees. And as far
17 as other environmental impacts, I'm unaware of any.

18 Q. Do the electromagnetic fields affect
19 migration, food finding, reproduction, mating, nesting,
20 and den building of forest animals?

21 A. **Not that I'm aware of.**

22 Q. How many years have you been in the business?

23 A. **About 25 years.**

24 Q. I'm just writing my notes. Thank you.

25 And how many studies have you read on the

1 effects of mating and nesting of den -- and den
2 building? The reason why I'm asking is we have an
3 extensive amount of foxes in the area, so I am curious.

4 A. **I don't know that I've read any literature on**
5 **fox den building or mating.**

6 MS. MISZCZENSKI: That's all I have for
7 now.

8 MR. GOUDSOUZIAN: Thank you.
9 Attorney Durso, do you have any
10 redirect?

11 MS. DURSO: I do not have any redirect.

12 MR. GOUDSOUZIAN: Any recross?

13 MR. DESCHLER: Yes.

14 * * *

15 RE-CROSS-EXAMINATION

16 BY MR. DESCHLER:

17 Q. Just to clarify something, I think
18 Mr. Carocci asked you whether in your opinion, I think
19 the -- whether the tower complies with all the
20 requirements of the zoning ordinance. Do you recall a
21 question like that and your answer?

22 A. **Yes.**

23 Q. And I understand that this -- the issue of
24 federal preemption and the like is a question of law and
25 interpretation for the Council.

1 But just to be clear, the existing ordinance
2 as it reads today states that with respect to the gap in
3 coverage, says: An applicant for a tower-based CCF must
4 demonstrate that a significant gap in wireless coverage
5 exists with respect to all wireless operators in the
6 applicable area and that the type of tower-based CCF
7 being proposed is the least intrusive means with which
8 to fill that gap in wireless coverage.

9 Just to be clear, your analysis and what you
10 were retained to do -- and that's reflected in
11 Exhibits 11 and 12, right? -- that's an analysis of the
12 gap in Verizon's coverage, correct?

13 A. **That's right.**

14 Q. And it's not an analysis of the gap in all
15 wireless coverage, right?

16 A. **That's correct.**

17 MR. DESCHLER: Thank you. That's all.

18 MR. GOUDSOUZIAN: So for members of
19 Council, do you have any questions limited to just what
20 was asked right here? And we can go one by one, but...

21 Mr. Carocci?

22 MR. CAROCCI: Just of this witness?

23 MR. GOUDSOUZIAN: Of this witness and
24 that question. I can't imagine we do, but I want to
25 ask.

1 MR. CAROCCI: No.

2 MR. GOUDSOUZIAN: Mr. Banonis, you
3 stepped out for a moment, but do you have any additional
4 questions based on the --

5 MR. BANONIS: No, I do not. Thank you.

6 MR. GOUDSOUZIAN: Ms. Opthof-Cordaro?

7 MS. OPTHOF-CORDARO: No.

8 MR. GOUDSOUZIAN: Ms. Ray?

9 MS. RAY: No.

10 MR. GOUDSOUZIAN: Ms. deLeon?

11 MS. DeLEON: No.

12 MR. GOUDSOUZIAN: All right. So we are
13 done with this witness?

14 MS. DURSO: Yes.

15 I would like to formally move
16 Exhibits A-1 through 21 into evidence.

17 MR. GOUDSOUZIAN: Any objection?

18 MR. DESCHLER: No objection.

19 MR. GOUDSOUZIAN: They are received.

20 MS. DURSO: Thank you.

21 (Exhibits A-1 through A-21 were admitted
22 into evidence.)

23 MR. GOUDSOUZIAN: And then

24 Attorney Deschler, do you have --

25 MS. OPTHOF-CORDARO: Excuse me,

1 Mr. Goudsouzian. I'm sorry. I just wanted to know --
2 one of the exhibits I think depicted tree covers, and
3 I'm trying to find it -- Exhibit A-11? And I just -- I
4 guess I would object to that exhibit as it does not -- I
5 don't think that that -- the forest coverage there is an
6 accurate depiction of what was shown earlier.

7 MS. DURSO: What exhibit are you talking
8 about?

9 MR. GOUDSOUZIAN: If I may, I think
10 you're referring to perhaps A-7, site photos?

11 MS. OPTHOF-CORDARO: No. It's one of
12 the new ones. It's the first exhibit. Sorry, A-19, the
13 aerial photograph.

14 MS. DURSO: Yeah, I'm sorry. The A-19
15 was not submitted -- the A-19 was only submitted to show
16 where the driving was done for purposes of the photosim.
17 It was not done to represent, you know, the existing
18 aerial features. It was only done to show where they
19 drove when they did the photosimulation.

20 It was not meant to represent what is
21 physically out there, just the pattern of driving.

22 MS. OPTHOF-CORDARO: Fair enough.

23 MR. GOUDSOUZIAN: Okay. Thank you.

24 With that, Attorney Durso, do you have
25 anything else?

1 MS. DURSO: I do not have anything else.

2 MR. GOUDSOUZIAN: Before we move on to
3 the objectors' side of the case, for the purpose of
4 convenience for your witnesses, I believe Mr. Banonis
5 has a question of both, to the recalling of the witness.

6 With the permission of counsel --
7 lawyers, counsel -- my suggestion is if that's the
8 request, perhaps we can address that now so that if we
9 have to come back a second day, your witnesses don't
10 have to come back.

11 MS. DURSO: Sure. I think, Mr. Banonis,
12 you wanted to ask the civil engineer if they looked in
13 Bethlehem Township?

14 MR. BANONIS: Yeah, I wanted to -- not
15 if they looked in Bethlehem Township.

16 MS. DURSO: I'm sorry.

17 MR. BANONIS: If they -- if it would be
18 visible. If it was visible in the Bethlehem Township
19 side of the Lehigh River. In other words, I guess it
20 would be the north or the northwest side.

21 MR. GOUDSOUZIAN: So, Mr. Albano, you're
22 still under oath, and you heard Mr. Banonis's question.

23 MR. BANONIS: I meant northeast side,
24 north/northeast side.

25 MR. GOUDSOUZIAN: I'm sorry,

1 Mr. Banonis. I apologize. I cut you off. I shouldn't
2 have.

3 Would you mind just asking again so we
4 have a clear record?

5 MR. BANONIS: Yeah, no problem.

6 PETER ALBANO, RECALLED,
7 having been previously duly sworn, testified as follows:

8 * * *

9 EXAMINATION

10 BY MR. BANONIS:

11 Q. So my question again is: Would the tower or
12 monopole be visible from the Bethlehem Township side of
13 the Lehigh River? In other words, the north or
14 northeast side of the river?

15 A. **We didn't investigate that. We only**
16 **typically go into an area that is usually going to be**
17 **the most obtrusive. And as was noted in the aerial**
18 **exhibit, that's the area that we visited.**

19 **As you can imagine, you're looking for a**
20 **6-foot diameter balloon through trees. As you get**
21 **further away, your optics get a lot smaller. And it**
22 **becomes a lot more visible, but we did not go over there**
23 **to take pictures.**

24 Q. That's fine. Thank you.

25 MR. GOUDSOUZIAN: Are there any

1 follow-up questions from anybody with regard to that
2 question?

3 Thank you, sir.

4 So with that, Attorney Durso, do you
5 rest?

6 MS. DURSO: I do, yes. I mean, I may
7 have to recall somebody depending on the testimony or
8 evidence that's presented by Attorney Deschler.

9 MR. GOUDSOUZIAN: Understood.

10 Attorney Deschler, are you ready to
11 proceed? And I ask this of counsel, meaning the
12 lawyers, counsel.

13 We have been here for some time. It's
14 9:45. Lower Saucon Council has indicated you have as
15 much time as you need, but would it make sense from your
16 end to stop now and then come back another day and then
17 start on the objectors' side? Or would you like to
18 proceed further?

19 I leave it up to -- I ask this of
20 counsel before Lower Saucon Council makes a decision.

21 MS. DURSO: I would prefer to keep going
22 and complete the testimony.

23 MR. DESCHLER: I'm fine with that.

24 MR. GOUDSOUZIAN: Okay. Very well.

25 Are you ready, Attorney Deschler?

1 MR. DESCHLER: Yes. We have some
2 standing issues to address, but I'll combine the
3 testimony.

4 But I'll first actually call Bilal Khan.

5 BILAL KHAN,
6 having been first duly sworn, testified as follows:

7 MR. DESCHLER: And I have some exhibits
8 that we'll hand out serially.

9 MS. DURSO: Okay.

10 (Document distribution.)

11 * * *

12 DIRECT EXAMINATION

13 BY MR. DESCHLER:

14 Q. All right. Sir, could you just state your
15 name, please?

16 A. **Yeah. My name is Bilal Khan.**

17 Q. And where do you reside?

18 A. **I'm at 2153 Saucon Avenue.**

19 Q. And do you own that property?

20 A. **Yes, I do.**

21 Q. Do you own it with anyone else?

22 A. **No. I am the sole titleholder.**

23 Q. And before we go too much farther, I'm also
24 going to hand up -- I just handed you what's been marked
25 Exhibit O-1, for Objectors' 1. I'll also hand you what

1 I've marked as O-2, for Objectors' 2. And I'll
2 distribute that one as well.

3 (Exhibit O-1, Pictures from Mr. Khan's
4 front porch showing the water tower, was marked for
5 identification.)

6 (Exhibit O-2, Northampton County tax
7 assessment map showing Mr. Khan's property, was marked
8 for identification.)

9 (Document distribution.)

10 BY MR. DESCHLER:

11 Q. So, Mr. Khan, if I can just direct your
12 attention initially to Exhibit O-2, the first page of
13 the exhibit, there --

14 Well, first, what does this depict,
15 generally?

16 A. **It's the area around where I live in**
17 **Lower Saucon.**

18 Q. And this is a depiction from the
19 Northampton County tax assessment map, correct?

20 A. **Yes.**

21 Q. And can you identify your property on this
22 map? And I know it's not up on the screen, but can you
23 just describe where your property is relative --

24 A. **Yes. I am property No. 5 on the cul-de-sac.**

25 Q. And that is a property in this exhibit that's

1 outlined in red and colored in gray?

2 A. **Yes.**

3 Q. There is the number 5 and -- well, 1.02
4 acres, correct?

5 A. **Yes.**

6 Q. And in relation to your property, where is
7 the subject Viscito property that we have been talking
8 about this evening?

9 A. **It's to the south, to the south. And it's**
10 **property 1, I suppose.**

11 Q. Is it fair to say that you cross the
12 cul-de-sac, you --

13 A. **Yes.**

14 Q. -- move through someone else's yard, and then
15 you're in Mr. Viscito's property?

16 A. **That's correct.**

17 Q. And in terms of the distance from your lot
18 line, I guess in your front yard, to Mr. Viscito's lot
19 line, did we prepare -- using again the
20 Northampton County GIS view -- a distance measurement of
21 what that distance is?

22 A. **Yes.**

23 Q. Well, what is it?

24 A. **376.9 feet.**

25 Q. Okay. And I understand you did not receive

1 notice of the zoning -- or of the conditional use
2 hearing, correct?

3 A. **That's correct.**

4 Q. But this is a fair and accurate reflection
5 and depiction of the distance between your property and
6 the Viscito property, correct?

7 A. **Yes.**

8 Q. And if we look at Exhibit O-1, it's a
9 two-page exhibit. What is this?

10 And then who prepared this, first of all?

11 A. **I prepared this.**

12 Q. And what is it?

13 A. **It's a photograph taken with a cell phone of**
14 **the view from my front porch of my house, looking up**
15 **towards the cul-de-sac where the water tower is. And**
16 **that's what's shown on page 1.**

17 Q. Okay. So if we look at --

18 And you took this photograph?

19 A. **I took the photograph.**

20 Q. Now, when did you take it?

21 A. **I took it this morning.**

22 Q. And the orange rectangle there, I think you
23 mentioned it, but what does that depict?

24 A. **That depicts the outline of the existing**
25 **water tower that is located just north of -- or just**

1 **south of where I am. Yeah.**

2 Q. And on the second page of that exhibit, what
3 did you do here?

4 A. **Well, I took the --**

5 MR. GOUDSOUZIAN: Mr. Khan, could I ask
6 you to try to speak up?

7 THE WITNESS: Yes. Sorry.

8 On the second page -- on the first page,
9 I took the photograph; and I imported it into
10 PowerPoint; and I drew a yellow rectangle around the
11 water tower.

12 BY MR. DESCHLER:

13 Q. And the water tower is how high?

14 A. **The water tower shows to be 40.3 feet high,**
15 **according to public record.**

16 **And then on the second page of the**
17 **PowerPoint, I took those at that yellow rectangle around**
18 **the water tower, copied it, and pasted it three times,**
19 **stacked it top of -- one on top of the other to get a**
20 **sense of what it would look like from my porch if it --**
21 **if the 130-foot cell tower was erected.**

22 **So that's three rectangles in height obtained**
23 **by copying and pasting inside the PowerPoint on top of**
24 **an existing photographic image.**

25 Q. And you directed the photograph to take into

1 account -- or at least the direction of where the
2 proposed cell tower is on the Viscito property, correct?

