

Town of Washington
Special Town Meeting
March 9, 2013

Moderator: Hank Martin
Clerk: Sheila Silvernail

First Selectman, Mark Lyon, opened with request for nominations for Moderator. Richard Carey nominated Hank Martin with several seconds. With no other nominations Hank Martin was designated Moderator.

Moderator: Good morning, nice day today. We only have one item on the agenda and the way we'll work it is the way we always do. Can you hear me? Can everybody hear me? Talk louder? How about now? Can you hear me now? Ok, thank you. We have one motion. We'll have the First selectman make the motion. Hopefully it will be seconded and then we'll have discussion from all of you. Anybody who wants to speak about it, pro or con, will be free to do so and then we'll have a vote and then we'll adjourn. So, if you have any, at the time of the discussion when it starts, please direct your questions to me. I won't answer any of them, but I'll make sure you get an answer. So with that Mark would you.

M. Lyon: Not yet.

Moderator: Oh, excuse me, I've got to do one other thing first. I've got to ask Sheila, our secretary, to read the warning. Sheila, would you come read the warning?

Clerk: Warning – Town Of Washington Special Town Meeting

The voters and electors of the Town of Washington are hereby warned that a Special Town Meeting will be held on Saturday, March 9, 2013 at 10:00 a.m. at Bryan Memorial Town Hall, Washington Depot, Connecticut to consider and act upon the following:

- 1) To approve an "Option and Ground Lease Agreement" between the Town of Washington and Homeland Towers LLC.

Dated at Washington, Connecticut this 14th day of February 2013.

Mark E. Lyon, Richard O. Carey, Anthony J. Bedini
Board of Selectmen

- Moderator: Thank you Sheila, in addition to Mark, the other two selectmen are here so we have the whole Board of Selectmen here to answer questions. We also have a guest, Ray Vergati, from Homeland Towers who is here ... to get him to answer questions that you may have. Mark, would you put the motion on the floor?
- M. Lyon: Resolved – that the Board of Selectmen is authorized to execute and deliver to Homeland Towers LLC on behalf of the Town of Washington an Option and Ground Lease Agreement effective at a date to be determined by the Board of Selectmen on or before June 3, 2013, substantially in the form as approved by the Board of Selectmen on January 17, 2013.
- Moderator: Could I have a second on that motion please. Many seconds, Janet Wildman. Ok, we're at the discussion point now and usually what we do is have the First Selectmen give you an overview of the motion and of the overall project. Mark?
- M. Lyon: The handouts are out there. Some of them are reused from our informational meeting February 2nd. Nothing substantially is changed. In essences, Homeland Towers is going to lease approximately 1/8 of an acre, 5200 square feet, at the Town Highway property on 10 Blackville Road. They start with a single ten year term and have a right to four five-year renewals so in essence it'll be a thirty-year lease. The rent is \$2000 a month for the tower and the first carrier with a 3% annual increase. Additional carriers, the Town will receive 20% of Homeland Towers revenue. The height of the tower is limited by the lease to 130 feet. The balloon that went up the 2nd has been reflowed today and it will up until probably dusk today and this is the opportunity that Homeland is using to do a photo simulation from a number of different points in town. Subleasers have to operate within FCC regulations and then we also have an additional condition in the lease that telecommunication carriers may not exceed 5% of FCC allowances at a radius of 750 feet from the tower and the Town has the ability to confirm that and check that every other year funded by Homeland with our own party. If the tower is decommissioned, Homeland is required to remove all structures so that the site can be returned to grade as it is now. We're also requiring that they provide a bond that will cover the cost of demolition in the future if they do not hold up their end of the agreement. The Town will have the money in a bond that we could do it ourselves if they don't. That's the high points. I do have, Ray is here if there's questions for Homeland. I have the lease here. I have any other information. Ray has informed me that they do have one carrier that's ready to sign on with them once we sign the lease and so that

then they'll be able to start the application process with the Connecticut Siting Council which initiates a whole other calendar of events, but Homeland Towers and at least one carrier if not two are ready to sign up and get that process started as soon as we agree on this lease. We have gone through a lot of negotiations. This is the third entity and I think that we have been able to address concerns of the citizens as well as have a site here that will work well to provide a service, telecommunication service, for the Depot area. Thank you.

