

was determined years ago, on a renewal, it would be fair that if the cost of removal is that much greater today, the Town Engineer should weigh in on it. Cynthia states that in looking at some of the other Bonds, it appears as if the Applicant's Engineer has recommended an amount, and our Town Engineer has reviewed them. Roland agrees that it is fair to let the Applicant provide their best guess amount for the Town Engineer to review.

Mr. Betensky states that this is the first time they are hearing anything about a Bond. This Application has been pending before the Board for several months now. Mr. Betensky states the Code is very clear and reads Section 250-77.5 (H)(1)(d) which refers to the fact that if there are no changes with respect to the tower, the Planning Board shall grant a renewal of the conditional use and site development plan approvals, and in this case, an application, review, public hearing and approval shall not be required. Cynthia states we will discuss changes shortly. Cynthia states that as she reviewed the history of this Site, the Planning Board would approve one thing and then something different would be erected, then the Applicant would come back before this Board requesting the record be corrected to reflect what was constructed, and then it would happen again. Cynthia is not sure if what is on the Site right now is shown on the last set of Plans that have been submitted. Cynthia states that she visited the Site this afternoon and confirmed that there are three sections on the tower which are the same size. The submitted Plans show something different. Cynthia states the Board is going to be asking for an as-built to confirm exactly what is out there. Mr. Betensky states that an as-built has been submitted. Cynthia states she is going to look at this file very closely. There is no Hold Harmless Agreement. Mr. Betensky states that there is a clear Memo in the file from the Building Inspector recommending the approval of the renewal. There were a few administrative items that need to be cleared up which have been resolved. Cynthia states that these items have not been resolved. The Building Inspector is here tonight. Cynthia will go through her check list one item at a time. Cynthia states that the Town Attorney is also here tonight to advise her if she is off track. Cynthia would like answers for the items that are not in the record that should have been submitted since the year 2000. Cynthia asks Mr. Betensky where the Hold Harmless Agreement is for this tower. Cynthia states that besides her files, neither the Town Clerk, nor the Planning Board Secretary received the submittal of such an Agreement. Cynthia asks Mr. Betensky to show the Board a copy of the letter and attachment if one was submitted. Cynthia asks Mr. Betensky where the Annual Reports are that were supposed to be submitted to the Building Inspector confirming the structural integrity of the tower as well as Emissions Reports. Cynthia states this requirement is part of the Town Code and Resolution of Approval. Cynthia states that this information has been submitted by other carriers for various towers in Town. There is no documentation showing this information was ever submitted from any of the carriers on this tower. Mr. Betensky asks if Cynthia is only referring to the Planning Board files. Cynthia states no. She is also referring to the files in the Building Department. Cynthia received an e-mail from Rosemary in the Building Department confirming they do not have record of receiving copies of compliance reports for the tower located on Sun Valley Drive. Mr. Betensky states that they will submit copies of the requested documentation as a condition of approval. Cynthia states this documentation is supposed to be submitted every year. It is not the Town's job to play baby sitter and constantly contact the carriers in order to request this required information. Cynthia states that Mr. Betensky is standing in front of this Board requesting a renewal. Where is the documentation that was supposed to be submitted since 2000, 2004 and 2007? Mr. Betensky states that they will provide the Town with additional copies of the Structural and Emissions Reports. Mr. Betensky states that he does not believe there is a question as to any structural issues with respect to the tower. Cynthia asks Mr. Betensky how the Board is supposed to know that. Mr. Betensky states it is his understanding that copies of the Reports have been submitted. Mr. Betensky talks about submitting additional copies as a condition of approval. Cynthia states that one of the prior Resolutions states that these documents are also supposed to be sent to the Planning Board Office for which they have not. Cynthia asks for a copy of all of the cover letters and Reports for the last ten years. Mr. Betensky does not have an objection to submitting additional copies. Mr.

Betensky states again that he does not believe there is any question that the tower is structurally sound.