3 A. **To the best of my ability looking at the**
4 **floor plans, that is what I tried to do. I used the**
5 **water tower both to indicate the height and to indicate**
6 **the general direction in which the expected cell phone**
7 **tower is supposed to be. Because that's what I --**
8 **oops -- that's what I could deduce from the proposal,**
9 **that the new location of the tower is somehow directly**
10 **behind the water tower.**

11 Q. And you're taking this photo standing in your
12 driveway at the front of your property, right?

13 A. **I'm in my porch looking directly out, yes.**

14 Q. And can you see -- from that perspective, as
15 depicted on this exhibit here, could you see the water
16 tower? I mean -- sorry -- could you see the cell tower?

17 A. **Oh, well, yes, I could see the cell tower.**
18 **It would be coming up through the trees, and it would be**
19 **in the sky.**

20 Q. And the cell tower itself is -- as proposed,
21 is above the treeline, right?

22 A. **That's my estimation, based on the height of**
23 **that it's being proposed, yes.**

24 Q. And you're able to see the tops of the trees
25 from your house, right?

1 A. **Yes.**

2 MR. DESCHLER: I'd like to just, as I
3 go, so I will move O-1 and O-2.

4 MS. DURSO: I object to O-1.

5 MR. GOUDSOUZIAN: Grounds?

6 MS. DURSO: I object to O-1 as not being
7 an accurate representation of what he would see based on
8 him just taking a photograph from his porch of the water
9 tank and not taking into account ground elevation and
10 other characteristics. And then just showing an orange
11 structure, not even taking into account the diameter or
12 the other characteristics of the monopole structure.

13 MR. GOUDSOUZIAN: Understood. It's
14 overruled. It'll be part of the exhibits, and it will
15 be given the weight that's appropriate.

16 (Exhibits O-1 and O-2 were admitted into
17 evidence.)

18 BY MR. DESCHLER:

19 Q. Mr. Khan, I have just I think a couple more
20 questions for you since it was raised about the Verizon
21 coverage.

22 Mr. Khan, do you have a cell phone?

23 A. **Yes, I do.**

24 Q. What is your cell provider?

25 A. **Verizon.**

1 Q. And if you're using your cell phone in your
2 home, how is the reception?

3 A. **The reception is perfectly great. And**
4 **honestly, if it ever needed to be improved, Verizon did**
5 **just bury a whole bunch of fiberoptic cable to every**
6 **single house in Lower Saucon. So the idea of having**
7 **broadband, if I needed something even more than what I**
8 **already have, which is five bars, I could always upgrade**
9 **to that. So I'm very, very grateful for Verizon's**
10 **existing service and continue to be their customer.**

11 Q. And if we were to look at Applicant's
12 Exhibit 11, and this is the Verizon Wireless existing
13 reliable coverage map, if you were to identify where
14 your property is, in what color, red, yellow, or green,
15 is it in?

16 A. **It's in the red zone.**

17 MR. DESCHLER: Those are all the
18 questions I have for Mr. Khan.

19 MR. GOUDSOUZIAN: Cross-examination?

20 MS. DURSO: Sure.

21 * * *

22 CROSS-EXAMINATION

23 BY MS. DURSO:

24 Q. Mr. Khan, are you familiar with Applicant's
25 photosimulation that was submitted as an exhibit?

1 A. **Yes, I am.**

2 Q. And specifically, if we go to Photo Location
3 No. 3, does Photo Location No. 3 show the water tank in
4 the picture?

5 A. **Yes, it does.**

6 Q. And was Photo Location 3 taken in the
7 vicinity of where your home is, looking towards the
8 water tank?

9 A. **I need a second to review that.**

10 **(Reviewed document.)**

11 **I think that that photograph may have been**
12 **taken from the center of the cul-de-sac. It's difficult**
13 **for me to see, but I'm actually below that. So I'm**
14 **looking up.**

15 **So I wouldn't -- I don't think that that**
16 **photosimulation is an accurate representation of what**
17 **the experience of being at my house is.**

18 Q. But is it fair to say that, based on the
19 location, that Photo 3 was taken on your cul-de-sac and
20 it accurately shows the water tank and the visibility of
21 the monopole structure through the trees?

22 A. **I think that you're asking me something about**
23 **your photograph, and so I don't know what exactly you're**
24 **asking me.**

25 Q. I'm asking you if Photo 3 is located and

1 taken near where your house is.

2 A. I believe that Photo 3 was taken from the
3 center of the cul-de-sac. That's my sense of --

4 Q. And you reside on the cul-de-sac?

5 A. I reside below the cul-de-sac, that's
6 correct.

7 Q. You reside above the cul-de-sac.

8 A. Well, I'm talking about elevation here. So
9 I'm talking about the fact that the land slopes
10 downward; and, therefore, I am below the cul-de-sac and
11 I look up from my porch. And that's what I would like
12 to make clear in my answer.

13 Q. And you're looking through trees?

14 A. I don't know what you're talking about now.
15 Are you talking about my photograph or your photograph?

16 Q. I'm talking about both photographs showing
17 trees, but yours is showing it arising out of the trees.

18 A. I have described the procedure by which I
19 came up with my photograph. I stood at my porch, I took
20 a photograph, I saw the water tower, I saw its height, I
21 know the height of the water tower is 40 feet. I know
22 the proposed height is 130 feet.

23 I made a triplicate copy of that. I think
24 that my procedure is very clear.

25 Q. And you know for a fact that the monopole

1 structure is exactly behind the water tank?

2 A. I know what -- I know based on the limited
3 documentation that Verizon has filed that I've had the
4 ability to review.

5 Q. And are you a radio frequency engineer?

6 A. I have a Ph.D. in mathematics.

7 Q. Are you a radio --

8 A. I'm not a radio frequency engineer.

9 Q. So you have no knowledge about how radio
10 frequency works, how signals propagate?

11 A. I have taught many electrical engineering
12 classes. I was a professor of mathematics --

13 Q. But that's not my question.

14 A. Yes, well, but part of my answer has to be
15 the qualified reason for my answer. So you said, you
16 know, I know nothing about it? The answer is no, it is
17 not the case that I know nothing about it.

18 Q. Do you know about how radio frequency for
19 Verizon and other wireless carriers works?

20 A. I have taught and published papers in
21 wireless communication. I would be happy to provide you
22 with my CV. It has 120 papers on it, and many of them
23 are on wireless communication.

24 Q. And are you a licensed radio frequency
25 engineer?

1 A. **No, I am not.**

2 MS. DURSO: I don't have any other
3 questions for Mr. Khan. Thank you.

4 Oh, actually, I do.

5 BY MS. DURSO:

6 Q. Are you here as a professor from
7 Lehigh University, authorized by the University?

8 A. **No, I am not.**

9 MS. DURSO: That's all the questions I
10 have.

11 MR. GOUDSOUZIAN: Before we get into
12 questions from members of Council, I presume there's a
13 request to have --

14 MR. DESCHLER: I offer Mr. Khan as a
15 party.

16 MR. GOUDSOUZIAN: Is there any objection
17 to that?

18 MS. DURSO: I made the -- same objection
19 that I made at the first hearing.

20 MR. GOUDSOUZIAN: Understood. That
21 objection is overruled. He's admitted as a party
22 status -- or he has party status, rather.

23 And now for members of Council,
24 Mr. Banonis, any questions?

25 MR. BANONIS: Yeah, I have a few.

1 * * *

2 EXAMINATION

3 BY MR. BANONIS:

4 Q. Professor Khan, my understanding is that
5 you're a professor of population health and computer
6 science at Lehigh; is that correct?

7 A. **That is correct.**

8 Q. All right. And I'm looking here at your bio
9 which is on the Lehigh University website. It says:
10 Bilal Khan is a mathematician whose transdisciplinary
11 research emerges from theory/applications of networks
12 ranging from the evolutionary emergence of social
13 organization in wireless cognitive radio systems to the
14 modeling and simulation of dynamic human social systems,
15 particularly in the context of public health.

16 That's what's on your bio on your employer's
17 website, correct?

18 A. **That is, yes.**

19 Q. So your career depends in part on wireless
20 communication? Is that fair?

21 A. **I have studied many things as a scientist,
22 and wireless communication is one of those. I'm not
23 sure what you mean by my career depends on, but I'll
24 just tell you that as my answer.**

25 Q. Well, your career, you work with wireless

1 networks, right?

2 A. **I have worked with wireless networks, yes.**

3 Q. Now, you mentioned you've worked on a lot of
4 different things. So on your bio, there's a link and it
5 takes you to another page called "Google Scholar." And
6 these are some of the scholarly things that you've
7 worked on:

8 Estimating the size and structure of the
9 underground commercial sex economy in eight major U.S.
10 cities; is that correct?

11 A. **Yes, that is correct.**

12 Q. And then the commercial sexual exploitation
13 of children in New York City; is that correct?

14 A. **Yes, that is correct.**

15 Q. Network Modeling and Simulation: A Practical
16 Perspective?

17 MR. DESCHLER: I object. I don't see
18 the relevance of this.

19 MR. BANONIS: Well, this gentleman held
20 himself out as being a professor who has experience in
21 wireless networks. This is all relevant to the other
22 things that he's involved in. I think it's a fair
23 question.

24 MR. GOUDSOUZIAN: I think it's a fair
25 question you can ask about -- Mr. Banonis can ask about

1 his background and what his expertise is.

2 I believe the witness has testified he
3 has some knowledge with regard to wireless items. And
4 then now you're asking about other items, which is okay.

5 MR. BANONIS: Yes.

6 MR. GOUDSOUZIAN: But I think that the
7 objection's overruled, but I think the point's been made
8 also.

9 BY MR. BANONIS:

10 Q. Current rural drug use in the U.S. Midwest;
11 is that right?

12 A. **Yes.**

13 Q. Kinship, family, and exchange in a Labrador
14 Inuit community?

15 A. **Yes.**

16 Q. Okay. Network firewall dynamics and the
17 subsaturation stabilization of HIV?

18 A. **Yes.**

19 Q. Estimating the size of the
20 methamphetamine-using population in New York City --

21 A. **Yes.**

22 Q. -- using network sampling techniques?

23 A. **Yes.**

24 Q. So counsel asked you earlier about the second
25 page of O-1, which is this drawing that you made, this

1 image, correct?

2 A. **Yes.**

3 Q. And Mr. Goudsouzian allowed that to come into
4 evidence, allowed it to come into evidence for this
5 Council to review.

6 Is it your belief that this, what you've
7 designed here on this image, is what is representative
8 of the tower, this proposed monopole tree-like structure
9 that is being proposed by the applicant?

10 A. **I think that I've already -- this is the**
11 **third time I will say I did the best that I could to**
12 **give a sense of the scale of the structure that is being**
13 **proposed relative to a known structure whose height is**
14 **part of the public record.**

15 Q. That wasn't my question, sir. Okay?

16 My question is: Are you representing that
17 you believe that this, what you drew on this picture --

18 A. **I am --**

19 Q. Hold on, sir. Let me finish. You had your
20 chance. Let me finish.

21 -- that this represents the proposed design
22 of this tower that is coming from this applicant? You
23 think that this is what it looks like?

24 A. **No. I --**

25 Q. This tall thing with a bulbous head on the

1 top of it, you're thinking that's what this looks like?

2 A. **Well, what I'm trying to demonstrate is the**
3 **height of the structure relative to the treeline and the**
4 **lone referenced object, to which -- which is collinear**
5 **in the photo -- in the map between where I live and**
6 **where the cell phone tower is.**

7 Q. Did you measure the height of the trees here?

8 A. **No, I didn't measure the height of the trees.**

9 Q. Okay. So then how can it be, as you
10 described it, collinear with the surrounding --

11 A. **I'm talking about the linear relationship**
12 **between my house, the water tower, and the proposed site**
13 **location plan. And this is my attempt to indicate how**
14 **high up a 130-foot structure would be, knowing how high**
15 **a 40-foot structure is.**

16 Q. All right, sir. We can agree that this is a
17 one-dimensional image, correct?

18 A. **It's a two-dimensional image.**

19 Q. It's certainly not a three-dimensional image,
20 right?

21 A. **Yes.**

22 Q. It's on a sheet of paper?

23 A. **Yes, it is on a sheet of paper.**

24 Q. So this shows basically this structure on a
25 grass area. Is that grass area your yard?

1 A. **As I said, the grassy area in the picture is**
2 **my yard. The purpose of this --**

3 Q. Is this tower --

4 MR. GOUDSOUZHIAN: Pardon me. I don't
5 think he was done.

6 MR. BANONIS: He answered my question.

7 MR. GOUDSOUZHIAN: No -- but he was still
8 talking.

9 Was there more, or are you done?

10 THE WITNESS: Well, as I have said, the
11 main aspects of this image that I stand by are the fact
12 that 130 feet is roughly three times the 40 feet. And
13 that one of those rectangles is encasing a 40-foot
14 object; and therefore three of them, when placed end to
15 end, illustrate the approximate height of a 130-foot
16 object. That is the thing that I am attempting to
17 convey.

18 You are trying to ask me whether I have
19 put together a photo-realistic representation of
20 something. I have not. That was not the intention of
21 this.

22 MR. GOUDSOUZHIAN: Mr. Khan, can you try
23 to speak up when you answer too?

24 THE WITNESS: Yes.

25 MR. GOUDSOUZHIAN: Thank you.

1 BY MR. BANONIS:

2 Q. You're trying to convey an object that's
3 130 feet tall, right? But you're locating it in your
4 yard. The tower is not going in your yard, is it?

5 A. **I'm not locating it in my yard.**

6 Q. Sir, I'll represent to you that the bottom of
7 this image that you--

8 A. **If you --**

9 Q. Hold on, sir.

10 A. **Yes.**

11 Q. The bottom of what you're representing here
12 is covering grass which you said is your yard.

13 A. **Well, if you moved that image up so it wasn't**
14 **in my yard, then the top edge of the structure would be**
15 **even higher in the sky. So I'm actually being quite**
16 **generous in my image. You can feel free to push it up**
17 **so it's not in my yard, and then you will find that the**
18 **top of the tower projects even higher above the end of**
19 **the trees.**

20 Q. I don't need to do that because this isn't my
21 image. I'm not advocating for anything that's
22 represented on this image. And I'm trying to understand
23 this image and it's relevance, if any, to what we're
24 deciding here.

25 And as I look at this image, if you're

1 telling me that it could be moved and that you're
2 suggesting it be moved -- I'm not sure where you suggest
3 it be moved to, but if you were to move it further
4 toward the background of this image, wouldn't this tower
5 be obstructed more by the trees that are present here?

6 A. **The bottom edge of the rectangle is on my --**
7 **appears to be touching the grass, but that's because I'm**
8 **standing downhill. I'm looking up a hill, and the grass**
9 **curves up and plateaus at the cul-de-sac. The**
10 **cul-de-sac is flat, but you don't see the cul-de-sac in**
11 **this photograph because I'm looking up a hill.**

12 And then the hill flattens out, and there's a
13 cul-de-sac over there. And on the other side of the
14 cul-de-sac is where the tower is. So I positioned the
15 rectangle in such a way that I would best represent the
16 dimensions of the water tower to give the Council a --
17 as good of a rendering as I could from my vantage point
18 of what I can expect the thing to look like for the
19 purposes of being given standing. That is the purpose
20 of this diagram.

21 Do I have the right to be here, even though
22 I'm 375 feet away? That is the purpose of this diagram,
23 and that is what I'm trying to do.

24 Q. Maybe you didn't hear my question or
25 understand my question. Maybe you didn't like my

1 question, but I'll ask it to you again because you gave
2 us a lot of words there that were not responsive to the
3 question that I asked or that maybe you understood.

4 The question that I'm asking you is: If this
5 image that you drew on this picture, second page, was
6 pushed back toward the background of this photo, further
7 into the trees, can we agree that it would not look like
8 what is depicted on this image?

9 A. **Yes, we can.**

10 Q. Thank you.

11 One last question: You haven't indicated on
12 either of these images, either O-1, page 1, or O-1,
13 page 2, precisely where the tower that you drew, where
14 it would be located, right?

15 A. **I'm sorry. I don't understand.**

16 Q. Yeah.

17 You haven't indicated on here where this
18 tower that you've drawn here, you have not indicated on
19 this photograph where in the background the true and
20 accurate location of the tower is, correct?

21 A. **I have not indicated in that diagram, yes.**

22 Q. Thank you, sir.

23 MR. BANONIS: Those are all the
24 questions I have.

25 MR. GOUDSOUZIAN: Mr. Carocci?

1 MR. CAROCCI: Yes.

2 * * *

3 EXAMINATION

4 BY MR. CAROCCI:

5 Q. So this is not a true location of the tower,
6 correct?

7 A. **It is an estimation of the height of the**
8 **image and size --**

9 Q. Well, I'm sure that -- so it's also not a
10 true depiction of what the tower would look like?

11 A. **It is my estimation of the height of the**
12 **object as seen from my porch. That is what it is.**

13 Q. So it's basically arts and crafts?

14 A. **It is my estimation of what the --**

15 Q. Do you teach arts and crafts?

16 MR. DESCHLER: I'll just say --

17 BY MR. CAROCCI:

18 Q. Do you teach arts and crafts for Lehigh?

19 MR. DESCHLER: Objection. Asked and
20 answered.

21 (Multiple voices speaking at one time.)

22 MR. GOUDSOUZIAN: Do you have any
23 further questions, Mr. Carocci?

24 MR. CAROCCI: No. I think my
25 10-year-old could have done better.

1 UNIDENTIFIED SPEAKER: So rude.

2 MR. GOUDSOUZIAN: Ms. Opthof-Cordaro?

3 MS. OPTHOF-CORDARO: I don't have any
4 questions.

5 MR. GOUDSOUZIAN: Ms. Ray?

6 MS. RAY: No, I don't have any
7 questions.

8 MR. GOUDSOUZIAN: Ms. deLeon?

9 * * *

10 EXAMINATION

11 BY MS. DeLEON:

12 Q. I just -- you live on the end of the
13 cul-de-sac, correct?

14 A. **Yes, I do.**

15 Q. If you're going down the cul-de-sac, your
16 house would be to the left, correct?

17 A. **Yes. As you approach the cul-de-sac, I would
18 be on the left.**

19 Q. So your property goes down, I don't know how
20 many -- it's -- you're sunken in?

21 A. **I'm sunken in, yes.**

22 Q. Right. So if you're standing on your porch
23 looking up, you're actually -- or I'm asking a
24 question -- are you shooting over the cul-de-sac?

25 A. **Yes, I am.**

1 Q. So buried in this area here is really the
2 cul-de-sac that you're shooting over?

3 A. **That's correct.**

4 Q. Okay. I understand. Thank you.

5 MR. BANONIS: I need to apologize to
6 you, sir. I called you Mr. Bilal a few times and you're
7 actually Dr. Bilal, right?

8 THE WITNESS: I have not ever referred
9 to myself as doctor in this, so I -- I'd prefer it if
10 you just referred to me by my first name. I'm here as a
11 citizen. I'm not here in any professional capacity.

12 MR. BANONIS: I wanted to apologize to
13 you because you are a doctor, and I should have
14 recognized you to be a doctor. So I --

15 THE WITNESS: Thank you, Mr. Banonis.

16 MR. GOUDSOUZIAN: Any questions for
17 people with party status?

18 MS. MISZCZENSKI: No.

19 MR. GOUDSOUZIAN: Okay. Very well.

20 Anything else?

21 MS. DURSO: No.

22 MR. GOUDSOUZIAN: Mr. Deschler?

23 MR. DESCHLER: Nothing from me.

24 MR. GOUDSOUZIAN: Okay. Thank you.

25 MR. DESCHLER: I'll call Russell Sutton.

1 RUSSELL SUTTON,

2 having been first duly sworn, testified as follows:

3 * * *

4 DIRECT EXAMINATION

5 BY MR. DESCHLER:

6 Q. So first of all, sir, just state your name,
7 please.

8 A. **I'm Russell Sutton.**

9 Q. Can you spell it?

10 A. **R-U-S-S-E-L-L, S-U-T-T-O-N.**

11 Q. And where do you reside?

12 A. **2133 Saucon Avenue.**

13 Q. And do you own that property?

14 A. **Yes, with my wife.**

15 Q. What's her name?

16 A. **Colleen.**

17 Q. C-O-L-L-E-E-N?

18 A. **Mm-hmm (affirmatively).**

19 Q. All right. I'm going to hand you now what
20 I've marked as Objectors' 3, O-3.

21 (Exhibit O-3, Northampton County tax
22 assessment map showing Mr. Sutton's property, was marked
23 for identification.)

24 MR. DESCHLER: And I know we have to
25 address with Mr. Sutton some issues of party status.

1 (Document distribution.)

2 BY MR. DESCHLER:

3 Q. All right. So, Mr. Sutton, if we're looking
4 at Exhibit O-3, it's a two-page document. Do you
5 recognize this?

6 A. **Yes.**

7 Q. Okay. And on the first page, similar to what
8 we saw with Mr. Khan's testimony, is this a printout
9 from the Northampton County tax assessment ncpub.org
10 website?

11 A. **Correct.**

12 Q. And does it depict your property?

13 A. **Correct.**

14 Q. And just where is your property depicted?

15 A. **2.**

16 Q. All right. And on this exhibit, the lot
17 that's marked as 2, it's outlined in red, correct?

18 A. **Correct.**

19 Q. And shaded gray?

20 A. **Correct.**

21 Q. It says 1.5 acres?

22 A. **Actually, this -- this is wrong. They used**
23 **an old map. It's 2 acres.**

24 Q. All right. But on this map, when identifying
25 that your property, that's what it says?

1 A. **Yes.**

2 Q. Okay. Where in relation to your property is
3 the subject Viscito lot?

4 A. **It's right across the street. It's right in
5 my picture I took. It's --**

6 Q. Just tell me where it is on the map. How's
7 it labeled?

8 A. **1.**

9 Q. It's 1. It's the 10.93-acre lot?

10 A. **Correct.**

11 Q. To travel from your lot to the Viscito lot,
12 how would you go?

13 A. **I would just go right up like 200 feet.**

14 Q. Cross Saucon Ave and up --

15 A. **Up Lewis.**

16 Q. -- up Lewis Avenue?

17 A. **Yup.**

18 Q. And on the second page of the exhibit,
19 similar to what we did with Mr. Khan, this is another
20 printout from the Northampton County GIS Tax Parcel
21 Viewer reflecting a distance from the front of your lot
22 on Saucon Ave to the Viscito lot. How far away is your
23 lot from the Viscito lot?

24 A. **347.1 feet.**

25 Q. Okay. And you're familiar from past

1 proceedings and looking at some of the exhibits where on
2 the Viscito lot the proposed cell tower is -- is
3 proposed to be located, right?

4 A. **Yes.**

5 Q. If you were to stand at your front property
6 line and gaze in the direction of that proposed cell
7 tower knowing how tall it is and where it's located,
8 would you be able -- to the best of your ability, I know
9 it's not built yet, but would you be able to see the top
10 of the cell tower from your front lot line?

11 A. **Yes. Because the trees are 60, 70 feet tall,
12 and I'm down in a depression.**

13 MR. DESCHLER: I would move for the
14 admission of Exhibit O-1 at this point.

15 MR. GOUDSOUZIAN: O-3, you mean?

16 MR. DESCHLER: Sorry. Yes, O-3.

17 MR. GOUDSOUZIAN: Any objection?

18 MS. DURSO: Just of the exhibit, no.

19 (Exhibit O-3 was admitted into
20 evidence.)

21 MR. GOUDSOUZIAN: Very well. Proceed.

22 MR. DESCHLER: I guess I'll do it now at
23 this point. Based on the prior testimony from the last
24 hearing and today's testimony, I would ask that
25 Mr. Sutton be afforded party status.

1 MS. DURSO: I have the same objection
2 that I raised at the last hearing.

3 MR. GOUDSOUZIAN: Understood. And
4 that's overruled. He's granted party status.

5 You can proceed, if there's more
6 questions.

7 MR. DESCHLER: Yes.

8 BY MR. DESCHLER:

9 Q. Mr. Sutton, how long have you lived at your
10 current property?

11 A. **34 years.**

12 Q. When did you buy it?

13 A. **1983.**

14 Q. And you've lived there ever since?

15 A. **Yes. I built the house myself.**

16 Q. There's been some testimony tonight about
17 Lewis Lane -- sorry, Lewis Avenue. In the course of
18 these proceedings, did you obtain a subdivision map
19 reflecting the Sherwood subdivision that was built
20 around this section of Saucon Avenue?

21 A. **Yes.**

22 Q. And I want to show you now what's been marked
23 as Exhibit O-5.

24 MR. DESCHLER: Now, I have small
25 printouts, but Mr. Sutton did supply me with a larger

1 one with much better resolution that I would like to
2 mark as the exhibit that we admit into the record, if
3 that's okay. So I will mark that as C-5. I don't have
4 copies of that, but I have copies of the smaller
5 8.5-by-11 document that we were supplying --

6 MR. GOUDSOUZIAN: Just for clarity, I
7 think maybe you misspoke. I think you referenced it as
8 C-5. I think you meant O-5.

9 MR. DESCHLER: O-5.

10 MS. DURSO: Well, what happened to O-4?

11 MR. GOUDSOUZIAN: I'm going to ask that
12 next.

13 MR. DESCHLER: I have that in reserve.
14 I may not -- I had these marked, but I'm not sure I'm
15 going to use that --

16 MS. DURSO: Oh, that's fine. I just
17 wanted to make -- okay.

18 MR. DESCHLER: So that's O-5.

19 (Exhibit O-5, 1979 map of subdivision,
20 was marked for identification.)

21 (Document distribution.)

22 BY MR. DESCHLER:

23 Q. Okay, Mr. Sutton.

24 A. **Yes.**

25 Q. So I've handed you what we've marked as O-5.

1 Do you recognize this document?

2 A. **Yes.**

3 Q. And what is it?

4 A. **Actually, it's an older map of the**
5 **subdivision. It's from the -- I think it's from 1979.**

6 Q. All right. And if we look down in the bottom
7 right-hand corner, there's a date, August 6, 1979.

8 A. **Correct.**

9 Q. And where'd you get this document from?

10 A. **I got it from the courthouse, but it --**

11 Q. In Northampton County?

12 A. **Northampton. But he went to the deed office**
13 **and mapping because there's two errors on my lot.**

14 Q. All right. But in terms of -- this is the
15 recorded subdivision plan for Sherwood --

16 A. **Development.**

17 Q. -- Development?

18 A. **Yep.**

19 Q. And just in relation to, you know, what we're
20 talking about tonight, Sherwood Development, it's a
21 subdivision surrounding Saucon Avenue; is that correct?