Bruce states that he hates to see someone not get credit for something that has already been done. Bruce asks Mr. Betensky to demonstrate that this documentation has already been submitted. Bruce states he is not certain these Reports were ever done.

Cynthia states there is a need for an as-built. Cynthia is concerned because what is in the field does not match what is shown on the Plans. Cynthia shows a Plan and states the last as-built was from 2007. Mr. Betensky states there have been no changes to the tower since then. Cynthia asks Mr. Betensky why the tower does not look like the as-built. Cynthia states she took pictures and will forward them to Mr. Betensky when she has them developed.

Referring to the road, Cynthia states that she was at the Site in 2008 and there was a terrible icing problem at the bottom of the driveway. Cynthia states it was in terrible condition. Cynthia spoke with the Building Inspector at that time. The Building Inspector advised Cynthia that just this past spring he was out at the Site with representatives from one of the carriers, possibly AT&T. The Building Inspector spent over an hour and a half going over the issues of the road. Cynthia states that after visiting the Site today is clear that none of the maintenance work had been done that had been asked for. Cynthia states at this point, it is not clear whether the road as approved will actually function correctly because there is no record of the road being maintained properly. Cynthia is not sure if the Board should provide the Applicant with a conditional approval with set inspections and requirements of reports, or send an engineer out to the Site to take another look at the Site. Cynthia states this is a serious situation in terms of the amount of erosion and icing on Sun Valley Drive. One of the neighbors stated to Cynthia that periodically he has had to shovel all of the runoff that ends up at the top of Sun Valley Drive from this access road.

Building Inspector, Bruce Thompson is here tonight. He asks Mr. Betensky if Crown Atlantic is responsible for the maintenance of the Site. Mr. Betensky states that Crown does maintain the driveway. Mr. Betensky states that they did receive a copy of the memo from Bruce and in their recent submittal they indicated that Crown was amendable to maintain the driveway. A semi-annual basis was suggested. Mr. Betensky states that his firm has no objection to that requirement. Bruce states that he and the Highway Superintendent were at the Site this past spring, and nothing has been done since. Bruce states it is not terribly heartening when someone agrees to take care of a situation, and then not do so. Bruce was under the impression the representative would go back and speak with someone from his firm first hand. Mr. Betensky states that if the work has not been completed he will be happy to advise Crown of that and send someone else out there. Bruce states that one of the problems he has had over the years is trying to figure out who to contact. Every time we turn around, the contact person is someone different. Bruce states it is not fair to the Town to have to reinvent the wheel in order to remedy a situation, and then once we find someone, nothing gets done. Mr. Betensky states he will be happy to provide Bruce with a contact and telephone number which may be called 24 hours a day if there are any maintenance concerns regarding the driveway. Cynthia states that it is not if we have maintenance concerns, it is that we do have maintenance concerns. Cynthia states that she is not going to recommend this Board vote on a renewal request until they see some action at the Site and see it looking the way the Site Plan states it is supposed to look, then the Board will move forward. Mr. Betensky states that the Memo from the Building Inspector clearly recommended renewal subject to the condition that Crown maintain the driveway. Mr. Betensky states this is the first time we are hearing that the maintenance hasn't been done. Cynthia states she brought this up prior to and including the first time this renewal request was on an Agenda. Cynthia states the road is not functioning. Mr. Betensky states we are happy to perform the maintenance on the driveway. It was our understanding based on the Memo we had received that it would be a condition of approval. If we are hearing otherwise tonight, we