22 A. **That's correct.**

23 Q. And this subdivision map depicts, let's see,
24 one, two, three, four, five, six, seven, eight, nine --
25 ten lots around Saucon Avenue, right?

1 A. **Correct.**

2 Q. Okay. And on this subdivision plan, where is
3 your lot identified? Or how is your lot identified?

4 A. **It's No. 1 on here, as opposed to 2 on the**
5 **one you showed me.**

6 Q. Okay. It's No. 1 on here. This is on
7 Exhibit O-5.

8 A. **Correct.**

9 Q. In terms of the Viscito property, can you
10 identify where that property is?

11 A. **Right here (indicating).**

12 Q. When you say "right here," there's -- on the
13 subdivision plan, there's a reference to Randolph Avenue
14 unopened; and there are other unopened streets branching
15 off of Randolph Avenue going south. Do you see that?

16 A. **Yes.**

17 Q. Okay. And it looks like those streets split
18 up three parcels. Are those three parcels now part of
19 the combined Viscito lot?

20 A. **Correct.**

21 Q. And to date, Randolph Avenue is an unopened
22 paper street, correct?

23 A. **Correct.**

24 Q. Now, there's a reference here on this
25 subdivision map to Lewis Avenue. If we look at the

1 intersection of Lewis Avenue and Saucon Avenue, let's
2 for this -- at this point, let's go north.

3 A. **Uh-huh.**

4 Q. And so that would go by the side of your
5 property, right?

6 A. **Correct.**

7 MR. GOUDSOUZIAN: Pardon me. Could both
8 of you try to keep your voices up? I think it's hard to
9 hear, especially for you, sir.

10 THE WITNESS: Oh, okay.

11 MR. GOUDSOUZIAN: Thank you. Sorry for
12 interrupting.

13 BY MR. DESCHLER:

14 Q. All right. So Lewis Ave going north along
15 the side of your house, is that an open public street?

16 A. **No. I actually purchased it from the**
17 **Township.**

18 Q. And in terms of Lewis Avenue now going south
19 off of Saucon alongside the lot that's marked 10,
20 heading up to the Viscito lot, there's been some
21 testimony, I think acknowledged, that it's an unopened
22 paper street. On this map, it reflects Lewis Avenue as
23 being unopened in that section, right?

24 A. **That's correct.**

25 Q. And this map was recorded prior to your

1 purchase of your house, right?

2 A. **Actually --**

3 Q. Just is that what it --

4 A. **Yeah, it's -- because I purchased it in '83.**

5 Q. All right. So this is four years before the
6 purchase of your house?

7 A. **Correct.**

8 Q. Since the purchase of your house, has
9 Lewis Avenue ever been opened as a public street?

10 A. **No.**

11 Q. And that includes the portion of Lewis Avenue
12 off of Saucon, going south up to the Viscito lot,
13 correct?

14 A. **Correct.**

15 Q. And the lot identified as Lot 10 on the
16 subdivision plan, Exhibit O-5, who owns that?

17 A. **Robert Wells.**

18 MS. DURSO: I'm sorry. Where are we
19 talking about?

20 MR. DESCHLER: No. 10, at the corner
21 of -- the southeast corner of Saucon and Lewis.

22 MS. DURSO: I see it, yes. Sorry.

23 (Reporter clarification.)

24 THE WITNESS: Robert Wells.

25

1 BY MR. DESCHLER:

2 Q. And in terms --

3 A. **And Usha Wells is his wife.**

4 (Reporter clarification.)

5 THE WITNESS: U-S-H-A.

6 BY MR. DESCHLER:

7 Q. And in terms of the numbering on the
8 subdivision, again, Mr. and Mrs. Wells's lot is marked
9 10, correct?

10 A. **That's correct.**

11 MR. DESCHLER: I would move for the
12 admission of Exhibit O-5.

13 MR. GOUDSOUZIAN: Any objection?

14 MS. DURSO: No, no objection.

15 MR. GOUDSOUZIAN: Very good.

16 It's admitted.

17 (Exhibit O-5 was admitted into
18 evidence.)

19 BY MR. DESCHLER:

20 Q. And, Mr. Sutton, I think there was some
21 testimony in the prior hearing about logging occurring
22 at the Viscito property. Do you recall that?

23 A. **Yes, I do.**

24 Q. Can you describe the nature of the logging?

25 A. **Actually, I have pictures of it over there.**

1 Q. Well, just could you describe the nature of
2 the logging?

3 A. **Yes. It was supposed to be harvesting,**
4 **selective harvesting. In a lot of places, it's**
5 **clear-cut. It looks like a tornado went through. It's**
6 **ruined all the way up to the ridgeline. I can see up to**
7 **the ridgeline. I could never see the ridgeline before.**
8 **They destroyed it. They took out all the best trees.**

9 **And it goes from Quincy all the way down to**
10 **Riverside Drive. So it's a total of about a hundred**
11 **acres.**

12 Q. Let me ask you this -- well, his lot's not a
13 hundred acres?

14 A. **No. His is 20.**

15 Q. When did the logging on Mr. Viscito's lot --
16 or Mr. and Mrs. -- on the Viscito lot, when did the
17 logging start?

18 A. **I would say around October, November.**

19 Q. And in terms of the impact of the logging on
20 visibility of the Viscitos' property if you're standing
21 from the vantage point of Saucon Avenue, what was the
22 impact of the logging?

23 A. **I couldn't see it before, but now I can see**
24 **it clearly.**

25 Q. In terms of what you could see, what can you

1 see now?

2 A. **The house, the garage, a trailer, cars. I**
3 **can see almost all the way through because most of the**
4 **trees are gone.**

5 Q. You said it started in October. In October
6 of 2023?

7 A. **Yes -- no. Yes, '23. And it ended four**
8 **months afterwards. They were logging for four months.**

9 Q. And for the record, you're here as a party in
10 opposition to the conditional use, correct?

11 A. **That's correct.**

12 MR. DESCHLER: That's all I have.

13 MR. GOUDSOUZIAN: Thank you.

14 Attorney Durso?

15 MS. DURSO: Sure.

16 * * *

17 CROSS-EXAMINATION

18 BY MS. DURSO:

19 Q. And you're aware that there were permits
20 issued by the Township for the lot?

21 A. **Oh, yes.**

22 Q. And that it was continued -- it wasn't just
23 Mr. Viscito's tract, but all the other tracts going
24 down?

25 A. **Yes. Varallos {phonetic} and the other --**

1 **but the other side. Because I got the right-to-know,**
2 **and I have the actual proper -- the credentials.**

3 Q. Right. So there were permits issued by the
4 Township?

5 A. **There was permits, yes.**

6 Q. And he was permitted to have logging done on
7 his property?

8 A. **Correct. But the way they proceeded was**
9 **improper.**

10 Q. In your opinion.

11 A. **According to the Pennsylvania forestry, I**
12 **think I'm correct. Because they're not supposed to pull**
13 **the trees out by the roots.**

14 Q. But you're not -- you're not from the
15 Department of Forestry?

16 A. **No, I'm not.**

17 Q. And permits were issued by the Township?

18 A. **Yes. Yes, they were.**

19 Q. Okay. And then just so I can understand what
20 you're trying to say about Lewis Avenue, are you saying
21 you bought Lewis Avenue from the Township?

22 A. **I bought this section here (indicating) --**

23 MR. DESCHLER: Just make sure to get --
24 identify what you're talking about.

25 THE WITNESS: Right. I own this section

1 (indicating) all the way down to the end. And this
2 actual quarter leg here (indicating), I've got -- that
3 was a different decision by a judge. I own that as
4 well.

5 BY MS. DURSO:

6 Q. So --

7 MR. GOUDSOUZIAN: If I can, for purposes
8 of the record, can we identify what he referred to when
9 he says "this."

10 MS. DURSO: He is saying he bought the
11 portion of Lewis Avenue to the west of his property.

12 THE WITNESS: Yes.

13 BY MS. DURSO:

14 Q. And so my question for you, though, is if it
15 wasn't opened -- right? Because you're saying it wasn't
16 opened.

17 A. **Correct, it wasn't opened.**

18 Q. How could the Township sell it to you?

19 A. **For a dollar.**

20 Q. But the Township would not have been able to
21 sell it to you if it wasn't opened.

22 A. **I have the deed right here, a quitclaim.**

23 Q. But the Township --

24 A. **The Township sold it to me.**

25 Q. The entire width? It couldn't have been for

1 the entire width because they allowed Mr. Viscito in
2 2004 to use that to get down to his property?

3 A. **Then I'm not -- no, that's on the other side**
4 **of the --**

5 Q. Maybe I'm misunderstanding what you're
6 saying.

7 MR. DESCHLER: I think we're going kind
8 of far afield. So Mr. Sutton's -- interrupt me if I
9 make a mistake -- so Mr. Sutton's Lewis Ave portion,
10 right, is to the north and, like you said, on the west
11 side of his property. So it's not really -- it's not
12 going into the Viscito property at all.

13 MS. DURSO: Oh, well, that's what I
14 thought. So I'm sorry. Okay. I'm sorry.

15 BY MS. DURSO:

16 Q. I wasn't following, so I apologize.

17 A. **No, that's okay.**

18 Q. Okay. And would you agree that O-5 does not
19 show the subdivision of the Viscito tract that was
20 comprised of multiple lots?

21 A. **Yes. This shows separate lots.**

22 Q. And would this O-5, though, show Lewis Avenue
23 extending down to the Viscito tract?

24 A. **Yes.**

25 Q. And although not open, it's showing it on a

1 recorded plan; thereby, giving rights of access.

2 MR. DESCHLER: I object to the legal
3 conclusion asked of the witness.

4 MR. GOUDSOUZIAN: Understood. That's
5 sustained.

6 But you can rephrase if you want.

7 BY MS. DURSO:

8 Q. Would it be fair to say that in order to get
9 to the Viscito tract, you need to go down Lewis Avenue?

10 A. **He's landlocked.**

11 Q. So Lewis Avenue is his only means of access?

12 A. **Correct.**

13 MS. DURSO: I don't have any other
14 question of Mr. Sutton.

15 MR. GOUDSOUZIAN: Thank you.

16 Mr. Banonis?

17 MR. BANONIS: Yeah, I have a few
18 questions.

19 * * *

20 EXAMINATION

21 BY MR. BANONIS:

22 Q. Sir, I recall you coming to several Council
23 meetings in the past year. And you had put up
24 posterboards of images of things that you wanted to
25 display to the Township Council based upon the rezoning

1 of some land adjacent to the landfill and some other
2 aspects of that project.

3 Do you have any of those similar kind of
4 images that you put together for that matter to help us
5 to understand your position here? Do you have any
6 posterboards or anything?

7 A. **I have posterboards about the timbering.**

8 Q. I'm not asking about the timbering. I'm
9 asking about -- you're talking about the sight lines and
10 other things. Do you have any other -- any images to
11 share with us that --

12 A. **I don't understand the question.**

13 **Particularly of what?**

14 Q. Everything you testified to, sir. You're
15 talking about how this tower is going to be visible to
16 you, right? And you're talking about the top of the
17 ridgeline that's visible to you.

18 Do you have images that are going to show the
19 top of the ridgeline, as well as where the tower's going
20 to be and how it's going to look from your property?

21 A. **I have pictures here that shows it.**

22 Q. Yeah, but I'm asking -- well, if you have
23 them, will you share them with us?

24 A. **Yeah. (Retrieved photos.)**

25 MR. GOUDSOUZIAN: Now, before we go

1 through these photos --

2 MR. DESCHLER: I don't mind, I guess, if
3 we talk about them. I don't have spare copies or --

4 MS. DURSO: Well, it has to be provided
5 to us to look at.

6 MR. DESCHLER: Well --

7 MR. GOUDSOUZIAN: Hold on. They were in
8 response to a question from Mr. Banonis.

9 MS. DURSO: I understand.

10 MR. GOUDSOUZIAN: So he's responding to
11 that.

12 So you can respond to it, and you can
13 identify the photos. What I don't want you to do --
14 please don't be offended by this -- what I don't want
15 you to do is just say, here's this, here's this, here's
16 this. Because what will happen is we'll have a record
17 that the stenographer will be writing and none of that
18 will make any sense.

19 THE WITNESS: Okay.

20 MR. GOUDSOUZIAN: So you have to
21 identify which photo you're talking about, where in the
22 photo, and so on.

23 THE WITNESS: Okay.

24 BY MR. BANONIS:

25 Q. Let me try to seek to understand this before

1 we get into that. The board you just put down there on
2 the table in front of your attorney --

3 A. **Right.**

4 Q. -- are those photographs that you took from
5 your property?

6 A. **No. Actually up from the site.**

7 Q. Okay. And the board that you're holding in
8 your left hand now that has this series of --

9 A. **That's --**

10 Q. Hold on so we get the question out so the
11 stenographer can do her job.

12 -- there appears to be, what, 12 plus 16 --
13 18 photographs on that board. Is that a view from your
14 property?

15 A. **No.**

16 Q. Okay. So you don't have any photographs from
17 your property to show?

18 A. **Yes, I do.**

19 Q. Okay. Well, where are they?

20 A. **In my phone.**

21 Q. How do you intend to offer those to us for
22 evidence in this case? I'll direct the question to your
23 attorney.

24 MR. DESCHLER: I wasn't offering
25 exhibits. You asked the questions. These aren't

1 exhibits I'm offering. He has photos on his phone. I
2 wasn't planning to offer them.

3 BY MR. BANONIS:

4 Q. Take a look at them. We'll go through your
5 phone. Go ahead.

6 THE WITNESS: Well, should I or not?

7 MR. DESCHLER: The councilmember asked
8 the question. I mean, I think it's just confusing -- I
9 don't know, maybe Ms. Durso would actually agree with
10 me. I think it's confusing to the record just to
11 identify just a bunch of photos that we're not actually
12 admitting.

13 MR. BANONIS: This gentleman came here.
14 He was sworn in. You identified him as an objector to
15 this. He's testified that he can see things from his
16 property. I asked if he has images so that I can see
17 what he thinks he sees from his property. And he,
18 instead, shows me two posterboards that were not taken
19 from his property.

20 And now he's going in his cell phone to
21 try to find the photographs to represent what the view
22 is from his property. So what's irrelevant or
23 problematic about that, other than the fact that you
24 don't have hard copies of those to physically attach to
25 the record?

1 MR. DESCHLER: Mr. Banonis, if you'd
2 like to see them, you can see them. I just think if
3 we're identifying unmarked exhibits, apparently a lot of
4 them, I don't know that that's helpful to a clear
5 record.

6 MS. DURSO: I agree.

7 MR. BANONIS: So I understand the
8 problems with the record. That's not my problem,
9 though. Okay?

10 My problem is to understand what this
11 gentleman is conveying to Council. And if he has an
12 image -- because this gentleman likes to take lots of
13 photographs. We see them on the posterboard. We saw
14 them all around this room many times.

15 If he has photographs that can visually
16 depict what he's testifying to, they say a picture is
17 worth a thousand words, right? Why not show me some
18 photographs and not --

19 BY MR. BANONIS:

20 Q. I guess the question is, sir, why didn't you
21 print off these photographs that show the property, that
22 show the condition from your property?

23 A. **This is from my property.**

24 Q. No. My question is: Why didn't you print
25 out? Why didn't you make hard copies of those

1 photographs?

2 MR. DESCHLER: Look, I think that's part
3 of the legal strategy here in what we're doing. Why we
4 don't admit certain things or offer certain exhibits and
5 offer others, I think, is a determination that I can
6 make. I don't know that we have to ask Mr. Sutton, why
7 didn't his lawyer admit certain exhibits.

8 MR. GOUDSOUZIAN: Why don't we do
9 this --

10 MR. BANONIS: Hold on. I'll respond.
11 You admitted one, which is Professor Bilal's arts and
12 crafts. Come on.

13 MR. DESCHLER: For standing purposes.

14 MR. BANONIS: He has standing.

15 MR. GOUDSOUZIAN: So here's my
16 suggestion then.

17 First of all, Mr. Sutton, why don't you
18 have a seat until we ask you to come up here.

19 THE WITNESS: Okay.

20 MR. GOUDSOUZIAN: And then, Mr. Banonis,
21 what I am suggesting you might want to consider is would
22 you be willing to move on to a different line of
23 questioning?

24 MR. BANONIS: Yes. I'll move on because
25 it's clear that this witness and his attorney did not

1 come prepared. They came prepared only to show a
2 photograph that was doctored by Professor Bilal, but no
3 photographs from this witness, who claims to have the
4 same -- same issues, you know, or different issues with
5 regard to what he sees from his property.

6 But I'll move on.

7 BY MR. BANONIS:

8 Q. You had talked about the height of the trees.

9 A. **Yes.**

10 Q. Did you measure the height of the trees?

11 A. **I have similar trees in my yard that I've cut**
12 **down, and I've measured them. They're 60 to 80 feet**
13 **tall.**

14 Q. Okay. My question wasn't that.

15 Did you measure the height of trees? You're
16 saying that you know the height of these, the ones that
17 are across the street.

18 A. **They're the same height as the trees on my**
19 **property.**

20 Q. How do you know they're the same height? You
21 didn't measure them.

22 A. **I have an altimeter that I can measure the**
23 **height of the tree. It's like a triangular thing that**
24 **you can actually measure it.**

25 Q. Doesn't an altimeter tell you how high you

1 are above sea level?

2 A. **It'll give you the height, yeah.**

3 Q. Above sea level.

4 A. **Yeah.**

5 Q. So you put the altimeter at the top of the
6 tree?

7 A. **No, no. It's a hand-held thing that you can
8 sight in, and you can get the top of the tree and where
9 the bottom is. So it gives you the -- an estimated
10 height of the trees.**

11 Q. So it's an estimated height. It's not the
12 actual height?

13 A. **I measured the trees when they were on the
14 ground after I fell them.**

15 Q. After they fell?

16 A. **After I took them down.**

17 Q. Okay. So you took down trees on your
18 property?

19 A. **Yes, I did.**

20 Q. Now, so you said you have a -- your house, I
21 think I saw on the map, it's a 1.13-acre lot?

22 A. **No. It's 2 acres.**

23 Q. 2 acres. And you built on this property,
24 right?

25 A. **Yes, I did.**

1 Q. Okay. Did you have to clear that lot to put
2 that house on there?

3 A. **Yes.**

4 Q. And you had to clear-cut that lot to put --

5 A. **It wasn't clear-cut.**

6 Q. -- your house on it?

7 A. **No.**

8 Q. It wasn't clear-cut?

9 A. **No. I only took as much trees down as I
10 needed.**

11 Q. You mentioned something about -- you said a
12 different decision by a judge. Were you involved in
13 litigation over your property?

14 MR. DESCHLER: Objection.

15 What possible relevance does this have?

16 MR. BANONIS: Well, I'm trying to
17 understand the property that he owns.

18 THE WITNESS: There was a --

19 MR. BANONIS: He's claiming that his
20 property's being impacted by this. I'm trying to
21 understand the property that he owns. The property
22 record that I have here says it's 1.13 acres, and now
23 this witness just testified that he has 2 acres. So
24 where did the other 0.87 acres come from?

25 MR. DESCHLER: What is the relevance of

1 that, sir?

2 MR. BANONIS: To help me know what his
3 property -- I want to know the description of his
4 property. This gentleman is claiming that he is being
5 affected by this, by the sight lines and other things.
6 I'm trying to have an understanding in my mind as to the
7 configuration, the layout of this property, the size of
8 the property, and everything else about it. I think
9 that's a fair question.

10 MR. GOUDSOUZIAN: Perhaps the better way
11 to do this is rather than worry about the acreage of the
12 property, if you want to rephrase your question from --
13 for example, from his house what he sees or from his
14 porch what he sees, that would, I think, help us all.

15 I mean, I don't see the relevance of
16 whether his property is 1.3 or 1.8 or 2.2.

17 MR. BANONIS: You're asking me to
18 rephrase the question?

19 MR. GOUDSOUZIAN: Yes, please, if you
20 wouldn't mind.

21 MR. BANONIS: Okay.

22 BY MR. BANONIS:

23 Q. Sir, your property has a driveway that comes
24 in off of Saucon Avenue, correct?

25 A. **Correct.**

1 Q. Does the front of your house face
2 Saucon Avenue or does it face --

3 A. **It faces --**

4 Q. -- Lewis Avenue or does it face
5 Snyder Avenue?

6 A. **It faces Saucon.**

7 Q. Okay. So the back of your property, you have
8 a deck in the back of your property?

9 A. **That's correct.**

10 Q. You have a yard in the back of your property?

11 A. **It's mostly wooded.**

12 Q. Wooded, okay.

13 So the times that you would be looking across
14 the street would be when you're coming and going from
15 your home, correct?

16 A. **Or I'm in the front of my yard, which is**
17 **clear.**

18 Q. Is that where you hang out for recreation, in
19 the front of your yard?

20 A. **Yes. And because we have a gazebo there, and**
21 **we have a front deck too.**

22 Q. Okay. Now, you said something earlier. I
23 believe it was that Randolph Avenue is an unopened paper
24 street currently; is that correct?

25 A. **That's correct.**

1 Q. I want to direct your attention back -- and
2 you may not be familiar with this, but I want to ask you
3 if you are. This is Exhibit C-9, the minutes from the
4 November 15, 2004 Lower Saucon Zoning Hearing Board
5 meeting.

6 And on page 6 of this, the second full
7 paragraph, it says the following: Priscilla deLeon,
8 current Council president, was sworn and testified at
9 that meeting. And she is a member of Township Council
10 and is appearing before the board solely in her capacity
11 as a resident. She presented her testimony in letter
12 form. She said that there are only three parcels, not
13 11, but that the matter is moot as however many are
14 there, they will be combined into a single lot.

15 I'm reading verbatim from this.

16 She stated to the board she had additional
17 conditions set forth in her letter which she thought the
18 board should consider enclosing, including the
19 requirement that the consolidation deed include a
20 portion of Randolph Avenue, a paper street.

21 So let me ask you: Did you ever hear about
22 those details at any time prior to today?

23 A. **No. I didn't know anything about**
24 **Randolph Avenue being included in that.**

25 Q. Did you ever see the letter that was referred

1 to by Priscilla deLeon back in November 2004?

2 A. **No.**

3 Q. So according to these minutes, at least a
4 portion of Randolph Avenue, a paper street, was proposed
5 for consolidation into Mr. Viscito's property back then
6 in 2004. Do you know if that ever occurred?

7 A. **No.**

8 Q. Do you know what portion of Randolph Avenue,
9 as you described it, currently remains a paper street?

10 A. **It's still a paper street.**

11 Q. According to who?

12 A. **According to the maps and according to the**
13 **county.**

14 Q. Do you have maps?

15 A. **Yes.**

16 Q. Hold on. I know you got maps. You gave us
17 an old map that you went to the courthouse for, which I
18 think was O-5.

19 A. **I have a new one.**

20 Q. Right? This is O-5, right?

21 A. **Yeah.**

22 Q. And then your attorney identified what is
23 O-3, which depicts your parcel, right?

24 A. **Right, correct.**

25 Q. That's more of an image than a map.

1 question. I believe at one point even the zoning
2 application was changed because half of the paper street
3 would have been absorbed into Mr. Viscito's lot, and
4 that gave you some extra space to locate the monopole,
5 right?

6 MS. DURSO: It was my understanding by
7 virtue of the 2004 direction of the Township, that they
8 were to record a deed that would include his half.

9 MR. DESCHLER: Right, that Mr. Viscito
10 would take to the centerline of what was the paper
11 street known as Randolph Avenue?

12 MS. DURSO: That is my understanding.

13 MR. DESCHLER: That's my understanding
14 as well.

15 BY MR. BANONIS:

16 Q. Now you're shaking your head that you
17 understand because your attorney told you that, right?

18 A. **Well, yeah. I remember it being**
19 **consolidated --**

20 MR. DESCHLER: His attorney told him
21 that, and counsel agrees with that. I don't think it's
22 a fact in dispute.

23 MR. BANONIS: He came in and he
24 represented that Randolph Avenue was a paper street that
25 was currently in the custody and control of the

1 Township.

2 THE WITNESS: No. I didn't say it was
3 in custody and control of the Township. I said --

4 BY MR. BANONIS:

5 Q. You said it's a paper street, still a paper
6 street.

7 A. **It was classified as a paper street, and I**
8 **don't think it's changed since then.**

9 Q. Who owns paper streets, sir?

10 MR. DESCHLER: Hold -- that's a legal
11 conclusion. I would object to that.

12 MR. BANONIS: I'm done.

13 MR. GOUDSOUZIAN: Very good.

14 Mr. Carocci, any questions?

15 * * *

16 EXAMINATION

17 BY MR. CAROCCI:

18 Q. So you cut trees down on your property,
19 correct?

20 A. **Yes.**

21 Q. Did Mr. Viscito complain about that?

22 A. **You're allowed to cut two trees, according to**
23 **the Township ordinance; is that correct?**

24 Q. I'm asking the question.

25 A. **Yeah, but I'm -- I'm giving you the answer,**

1 **right?**

2 Q. I'm asking the questions --

3 MR. DESCHLER: I object on relevance
4 grounds.

5 BY MR. CAROCCI:

6 Q. Did Mr. Viscito complain about you cutting
7 trees down on your property?

8 A. **No.**

9 Q. Okay. That's all I wanted, was a no. Was it
10 a little too hard for you?

11 A. **No.**

12 Q. Okay. Nothing -- Mr. Viscito got all the
13 permits he needed to cut those trees down, correct?

14 A. **Yes, he did.**

15 MR. CAROCCI: Thank you.

16 MR. GOUDSOUZIAN: Ms. Opthof-Cordaro?

17 MS. OPTHOF-CORDARO: No.

18 MR. GOUDSOUZIAN: Ms. Ray, anything?

19 MS. RAY: No, no questions.

20 MR. GOUDSOUZIAN: Ms. deLeon?

21 MS. DeLEON: Just one.

22 * * *

23 EXAMINATION

24 BY MS. DeLEON:

25 Q. Mr. Sutton, the process to obtain

1 Lewis Avenue --

2 A. Yes.

3 Q. -- from the Township is called vacation,
4 vacating the street. Is that the process?

5 MR. DESCHLER: Objection. It's a legal
6 conclusion. He's a fact witness. I don't think it's
7 relevant to -- what his legal opinion is about how
8 streets are vacated or how they're absorbed into...