will address that. Bruce states this speaks to the frustration in dealing with Crown Atlantic. There is too much lost in the translation. Bruce states that it was his understanding from the meeting at the Site that an immediate response would be received. We are not talking about last week or the week before. Mr. Betensky states that there might have been some confusion with the dates listed in the memo. Mr. Betensky states he believes we are all on the same page here. Maintenance needs to be done on the driveway and Crown is willing to do it. Cynthia states that it is not just maintenance that has to be done. The driveway requires periodic maintenance, such as twice a year, or more as the Building Inspector has stated. Cynthia states that there will be inspections that this Board is going to require at least for the first year. There may even be three or four. Mr. Betensky states that he has walked the driveway himself and overall the driveway is in good condition. Cynthia asks Mr. Betensky when he walked the driveway. Mr. Betensky states today. Cynthia asks Mr. Betensky if he had the Site Plan with him. Mr. Betensky states that this is an unmanned wireless facility where personnel access periodically. It is not like a residence where there would have to be daily maintenance of the driveway. If the Board has concerns regarding certain wash-out or icing conditions resulting from runoff, Crown is more than willing to do so which has been indicated in our submission. Mr. Betensky states he will go back to Crown and have them coordinate and communicate with the Building Inspector to make sure everyone is on the same page before a contractor is sent out to the Site. Bruce states that when he looks at a drawing that shows how something is to be built, his expectation is that it will be maintained to that extent, and not allowed to deteriorate to the point where those features no longer work the way they are supposed to. Mr. Betensky asks Bruce if there is something in particular he is referring to. Bruce states that his opinion is so different than the opinion of Mr. Betensky regarding the condition of the road, he would prefer to have this discussion with someone from Crown Atlantic. Cynthia states both the Building Inspector and Highway Superintendent already spent an hour and a half with someone out there. Cynthia asks Mr. Betensky to find out who that person was, and tell them to get out there and fix it. Mr. Betensky states he will do that.

Will Agresta, Planning Consultant from Matthew D. Rudikoff Associates (MDRA) states that it is important to note that the construction specifications on the Plans for the driveway are based on the traffic volume, and anything less than that does not meeting the specifications.

Cynthia states that ATV's are crossing the driveway which is causing a problem. Cynthia states that the Applicant may want to discuss this with the owners of the property or easement. There is discussion about blocking the area near the gate. Mr. Betensky states it is the Fire District's property. Cynthia states that it is not the Fire District's property. They have an easement over the private property. Some of this may be within this easement, and some may be outside the easement. The easements are discussed. Correcting the ATV access is discussed. Mr. Betensky talks about having no trespassing signs put up.

Cynthia asks Roland for guidance as to how to proceed with this request. Cynthia has not asked MDRA to work on the renewal conditions yet until all of the outstanding issues have been taken care of. Cynthia states that it is safe to ask for another as-built. Cynthia looks at the 2007 Plans that she signed in 2008 and states this is not an as-built. This is the final signed Site Plan that shows as-built conditions. Roland asks Mr. Betensky if he submitted an as-built. Mr. Betensky states he believes an as-built was submitted back in 2007. Mr. Betensky states that by definition, he thought that an as-built had to show conditions. Mr. Betensky states that they will submit a confirmation from the engineer attesting that there have been no changes since the as-built was submitted. Bruce states he has a Plan from August of 2008. Bruce talks about the tower, access, and equipment and states that there may be something at the Site that we don't have a drawing for. Roland states that the signed Plan is not an as-built. Roland asks Bruce if he has something different in his files other than the signed Plan. Roland states the Plan is entitled "Evolution of Site". Bruce confirms the last revision date is April 23, 2008. Cynthia confirms

she signed the Plan in August, 2008. Cynthia states that usually an as-built is one sheet, and shows setbacks. Will states that Cynthia signed a Plan prior to anything being added to the tower. Bruce would like to leave this open so he may confirm what he has in his files. There may have been a condition that an as-built had to be submitted which was perhaps accepted and signed by Cynthia. Bruce states it is appropriate to take a look at what we have. Will states that Cynthia would not sign an as-built. That would be something the Building Inspector would be receiving in order to sign off on a Certificate of Compliance. Bruce talks about reviewing the Resolution to see if there is something in there regarding the submittal of an as-built. Mr. Betensky asks if Bruce will advise him as to whether there is an as-built. Bruce states he needs Mr. Betensky to do his own homework. Mr. Betensky states he has a copy of the as-built in his file and will submit another copy if the Board would like it. Bruce states that Mr. Betensky is coming before the Board for a renewal and he should be familiar with the documents that already exist. Bruce states Mr. Betensky should go back through the Resolution to confirm what was required has been done. Mr. Betensky should confirm the site is today what it was back then, maintained as such, and then this request may go forward. Bruce states for the Town to keep discovering outstanding items makes moving this request forward very difficult. Cynthia states that when she reviewed the last set of Plans with Bruce he stated the boulders would be installed to block off the road, not that they were already there. Cynthia would like to see an absolute final as-built that confirms what the tower and Site look like and everything is in place. Cynthia would like to see an as-built, not a set of Plans with her name on them. Gary states that if Mr. Betensky has an as-built, he should submit it.

Cynthia confirms with Roland that the Board has the right to keep this item open until all of this has been resolved.

Cynthia states that Mr. Betensky has a lot of documentation to submit to the Board. Mr. Betensky states he understands. Mr. Betensky states that they received an extension at the last Meeting which expires in December. Given the long laundry list he has received tonight, Mr. Betensky asks if the Board will provide him with an additional extension. Cynthia asks Mr. Betensky to send the Board a letter advising them how quickly he may have the requested items ready for submittal, as well as the status of the items. The Board may then consider an extension at their next Regular Meeting.

Will asks the Board if there is anything else received to date that they are not satisfied or clear on such as the technology aspect. At the last Meeting the Board spoke with the Applicant regarding changes in technology. Cynthia thanks Will for the reminder and states that at the last Meeting the Board had asked the Applicant to check with each of the carriers on the tower as to whether or not with today's technology they couldn't change or improve what is on the tower. Cynthia again requests Mr. Betensky to check with all of the carriers. Mr. Betensky refers to the Town Code and New York State Law and states in his opinion it is abundantly clear. Mr. Betensky states that the Planning Board issued Negative Declarations in 2000, 2004, and 2007 finding that this tower has no significant impact on the surrounding area. Moreover, the tower has been granted a Special Use Permit. It would be arbitrate for this Board to find that now ten years later after the tower has been there, without any issues, that it now has an environmental impact. Cynthia states she didn't suggest SEQR be reopened, or an environmental review take place. She simply asked Mr. Betensky to check with all of the carriers to see if today's technology would allow a tower that has less of a visual impact. Cynthia states that Mr. Betensky may be presently surprised. The Board has another tower project which they are reviewing for which a request was made for the tower to be lower. The Applicant came back and advised the Board that yes, they could lower the tower. The Applicant received their approval that night. Cynthia asks Mr. Betensky to work with the Board. Mr. Betensky will go back to Crown Atlantic and make that request. The wording in the Code is discussed. Mr. Betensky states we could agree to disagree on the wording in the Code. Mr. Betensky states that if a modification to the tower needed to take place due to

a lighting strike for example, in that instance, this Board would have an opportunity to review that modification, versus reviewing an existing tower that has no issues. Cynthia states that there are a lot of issues with the Site Plan. The tower on the Site does not match the Site Plan. Cynthia states that what was put up is not on the Plan.