9 MS. DeLEON: That's all I have. Thank
10 you.

11 MR. GOUDSOUZIAN: All right. So you are
12 through your questioning?

13 MS. DeLEON: Yes.

14 MR. GOUDSOUZIAN: Okay. Very well.

15 Anything else for this witness from any
16 of the people with party status?

17 Anything else from the attorneys?

18 MS. DURSO: I do not.

19 MR. DESCHLER: Nothing more from me.

20 MR. GOUDSOUZIAN: Very well. This
21 witness can be excused -- or stand down, at least.

22 Is there anything else, Mr. Deschler,
23 from a witness standpoint?

24 MR. DESCHLER: Yes. I'll call

25 Danielle Yanchuk.

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DANIELLE YANCHUK,

having been first duly sworn, testified as follows:

* * *

DIRECT EXAMINATION

BY MR. DESCHLER:

Q. All right. Ma'am, could you just state your name and spell it, please?

A. **Danielle Yanchuk, Y-A-N-C-H-U-K.**

MR. GOUDSOUZIAN: Could you speak louder, ma'am?

THE WITNESS: Sorry.

MR. GOUDSOUZIAN: Or come closer to the microphone.

THE WITNESS: It's Danielle Yanchuk, Y-A-N-C-H-U-K.

BY MR. DESCHLER:

Q. And just for the record, would you spell your first name as well?

A. **D-A-N-I-E-L-L-E.**

Q. And where do you live?

A. **2148 Saucon Avenue.**

Q. Do you own that property?

A. **Yes.**

Q. Do you own it with anyone else?

A. **My husband.**

1 Q. What's his name?

2 A. **Shaun Yanchuk.**

3 Q. Spell that.

4 A. **S-H-A-U-N, Y-A-N-C-H-U-K.**

5 Q. Okay. And how long --

6 MR. DESCHLER: Can the gentleman in the
7 back stop commentating the whole time?

8 MR. GOUDSOUZIAN: I'd ask everybody -- I
9 didn't hear anything this time, but I'd ask whoever it
10 is in the audience try to not make any noises or speak
11 while testimony is being taken.

12 BY MR. DESCHLER:

13 Q. How long have you owned that property?

14 A. **A little over 12 years.**

15 Q. And where in relation to your property is the
16 subject Viscito lot?

17 A. **The Viscito lot is above my lot, to the
18 south.**

19 Q. Is it immediately adjacent to your lot?

20 A. **Yes, it is.**

21 MR. DESCHLER: I believe she -- there's
22 no dispute she has party status; is that correct?

23 MS. DURSO: Yes, I did not dispute that.

24 BY MR. DESCHLER:

25 Q. And you were one of the individuals who was

1 given notice of this hearing, correct?

2 A. **Yes.**

3 Q. When you look out -- so I presume your
4 backyard abuts the Viscito lot?

5 A. **It does.**

6 Q. When you look out at the Viscito lot -- and
7 talk about this time of year when the leaves are down,
8 there's no foliage in the trees -- what can you see?

9 A. **Right now, I can see his house and all the
10 structures on his property, a widened parking area, and
11 things of that nature.**

12 Q. And you're familiar from these proceedings
13 about kind of where the cell tower would be located,
14 right?

15 A. **I have a rough idea based on the maps in the
16 packet.**

17 Q. And if it's this time of year with the
18 foliage down and you were to look out from your backyard
19 towards the cell tower, would it be visible?

20 A. **Yes, it would be visible.**

21 Q. And in terms of where the top of the cell
22 tower would be, could you see that above the treeline
23 from your backyard?

24 A. **Yes, I would.**

25 Q. And you're here today testifying in

1 opposition to the conditional use application, correct?

2 A. Yes, I am.

3 Q. What are your concerns about the cell tower
4 going on the lot immediately adjacent to yours in the
5 south?

6 A. It's a visual eyesore, first of all. It
7 obstructs my view and defeats the purpose of my family
8 moving there in the first place.

9 We also have extensive water runoff from his
10 property that has been made a lot worse from the logging
11 that has taken place in recent months. And even in the
12 last couple years prior, he's done a lot of work. We're
13 worried that --

14 Q. When you say "he," who do you mean?

15 A. Mr. Viscito and his family.

16 Q. Go ahead.

17 A. We're a little concerned that new development
18 could exacerbate the existing water runoff issues that
19 were created.

20 Supplemental to that, I also have health
21 concerns which I understand are not recognized by the
22 FCC; but I am curious to know when that data, that
23 safety data, was done and what it considers. Because of
24 the health impacts if that cell tower were to go there,
25 my family would likely move.

1 So I'm also concerned about property values
2 because I can speak, as a buyer, that I would not look
3 at a property that was near a cell tower. It's a
4 nuisance. And for all the reasons I mentioned before, I
5 wouldn't consider it.

6 I also have some additional concerns now
7 because of stuff that was brought forth here which has
8 to do with the sound, which I wasn't considering that
9 the decibel level would be magnified times four,
10 potentially. I don't know what that means. I can't get
11 an idea of what 240 decibels is sound-wise, but probably
12 annoying.

13 Q. And you mentioned the water runoff and how it
14 has been exacerbated in recent times. I'll show you
15 what we have marked as Exhibit O-6.

16 (Exhibit O-6, Photograph of backyard of
17 2148 Saucon Avenue, was marked for identification.)

18 (Document distribution.)

19 BY MR. DESCHLER:

20 Q. So, Ms. Yanchuk, I've marked and I'm showing
21 you now what's been identified as Exhibit O-6. It's a
22 two-page document. The second page also has an exhibit
23 sticker, but this is just a single exhibit, O-6.

24 On the first page, what are we looking at
25 here?

1 A. **That is my backyard --**

2 Q. At 2148 Saucon Avenue?

3 A. **-- at 2148 Saucon Avenue.**

4 Q. And who took this photograph?

5 A. **I took it.**

6 Q. And the date there, August 4, 2020, is that
7 the date on which it was taken?

8 A. **Yes, it is.**

9 Q. Does it fairly and accurately depict the
10 condition of your property on that date?

11 A. **Yes.**

12 Q. What are we looking at here?

13 A. **Extensive flooding coming down the mountain
14 from the Viscito property after a heavy rainfall.**

15 Q. This is in your backyard?

16 A. **Yes.**

17 Q. Looking towards the Viscito property?

18 A. **Yes.**

19 Q. And is the Viscito property depicted sort of
20 at the top, above the fence line?

21 A. **Yes.**

22 Q. And if we're looking at the next page where
23 it says "water tower driveway Saucon Avenue," who took
24 this photograph?

25 A. **I took it.**

1 Q. It says June 26, 2023. Is that the date on
2 which this was taken?

3 A. **Yes, it is.**

4 Q. And does this photograph fairly and
5 accurately depict the condition of this area on the date
6 it was taken?

7 A. **Yes, it does.**

8 Q. What's depicted here?

9 A. **Flooding in the cul-de-sac coming from the
10 property where the water tower is located.**

11 Q. And this would be the Saucon Avenue
12 cul-de-sac that we have seen depicted on the plans and
13 such?

14 A. **Yes, it is.**

15 Q. And you said these were fairly heavy rains?

16 A. **Yes.**

17 Q. If we look at the extent of the rains that we
18 see depicted in Exhibit O-6, the first and second page,
19 how frequently do you get that sort of waterfall or
20 runoff on your property in the cul-de-sac area?

21 A. **Pretty frequently, especially in the last
22 couple of years. We have had at least -- probably half
23 a dozen of those heavy rainstorms just this past summer.**

24 Q. Has the logging had any impact on the runoff?

25 A. **It has.**

1 Q. Okay. Can you describe that?

2 A. **It's worse.**

3 Q. And that would have been since October of
4 last year?

5 A. **Yes.**

6 MR. DESCHLER: I would move for the
7 admission of Exhibit O-6.

8 MR. GOUDSOUZIAN: Any objection?

9 MS. DURSO: No objection.

10 MR. GOUDSOUZIAN: Very well. It's
11 admitted.

12 (Exhibit O-6 was admitted into
13 evidence.)

14 MR. DESCHLER: And -- yes, Mr. Carocci?

15 MR. CAROCCI: I object. August 4, 2020,
16 you failed to mention, was Tropical Storm Isaias,
17 however you say it. I mean, you said heavy rains; and
18 you offered it as an exhibit. It was the day that --
19 the date of the storm. It was one of the worst storms
20 we've had in ten years.

21 THE WITNESS: Well, we --

22 MR. CAROCCI: You said it rained that
23 day.

24 MR. DESCHLER: I think it goes to
25 weight, not -- I mean...

1 MR. CAROCCI: Well, you didn't even
2 disclose it. You didn't have the courtesy or the
3 integrity to disclose it.

4 MR. GOUDSOUZIAN: Again, let's -- it's
5 already been -- counsel have acknowledged and it's
6 admitted.

7 MS. DURSO: Because I can ask questions
8 about it on cross.

9 MR. GOUDSOUZIAN: Okay. Anything else?

10 MR. CAROCCI: Have some integrity.

11 MR. DESCHLER: I'll show you what we
12 have marked now as Exhibit O-7.

13 (Exhibit O-7, Photos of Viscito property
14 from Ms. Yanchuk's home, was marked for identification.)

15 (Document distribution.)

16 BY MR. DESCHLER:

17 Q. Ms. Yanchuk, I've handed you what we've
18 marked as Exhibit O-7. This is a multipage exhibit
19 consisting of one, two, three -- four pages. Do you
20 recognize this exhibit?

21 A. **Yes.**

22 Q. Okay. And do you know who took these
23 photographs?

24 A. **I took them.**

25 Q. Okay. And were they all taken on January 17,

1 2024?

2 A. **Yes.**

3 Q. Okay. So let's go through these.

4 The first page, what does -- it says: View
5 from 2148 Saucon Avenue; is that correct?

6 A. **Yes.**

7 Q. And is that your address?

8 A. **Yes.**

9 Q. And what are we looking at here?

10 A. **It's a photo taken from my patio.**

11 Q. Well, what can we see?

12 A. **You can see the Viscito property and all the
13 structures on his property post-logging.**

14 Q. And the building depicted on the right-hand
15 side, what is that?

16 A. **That's the Viscito home.**

17 Q. And does this photograph here on the first
18 page of 0-7, does that fairly and accurately depict the
19 condition of the Viscito property looking from your yard
20 on January 17, 2024?

21 A. **Yes.**

22 Q. And if we go to the next page, what's
23 depicted here?

24 A. **It's another photo from my yard over in
25 the -- looking over to the area where the cell tower is**

1 **supposed to go.**

2 Q. So before -- on the first page, we're looking
3 kind of directly -- or we're looking more south to the
4 Viscito lot?

5 A. **Correct.**

6 Q. Okay. And now we're looking kind of
7 directionally --

8 A. **Southeast.**

9 Q. Southeast, okay. And what was your intent of
10 taking the photograph from this direction?

11 A. **To show how the logging has impacted the view
12 there and how open the space is and how clearly I would
13 be seeing the cell tower from my property.**

14 Q. Okay. And does this second photograph fairly
15 and accurately depict the condition of the Viscito
16 property from this vantage point on January 17, 2024?

17 A. **Yes, it does.**

18 Q. And the next one, also from January 17, 2024,
19 Photo Location No. 3 says: Forest thinned from logging,
20 November to December of 2023. Did you take this
21 photograph?

22 A. **Yes, I did.**

23 Q. If I didn't ask, you took the photograph on
24 the preceding page too, right?

25 A. **Yes, I did.**

1 Q. So we're on the third page again. What does
2 this photograph depict?

3 A. **The view from in front of my neighbor's**
4 **house, staring back towards the Viscito property.**

5 Q. And who's the neighbor?

6 A. **Priscilla deLeon.**

7 Q. And where is her property in relation to the
8 Viscito property?

9 A. **It adjoins the property.**

10 Q. So in terms of the direction of this photo,
11 what are we looking at here? What can we see on the
12 Viscitos' property?

13 A. **I'm sorry. I'm not sure what you're asking.**

14 Q. What can we see on the Viscitos' property?

15 A. **We can see his home.**

16 Q. And does this photograph here fairly and
17 accurately depict the condition of, I guess,
18 Ms. deLeon's property and the Viscito property looking
19 at it from this vantage point on January 17, 2024?

20 A. **Yes, it does.**

21 Q. And the last photograph here, page 4, it
22 says: January 17, 2024, Photo Location No. 4, forest
23 thinned from logging November to December of 2023. What
24 does this show?

25 A. **It shows a view from the cul-de-sac looking**

1 **up towards the water tower property.**

2 Q. So this is the Saucon Avenue cul-de-sac?

3 A. **Yes, it is.**

4 Q. And who took this photograph?

5 A. **I did.**

6 Q. And you took it on January 17, 2024?

7 A. **Yes.**

8 Q. And what was the purpose of taking this
9 particular photograph?

10 A. **Again, to show how the property has been**
11 **thinned, the trees have been thinned so the visibility**
12 **would be clear.**

13 Q. And does this fairly and accurately depict
14 the condition of the property -- or the areas we're
15 looking at it from the Saucon Avenue cul-de-sac on
16 January 17, 2024?