Cynthia states that Drew Outhouse, the head of the Fire District is here with us tonight. Mr. Betensky may wish to speak with him regarding the easement for the access road as well as the issue with the ATV's discussed earlier tonight. Cynthia states that the Board talked earlier about ATV's causing problems with the conditions of the road. A suggestion was made to add boulders. Checking with the owners of the property and the easement holders was discussed. Mr. Outhouse states that the ATV's are an ongoing problem. Mr. Outhouse states that he has not had to deal with anyone from Crown Atlantic. He has contacted David Lehtonen with any problems. Cynthia asks Mr. Outhouse who is responsible for the ongoing maintenance of the road. Mr. Outhouse states that so far Crown Atlantic has always taken care of the road, but legally, he does not know exactly who is responsible or how to answer that question. Cynthia states that legally from the perspective of the Site Plan, the Planning Board and Building Department have to hold someone accountable. It seems as though Crown Atlantic would be responsible for building the road and maintaining the property. Mr. Outhouse states that they have always been very receptive to our concerns. Cynthia asks Mr. Outhouse if anyone contacted him after the Meeting on the Site in the spring that was held with the Building Inspector and Highway Superintendent. Cynthia is not suggesting it is the responsibility of the Fire Commissioners and states it is the responsibility of Crown. Mr. Outhouse thought the requested maintenance was going to be done and states at the time he was in a transition period relinquishing his responsibilities prior to retirement. Bruce states that the person who came to the Meeting that day was supposed to go back to his office and talk about all the items discussed in order to provide a response, which never came. Mr. Betensky will check on the status. Robert asks if David Lehtonen is still the person that maintains the Site. Mr. Outhouse is not sure and states that in the past Mr. Lehtonen had been taking care of the maintenance. Mr. Outhouse states there was never a question who would maintain the Site, it was always taken care of. Mr. Outhouse states as far as he was concerned, Crown or whomever Mr. Lehtonen worked for took care of it. Mr. Outhouse states that if there is a problem, they would like to know about it in order to assist with rectifying the situation. Robert states it would be interesting to know who Mr. Lehtonen's contact is at Crown. Mr. Outhouse states that they have always had and would like to keep a good relationship with Crown. Cynthia states that the Board understands how important the tower is to the Fire District, but they need to make sure everything is done correctly.

Mr. Betensky states that the Board had asked whether the operators on the tower could reduce their number of antennas or somehow modify their installation. Mr. Betensky states that Mr. Outhouse submitted a letter stating how vital the antennas are for the 911 services, etc. Mr. Betensky asks if Mr. Outhouse would like to speak about that. Mr. Outhouse states that he doesn't know if reductions may be appropriate. Cynthia states it is not the Fire District's equipment that the Board is concerned with. It is each of the carriers they are concerned with. Cynthia states there are five providers plus the Fire Commissioner's. The providers are AT&T, Nextel, T-Mobile, Verizon and Crown. Mr. Betensky states that Crown does not have antennas on the tower, they just own it. Mr. Outhouse would like the Commissioner's to be kept aware of situations that may arise in the future.

3. Basil Jones Yoga: Basil Jones (owner – Annor, Inc.)
Sign Permit (location – 2 Keeler Lane)

- Consider Draft Resolution of Approval

Mr. Jones apologizes for being late. Cynthia asks Mr. Jones if he has had an opportunity to review the Planning Board Minutes – 10/06/10

Draft Resolution and whether he has any questions or concerns. Mr. Jones has reviewed the Draft. Mr. Jones states that he is leasing space from Annor, Inc. He is not the only person renting up there. Mr. Jones refers to the payment of outstanding fees listed in the Draft and confirms he has no outstanding fees. Mr. Jones asks if he is required to renew the Permit yearly. Cynthia states no. Mr. Jones would only come back if he changes the sign. Mr. Jones asks if there is anything else he needs to do. Cynthia states the Board will take a vote. Mr. Jones will receive a copy of the signed Resolution which he will bring to the Building Inspector in order to obtain his Permit. Cynthia confirms with the Board she may waive the reading of the Draft Resolution.

Chairwoman motions that the Planning Board Adopt the Draft Resolution of Sign Plan Approval for Basil Jones Yoga. Robert seconds. All in favor. No opposed.

4. Financial Report:

- September, 2010

Chairwoman motions that the Planning Board Approve the Financial Report for September, 2010. Robert Tompkins seconds. All in favor. No opposed.

5. Minutes:

- September 1, 2010
- September 22, 2010

Chairwoman motions that the Planning Board Approve the Minutes for September 1, 2010 and September 22, 2010. Robert Tompkins seconds. All in favor. No opposed.

WORK SESSION:

6. Continue Discussion of Wetland Amendments

Cynthia states that assuming the Board gets all the way through this discussion tonight, after MDRA revises the Draft, they may consider having the Draft go directly to the Town Board and not come back to them. The Town Board will set a Public Hearing. Cynthia asks if there are any questions for Roland. If not, he does not need to stay for this discussion. He will be part of the review at the Town Board level.