17 A. **Yes, it does.**

18 Q. And in these photographs, so the -- I mean,
19 you've been able to review the documents submitted, the
20 plans, and have some idea where the proposed cell
21 tower's going, right?

22 A. **Roughly.**

23 Q. All right. In terms of Exhibit O-7, the four
24 photographs here, how many of them would capture an area
25 that would depict the location of the cell tower?

1 A. **This one...**

2 Q. The second page?

3 A. **Yeah. The second page is the one that would**
4 **depict where the cell tower would go.**

5 MR. DESCHLER: I would move for the
6 admission of O-7.

7 MR. GOUDSOUZIAN: Attorney Durso, any
8 objection?

9 MS. DURSO: No objection.

10 MR. GOUDSOUZIAN: It's admitted.

11 (Exhibit O-7 was admitted into
12 evidence.)

13 BY MR. DESCHLER:

14 Q. And going back to O-6, the photographs of the
15 runoff, right? -- regardless of what kind of storm was
16 happening on what day, do these photographs here -- take
17 the first one, August 4, 2020, for all the intensity of
18 the storm, was this -- and I think you testified you --
19 how many times a year would you get rain in this
20 condition, this volume, you know, four years ago?

21 A. **Probably half a dozen.**

22 Q. Not every day, right?

23 A. **No.**

24 Q. But half a dozen.

25 And June 26, 2023, how often would you see

1 rainfall like this?

2 A. **Same.**

3 Q. Not every day, but half a dozen a year?

4 A. **At least.**

5 Q. And is rainfall or runoff of this volume a
6 problem for you at your property?

7 A. **Yes, it is.**

8 MR. DESCHLER: Did I move for the
9 admission of O-7?

10 MR. GOUDSOUZIAN: O-7, yes.

11 MS. DURSO: You did, yes.

12 MR. GOUDSOUZIAN: And O-6 has also been
13 admitted.

14 MR. DESCHLER: Thank you.

15 No further questions.

16 MR. GOUDSOUZIAN: Just for clarity
17 before we move on, you did not introduce O-4, correct?

18 MR. DESCHLER: I did not. I will not.

19 MS. DURSO: There's no --

20 MR. GOUDSOUZIAN: Very good.

21 MS. DURSO: Sorry. I was going to ask
22 that too. Sorry.

23 * * *

24 CROSS-EXAMINATION

25 BY MS. DURSO:

1 Q. Just for the record, because I agree with
2 Mr. Carocci's question, the Exhibit O-6, the first
3 picture was taken during the hurricane?

4 A. **I have no idea what storm it was. It was a**
5 **heavy rain, so -- I mean, that was four years ago.**

6 Q. Would it be fair to say it was likely a
7 hurricane?

8 A. **It's possible.**

9 Q. Okay. And then your second picture in that,
10 that's coming from the Township's property, the runoff?

11 A. **Yes. That property that has the cell --**
12 **water tower.**

13 Q. Right. So it's not coming from
14 Mr. Viscito's. It's coming from the Township property.

15 A. **Well, he --**

16 Q. Because you said water tower driveway.

17 A. **I believe his property runs behind that,**
18 **so --**

19 Q. So why does the water --

20 A. **-- so it comes from -- okay. So this is the**
21 **mountain. So if his property is behind here, it's kind**
22 **of a trickle-down effect. And this is the area that has**
23 **been thinned.**

24 Q. But then why does it say water tower
25 driveway?

1 A. **Because I was depicting where the photo was**
2 **taken.**

3 Q. On your property or on the water tower
4 property? Because it has a basketball net on it.

5 A. **Right. This is the cul-de-sac (indicating).**

6 Q. Yep.

7 A. **And I'm taking a photo of the property that**
8 **the water tower is on.**

9 Q. Right. So it's a photo of the water tower
10 property?

11 A. **Correct.**

12 Q. Okay. And then just in 0-7, where were you
13 when you took the second photo?

14 A. **My backyard.**

15 Q. Okay. So you were closer to the property
16 line than the first picture? Because you said the first
17 picture you were on your porch, I believe.

18 A. **No. That's my patio.**

19 Q. Patio, I'm sorry. You were on your patio.

20 A. **I was also on my patio there.**

21 Q. Okay. That's what I was asking you.

22 A. **I have a big patio.**

23 Q. No, no, I wasn't sure whether you were in the
24 yard or on the patio. That's why I'm asking.

25 A. **Yeah.**

1 Q. Okay. And were all these photos, besides the
2 one from your neighbor's, taken from your patio?

3 A. **Not that one (indicating). That one is also**
4 **the water -- this is the water tower driveway. You**
5 **can't see it because it's covered in --**

6 Q. Okay. So the --

7 MR. DESCHLER: The fourth photo in the
8 bunch.

9 BY MS. DURSO:

10 Q. Photo Location No. 4 is from the Township's
11 property?

12 A. **It's from the cul-de-sac.**

13 Q. Looking towards the Township's property?

14 A. **Yes.**

15 Q. Because that helps me with the same
16 basketball net, that's in the cul-de-sac?

17 A. **Yes. That's what I was trying to do.**

18 Q. I understand. I understand.

19 A. **Yeah.**

20 Q. And then the Photo 3 was taken from
21 Ms. deLeon's property?

22 A. **From the street, viewing her property.**

23 Q. Viewing her -- so that is her home on that
24 property?

25 A. **Yes.**

1 Q. Okay. So you're looking past her house
2 towards Viscito? So where the most trees are is towards
3 Viscito?

4 A. **No -- well, this whole property is, belongs**
5 **to him. That's his house.**

6 Q. That's his house?

7 A. **Yes.**

8 Q. But the cell tower is to the left of the
9 house --

10 A. **Right.**

11 Q. -- where more of the trees are located, in
12 this photograph?

13 A. **Can I clarify? This is the treeline that**
14 **separates our two properties, so it naturally looks**
15 **denser there. It's a vertical treeline. It goes this**
16 **way (indicating).**

17 Q. But it's dense?

18 A. **Only in that section. It separates the**
19 **properties.**

20 Q. But the one on -- the first view from
21 2148 Saucon Avenue also shows a dense treeline along the
22 property line.

23 A. **With all due respect, that is quite thin**
24 **compared to what it was pre-logging.**

25 Q. But dense compared to a property that has no

1 trees?

2 A. **You could say that.**

3 Q. Considering that there's not a requirement
4 for it to be located in a wooded area?

5 A. **(Nodded head affirmatively.)**

6 MS. DURSO: Okay. I have no other
7 questions.

8 MR. GOUDSOUZHIAN: Mr. Banonis, any
9 questions?

10 MR. BANONIS: I have a few questions.

11 * * *

12 EXAMINATION

13 BY MR. BANONIS:

14 Q. When did you buy your home?

15 A. **2011.**

16 Q. So that was after Mr. Viscito built his home
17 and lived there, correct?

18 A. **Yes.**

19 Q. When you bought your home, did you get a
20 property disclosure?

21 A. **Yes.**

22 Q. Was there anything in the property disclosure
23 about stormwater runoff issues at the home?

24 A. **No, nothing.**

25 Q. Mr. Carocci already alluded to this. With

1 regard to the photograph that was provided to us, this
2 is August 4, 2020, do you know what the total rainfall
3 was that day?

4 A. **I have no idea.**

5 Q. Okay. And then we have the other photograph
6 that's in 0-2. This is the second page. Water tower
7 driveway Saucon Avenue, 6/26/2023. Do you know what the
8 total rainfall was that day?

9 A. **No, I don't.**

10 Q. So I just looked very quickly. On June 26,
11 2023, the total rainfall in the Lehigh Valley was
12 anywhere between 2.5 and 5.5 inches of rain due to
13 severe thunderstorms. Do you have any recollection of
14 that?

15 A. **Perhaps.**

16 Q. Okay. I think I remember that day because I
17 think we had a Council meeting at Se-Wy-Co. I think
18 that's the day that the water came in the back door. We
19 had to stop the meeting and move the electrical
20 equipment and clean it up.

21 Is there anything that stands out from that
22 date besides the fact that you took a photograph of the
23 water tower driveway and water coming on your property?

24 A. **It just happened to -- I was trying to**
25 **capture an issue where flooding was demonstrable, and it**

1 **just so happened to line up on that day.**

2 Q. Is this your driveway here (indicating), this
3 part --

4 A. **I can't see what you're pointing to, sir.**

5 Q. Sorry.

6 Is this your driveway (indicating), the part
7 that -- you know, there's a basketball hoop that's here?

8 A. **No.**

9 Q. This is your driveway down here (indicating)?

10 A. **No.**

11 Q. What is this?

12 A. **That's the cul-de-sac on Saucon Avenue.**

13 Q. Okay. And that's paved, correct?

14 A. **Yes.**

15 Q. Do you have any other photographs besides
16 these two cherry-picked photographs showing those two
17 storms? Are there any other storms?

18 A. **I'm sure I do, but I'm not going to page
19 through my phone right now.**

20 Q. They're not being offered to us today,
21 correct? You don't have any photographs other than
22 these two to offer to us?

23 A. **No.**

24 Q. Ms. Durso asked you a question earlier. She
25 alluded to this water tower driveway that's in this

1 second photograph of O-6. Is this what you're referring
2 to here, this green area behind the basketball hoop? Is
3 that the water tower driveway?

4 A. **Yeah, that's the water tower property.**

5 Q. So she mentioned that as being Township
6 property.

7 A. **Okay.**

8 Q. I'll represent to you that I think it's Water
9 Authority property, not Township property. Do you have
10 an understanding of that being Water Authority property,
11 not Township property?

12 A. **I understand that. I'm not sure where you're**
13 **going with this.**

14 Q. I'm just making sure you understand. So
15 here's where I'm going with this.

16 Did you ever contact the Water Authority
17 about any issues that you had with stormwater coming
18 down the Water Authority driveway onto Saucon Avenue on
19 June 26, 2023, before or after that date?

20 A. **No, I didn't.**

21 Q. Okay. Did you ever contact the Township with
22 any concerns about any water coming onto your property
23 on August 4, 2020, June 26, 2023, or on any other dates?

24 A. **We may have. My husband --**

25 Q. I'm asking did you.

1 A. **Me, myself, I haven't called anybody.**

2 Q. Do you know if your husband did?

3 A. **I can't state for a fact, but he very well**
4 **may have.**

5 Q. Do you know who he spoke with?

6 A. **Excuse me?**

7 Q. Do you know who he spoke with when --

8 A. **I don't think so.**

9 MR. DESCHLER: Objection. She said she
10 doesn't know.

11 MR. BANONIS: Well, she said she's
12 speculating that he did. So I'm going to probe this and
13 ask her what is her basis for this information.

14 BY MR. BANONIS:

15 Q. Why do you think that your husband contacted
16 the Township?

17 A. **Because he tends to contact when certain**
18 **issues arise.**

19 Q. All right. So you just believe that because
20 of his nature, that he may have contacted. You have no
21 information about him actually contacting, who he
22 contacted, what response he received, whether anybody
23 from the Township came out, whether any of these issues
24 that are depicted in these photographs in O-6 were ever
25 looked into or addressed by the Township?

1 A. **I don't have a response for that.**

2 MR. BANONIS: Okay. Thank you.

3 MR. GOUDSOUZIAN: Mr. Carocci, any
4 questions?

5 MR. CAROCCI: Yes.

6 * * *

7 EXAMINATION

8 BY MR. CAROCCI:

9 Q. Well, I would have appreciated more candor
10 about the nature of the rainstorm. It was a hurricane,
11 and then it became a tropical storm. 2.7 million people
12 in New Jersey and Pennsylvania lost power on August 4th
13 of 2020, so it wasn't just a regular rainstorm.

14 But other than that, good to see you again.
15 Our sons play baseball together. And thank you for not
16 drawing an imaginary cell tower on your pictures like
17 Dr. Arts and Crafts did.

18 MR. GOUDSOUZIAN: So no questions.

19 Ms. Opthof-Cordaro, any questions?

20 MS. OPTHOF-CORDARO: No. Thank you.

21 MR. GOUDSOUZIAN: Ms. Ray, anything?

22 MS. RAY: No, no questions.

23 MR. GOUDSOUZIAN: Ms. deLeon, any
24 questions?

25 MS. DeLEON: No, no questions.

1 MR. GOUDSOUZIAN: Anything from the
2 individuals with party status?

3 Attorney Durso, nothing?

4 MS. DURSO: I have no other questions.

5 MR. DESCHLER: I have another.

6 MR. GOUDSOUZIAN: Go ahead.

7 * * *

8 REDIRECT EXAMINATION

9 BY MR. DESCHLER:

10 Q. So just to clarify, Ms. Yanchuk -- and I'm
11 just going to use for reference purposes Exhibit O-3.
12 Okay? This is the one that depicted Mr. Sutton's
13 property.

14 Looking at the numerical references in this
15 Exhibit O-3, which one is the water tower property?

16 A. **No. 8.**

17 Q. Okay. And in terms of the slope from the
18 Viscitos' property down to Saucon Ave, can you describe
19 that?

20 A. **It's a pretty steep slope.**

21 Q. Downward?

22 A. **Downward.**

23 Q. And in terms of water runoff onto the
24 cul-de-sac, would water run off the Viscitos' property
25 through the water tower property to the cul-de-sac?