Cynthia refers to bridges and water control structures. Cynthia spoke with Bruce and Roland and states that there is an understanding of what water control structures might be, such as dams. There is a discussion about weirs and valves that could be opened and closed. Gary asks for clarification on the word weir. Gary states that no one outside of Cynthia, Bruce and Will would know what a weir is. Gary states that using this word has no value. Cynthia and Will state it is a very common word. It is a technical term. Will states it is almost like a dam. A weir is a dam with a notch where control boards may be added in order to regulate the flow. Spillways are discussed. Cynthia states this is all about getting Bruce to a comfort level with the different types of reviews. Cynthia states that the other item to discuss is culverts. At some point we were mixing up culverts with water control structures. Bruce states that the way the Ordinance stands today, it refers to water control structures with no definition. Bruce spoke with Frank Annunziata asking if it is legitimate to regard a culvert as a water control structure. Bruce states that he thought it was a legitimate determination. This has to do with the direction and flow of water. Cynthia states that a definition may be given to water control structure. With this revision we have tried to limit the definition to that kind of structure that controls the level of the water. We have separated culverts and bridges. Cynthia states that we handled dams, seawalls,

docks, and water control structures that were in existence as a pass. A pass would be given for the operation, repair and maintenance of those items. The Building Inspector may handle culverts as a minor permit. Bruce states that he triggered all of this when he stated a bridge is a water control structure. He was actually referring more to a box culvert as opposed to the bridges that were just approved for the Dubin property. Bruce talks about whether letting a replacement of the top portion of a bridge be a minor permit. Will talks about decking and states it would not need a permit. Cynthia states that the two items to be added under the minor wetlands permit already have a pass. That would be the maintenance of a water control structure or a bridge. By not changing the way we had left it, if someone is redoing the foundation for a bridge, a wetland permit would be required. Will asks if the Board is comfortable with the definition of water control structure. Will states a weir is a different form of a dam. Bruce does not think there needs to be a distinction between the two.

Cynthia refers to Pages 11 and 12 regarding referrals to the Planning Board. A decision has been made to leave the original wording alone. Bruce confirms the language should stay. Cynthia states that Bruce wants the language "or referred to the Planning Board" to be deleted. Will states that is fine. There is a discussion about the Planning Board having the authority to send an Application back to the Building Department with their input.

Cynthia refers to Section 3 which has to do with required referrals to the Planning Board. Cynthia and Bruce suggest setting up three conditions, such as if a site is in a DEC Wetlands, a disturbance in a wetland, or a substantial disturbance in a buffer area. Will mentioned to Cynthia that neither the Building Inspector or the Wetlands Inspector handle SEQR. So if something triggers a SEQR review, it would be referred to the Planning Board. Will discusses the wetland proper and states that the exclusions should be added. There is a discussion about combining Sections 3 and 4. Will states that to avoid the SEQR aspect, one of the thresholds needs to be that the item is a Type II action. That will cover the majority of the residential items. Will states he will flush out the list and come up with five or six items. Bruce will then take that list and use it for projects such as a Lot on Little Mountain Road, and Tonery. Will states he understands the reduction in levels of review. Mitigation and alternatives are discussed.

Cynthia asks Bernard and Gary if they are comfortable with Will taking care of the changes along with input from herself and Bruce. Both Gary and Bernard agree.

There is a discussion about the Planning Board having 65 days to act on an Application. There was a suggestion to have the 65 days changed to 45 days. There is a discussion about Applicants asking for extensions if need be. The Board does not see the advantage of shortening the number of days. There is a discussion about the Town Board possibly wanting it pushed back to 45 days. Gary states that shortening the days to act will in turn make for a shorter review period. The Board would like it left at 65 days.

7. Next Meetings:

- Work Session – October 20, 2010 - canceled
- Regular Meeting – November 3, 2010

8. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.