1 clear, we're keeping the record open for now, correct?

2 But we do not anticipate any further testimony.

3 Let me rephrase.

4 Attorney Durso, do you anticipate any
5 further testimony?

6 MS. DURSO: I do not anticipate any
7 further testimony.

8 MR. GOUDSOUZIAN: And you do not?

9 MR. DESCHLER: I do not.

10 MR. BANONIS: Can I ask a question?

11 Excuse me?

12 Will we be hearing from

13 Michael Deschler? And the reason I ask that is he was
14 involved in this property for Rocky Viscito back in
15 2004. He's the one who sought and received the variance
16 for the property subject to Section 180-91.

17 I'm wondering if he will testify about
18 the effect of what was granted back then in 2004 and the
19 use of Lewis Avenue as the means of access to the
20 Viscito property. I'm wondering if he had discussions
21 back then or at any other time with Mr. Viscito
22 concerning conditional uses and the process for that and
23 what effect -- what was sought back then would have on
24 the situation that we have in front of us now, which is
25 namely 180-20(D)(3) and 180.1(A)(2)(a)[1][c].

1 MR. DESCHLER: No. Michael Deschler
2 will not be testifying. If Mr. Viscito through his
3 counsel, who's eminently qualified, Ms. Durso, has a
4 problem with me being here, she is quite capable of
5 doing that herself. I have not heard her do that.

6 I told you before, my father knows
7 nothing -- recalls nothing of what happened with this
8 before. This is an entirely unrelated matter. That is
9 my representation. If someone has a problem with that,
10 they can raise it; but my father will not be testifying.

11 MS. DURSO: And I'm not representing
12 Mr. Viscito at this point.

13 MR. BANONIS: I don't think you're
14 counsel for Mr. Viscito.

15 MS. DURSO: I am not.

16 MR. BANONIS: You're counsel for SMSA
17 and Verizon.

18 MS. DURSO: Yes, that's what I'm saying.

19 MR. BANONIS: So to represent that she
20 is counsel for him was a misstatement, first of all.
21 And you don't have power of attorney of your father's
22 affairs, correct?

23 MR. DESCHLER: No. He's quite capable,
24 sir.

25 MR. BANONIS: Right. But you're

1 speaking on his behalf, and you don't have any basis for
2 that. You're not his power of attorney.

3 MR. DESCHLER: You asked me if he's
4 testifying. I said no.

5 MR. BANONIS: Okay. I'm responding to
6 your representation, because you said much more than
7 just no.

8 MR. DESCHLER: Well, I --

9 MR. BANONIS: I appreciate that you
10 answered the question no, he's not testifying. And
11 those questions will be left for Mr. Viscito to explore
12 if he so chooses through whatever counsel he has if he
13 chooses -- if he decides to do that.

14 MR. DESCHLER: Absolutely.

15 MR. GOUDSOUZIAN: So, counsel, for
16 scheduling purposes, next would be the filing of briefs.

17 MS. DURSO: Yes.

18 MS. OPTHOF-CORDARO: Mr. Goudsouzian,
19 I'm sorry. May I be recognized for a moment?

20 MR. GOUDSOUZIAN: Yes.

21 MS. OPTHOF-CORDARO: I heard a lot of
22 testimony about the views from not only -- from the
23 applicant, but also the objectors. I personally don't
24 live in Steel City, and we're talking about -- there's
25 also a lot of discussion about a paper street,

1 Lewis Avenue, and the current topography and logging and
2 lots of different issues.

3 So if it's appropriate, I would like to
4 do a site visit of the area and have identified where
5 the location of the proposed tower is supposed to be,
6 also the location of the paper street, and -- yep,
7 that's what I would like. That's a request I guess I
8 have as a member of Council, to do a site visit.

9 MR. GOUDSOUZIAN: Okay. So you're
10 requesting prior to closing the record to do a view.
11 What I would -- certainly in certain cases, a view is
12 appropriate. But there always have to be certain
13 guidelines and rules as to how they're taking place.

14 And if it's an issue of picking a time
15 and a place where we arrive there to take a view, we
16 should discuss this on the record now. We should set up
17 any rules that exist. For example, if anyone's going to
18 testify or anyone's going to talk or otherwise, that's
19 going to have to be --

20 MS. DURSO: Okay. That's my concern,
21 especially when the goal was to close the record except
22 for the filing of the briefs and the argument.

23 MR. GOUDSOUZIAN: And my next question
24 was timing.

25 MS. DURSO: Yes.

1 MR. GOUDSOUZIAN: So if we could do this
2 in a time period -- we need -- counsel, lawyers, need X
3 amount of time to do their briefs.

4 MS. DURSO: Yeah. But what I'm saying
5 is if we're going to -- if somebody's going to entertain
6 doing the site visit, then that could be opening up
7 having to need more witnesses and more testimony
8 brought, depending on what occurs, what's said, what
9 occurs -- what happens is...

10 And we were prepared this evening to
11 close the record except for the filing of the briefs and
12 the argument.

13 MR. GOUDSOUZIAN: Correct.

14 So what I was getting at was, perhaps
15 the way to accommodate the request and to not delay the
16 case itself would be schedule something in relatively
17 short fashion and with a stipulation and understanding
18 that there will be no testimony, is sort of what I'm
19 thinking. I'm talking out loud now.

20 MS. DURSO: I don't see how that -- I
21 don't see how you can prevent that from happening if the
22 site visit is going to be attended by everyone, right?
23 Because you would almost need to have everybody there.
24 If you're going to have all of Council present there for
25 the site visit, then you need to advertise it happening;

1 because then, otherwise, it's in violation of the
2 Sunshine Act. And we're potentially opening up having
3 to invite all of the public to go to a site visit.

4 So I would be opposed to the site visit
5 for those reasons, as well as for delaying the ability
6 to conclude these hearings.

7 MR. GOUDSOUZIAN: Okay. Let's go back
8 and --

9 MR. CAROCCI: Thank you for instructing
10 our solicitor on the law of the Sunshine Act.

11 MS. DURSO: No, he is saying the law.
12 He was asking for our --

13 MR. GOUDSOUZIAN: Your input.

14 MS. DURSO: -- input.

15 MR. BANONIS: Can you even provide
16 permission? You're not the property --

17 MS. DURSO: Well, that was going to
18 be my --

19 MR. BANONIS: -- owner. You'd have to
20 ask Mr. Viscito --

21 MS. DURSO: I don't know that either.

22 MR. BANONIS: -- to agree to this.

23 MS. DURSO: Correct.

24 MR. BANONIS: I wouldn't allow anybody
25 to come on my property. I'd tell you to go to hell.

1 I'm done with all this.

2 MR. CAROCCI: Right. After the way
3 they've treated him?

4 MS. DURSO: I don't have the authority,
5 but I'm more -- I'm more concerned with the process and
6 what I just expressed.

7 MR. CAROCCI: I'm concerned with the
8 process too. I mean, the solicitor has never run one of
9 these things before and -- for a Council anyway. He
10 couldn't carry Linc Treadwell's lunch.

11 MR. GOUDSOUZIAN: Let's do this --

12 (Multiple voices speaking at one time.)

13 MS. DeLEON: Point of order.

14 MR. GOUDSOUZIAN: Attorneys, I'd ask
15 you, first, let's talk about timing with your briefs.
16 How much time do you need?

17 MR. DESCHLER: Ms. Durso, would you like
18 to submit them at the same time or --

19 MS. DURSO: I think that would be
20 appropriate.

21 MR. DESCHLER: I don't mind doing that.
22 That's just kind of, you know, fair play in the law.

23 MS. DURSO: Yeah, I agree. Well, when
24 is -- well, let's see. Can we go off the record just
25 for a second while we talk about timing?

1 MR. GOUDSOUZIAN: Yes. Let's go off the
2 records for the purposes of talking about timing.

3 (Discussion off the record.)

4 MR. GOUDSOUZIAN: So let's go back on
5 the record and enter into a stipulation.

6 We're back on the record. We addressed
7 various scheduling issues and other issues.

8 First of all, with regard to briefs and
9 when we're going to reconvene, the lawyers are asking
10 for transcripts, which will be provided in due course.
11 The attorneys are to provide their briefs by March 6th,
12 the close of business on March 6th. Does that work for
13 you, counsel?

14 MS. DURSO: Yes.

15 MR. DESCHLER: Yes.

16 MR. GOUDSOUZIAN: It can be filed via
17 email and sent directly to my office, and then I will
18 take care of disseminating it to members of Lower Saucon
19 Council.

20 MS. DURSO: And back to us. Because
21 we're going to blind to you. We're going to just send
22 directly to you, and then you'll give me Mike's and
23 you'll give Mike mine.

24 MR. GOUDSOUZIAN: We can do that, or you
25 can just copy each other.

1 MS. DURSO: No, no. Like you were
2 saying, we wanted to do it at the same time, I think is
3 what you said.

4 MR. DESCHLER: Yeah.

5 MR. GOUDSOUZIAN: Very well. I can
6 disseminate it to everybody.

7 MS. DURSO: Okay. I thought that's what
8 he was asking. That's why --

9 I thought you were asking.

10 MR. DESCHLER: Yeah, that's fine.

11 MR. GOUDSOUZIAN: And then we also had
12 an off-the-record discussion about the possibility of a
13 view or a site visit. And I believe we reached a
14 stipulation where the attorneys have agreed that members
15 of Lower Saucon Council and their representatives are
16 free to drive on, at a minimum, the public street of
17 Saucon Street.

18 MR. DESCHLER: I think it's
19 Saucon Avenue.

20 MR. GOUDSOUZIAN: Saucon Avenue. I
21 apologize. And to the extent permissible on other
22 Township property, with the stipulation that they would
23 do this on their own time and there would be no issue --
24 or there would -- the representatives of the Township
25 would make sure that there would be no Sunshine

1 violation.

2 MS. DURSO: Yes. But they also should
3 be going on their own and not with -- meeting with the
4 neighbors, either, while they're out there.

5 MR. GOUDSOUZIAN: Yes. That's -- part
6 of that stipulation is the concept is they would go --
7 whoever's interested would go, drive on the public
8 street, look around, and then not interact with anybody
9 else. Is that agreeable to you, Attorney Durso?

10 MS. DURSO: That is agreeable to me,
11 yes.

12 MR. GOUDSOUZIAN: Is that agreeable to
13 you, Attorney Deschler?

14 MR. DESCHLER: Yes.

15 MR. GOUDSOUZIAN: And for members of
16 Council?

17 MS. DeLEON: May I ask another question?
18 If the person that lives on the corner, on Lot 11, who
19 happens to -- since it's a paper street, he has rights
20 to half of Lewis Avenue 'cause it's -- he's already...

21 MR. GOUDSOUZIAN: I would recommend and
22 I would direct Council to not have any interaction with
23 neighbors while you're doing this because nothing --
24 nothing good will happen.

25 MS. DeLEON: Okay.

1 MR. GOUDSOUZIAN: Attorneys, is that
2 agreeable?

3 MR. DESCHLER: It is.

4 MS. DURSO: Yes.

5 MR. GOUDSOUZIAN: Is there anything else
6 we need for the record for today?

7 MS. DURSO: I don't have anything else.

8 MR. DESCHLER: No, not from me.

9 MS. DURSO: I appreciate you giving us
10 the full time so that we can conclude.

11 MR. GOUDSOUZIAN: So we're clear, the
12 record will remain open just for the limited purposes we
13 talked about.

14 MS. DURSO: Yeah. And you did say we
15 were reconvening on the 20th?

16 MR. GOUDSOUZIAN: We're reconvening on
17 the 20th, so --

18 MS. DURSO: For purposes of the -- we
19 don't have to advertise.

20 MR. GOUDSOUZIAN: Yes, we don't have to
21 advertise.

22 MR. HUDSON: Is that March 20th?

23 MS. DURSO: And that meeting is just for
24 attorneys to do closing argument.

25 MR. GOUDSOUZIAN: Correct. The concept

1 will be we'll have had your briefs, we will have
2 reviewed them. There will be closing arguments, no
3 additional live testimony. And then we would have
4 45 days from that date to make a decision.

5 MS. DURSO: Yes. Okay. I just wanted
6 to make sure I wasn't bringing anybody back.

7 MR. GOUDSOUZIAN: No obligation for you
8 to bring anyone.

9 MS. DURSO: Okay. Thank you.

10 MR. GOUDSOUZIAN: Very well. Thank you.

11 MR. DESCHLER: Mr. Goudsouzian, who
12 takes custody of the exhibits?

13 THE COURT REPORTER: Usually the
14 Township holds them.

15 MR. DESCHLER: Okay.

16 THE COURT REPORTER: But I do need a
17 copy for the transcript.

18 MR. DESCHLER: Sure. I'd like the
19 raised seals, so we can provide them.

20 MR. GOUDSOUZIAN: Very well. Then with
21 that, the record's closed in this matter.

22 Thank you.

23 (The matter concluded at 11:30 p.m.)

24 * * *

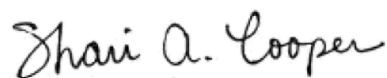
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C E R T I F I C A T E

February 20, 2024

I hereby certify that the evidence and proceedings are contained fully and accurately in the notes taken by me of the within hearing, and that this is a correct transcript of the same.



Shari A. Cooper
Registered Diplomate Reporter
Certified Realtime Reporter
Notary Public

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