Moderator: Thank you Mark. Ok, if you would like to speak now would be the time. Just raise your hand and I will recognize you. Yes, Peter?

P. Tagley: What does 5% of FCC ...

M. Lyon: The emissions, RF emissions, the question was what does the 5% of FCC regulations mean? RF emissions are regulated by the Federal Communication Commission and we have asked that those emissions be limited even further in an area, in the immediate area of the tower. This is because there are questions, there may or may not be some health questions on this which are unproven, but this does regulate, or lower the emissions, the allowable emissions from the tower, radio.

P. Tagley: Radio frequency waves would affect?

M. Lyon: There's questions on that. This is to address some concerns that some people brought forth when we initiated this process four years ago. The nature of these which we've learned through a consultant that we hired, Walter Cooper, who is a recognized specialist in this in RF emissions and telecommunications towers. We hired him back when we were working with Verizon and these RF emissions reduce exponentially over distance so this will ensure that there'll be lower levels from this than what would be allowed by FCC.

Moderator: Other hands? Could I ask you to identify yourself for purposes of our secretary.

R. Hunt: Richard Hunt, I live on 7 Golf Course Road. I was wondering, this rent of \$2000 month how it was arrived at and is that fair to the Town and also identify those two carriers that might sign on if you could?

M. Lyon: Yes, it was a negotiated fee. We have on public record of other towers that are in the area and it is \$200 more than what Kent gets

for theirs. I can tell you that. It's a pretty standard feature to have escalator built in and 3% is probably what would be considered an industry standard in this area. Ray do you mind if we mention carriers? Ray has AT&T that's ready to go immediately and Verizon is right behind them.

Moderator: Yes?

J. Buonaiuto: Janet Buonaiuto, Washington. Last time we met.

Moderator: Could you speak up a little bit please?

J. Buonaiuto: Last time we met concerning this issue you said that there was a one-million dollar liability per occurrence for any damages done by this tower. Does that include health damages from the radio frequencies or is it just if the tower falls on somebody's property or in someway harms a person other than say, you know, the damages done by the radio frequencies?

Moderator: Thank you.

M. Lyon: It's a standard liability policy and that would be something that would probably be addressed in the courts because there's at this point in time there's no. I'm not sure of the legal terms, but it would be. We've asked for the million dollar liability policy covering liability and property and we've also requested a five-million dollar single occurrence special coverage extension. So far as health claims that have to do RF emissions that's something that has not been substantiated and it would probably be something that would go through the courts and we'd be covered under our liability insurance.

J. Buonaiuto: Ok, so what you're saying is the normal person who may get a brain tumor or something from this tower who lives nearby or whatever would have to suit a major corporation in order to get any kind of recompense for this.

M. Lyon: I'm not an attorney so I can't say for sure.

J. Buonaiuto: Ok, is David Miles here so he could answer that question?

M. Lyon: I don't believe he is.

J. Buonaiuto: Ok.

Moderator: Other hands? Yes?

Female: ... 3 Top Pasture ... height of that?

Moderator: Hold, hold on one minute until the mic gets to you, thank you.

K. Coe: Thank you, Kathy Coe, 3 Top Pasture. It says that the slim stick type antenna could extend the 130 feet. What's the height of that?

M. Lyon: The tower itself is limited to 130 feet. Those slim stick which are would define as whip antenna are for Litchfield County Dispatch which is our regional dispatch service and the Town radio service. They're typically fiberglass type of stick that is maybe an inch to an inch and half in diameter and they would extend up from 130 feet depending on what the requirements of the antenna were. I think typically they're about 20?

R. Vergati: Ten foot.

M. Lyon: Ten foot, ok. Those are just for the Town radio system and our Litchfield County Dispatch radio system.

Moderator: I'm looking for hands. Yes sir? Hold on, wait til the mic gets to you. We're making this as tough as possible ... shifting from side to side.

M. Lyon: I've got, just one other thing on the height question. If we do request that it become disguised as a tree, the tree itself will extend approximately ten feet above the 130 foot level so that it can have some shape to it.

Moderator: Ok, sir?

Male: First of all, who owns the tower.

Clerk: Please identify yourself.

A. Johnson: Andy Johnson, who owns the tower?

M Lyon: Homeland Towers owns the tower.

A. Johnson: And how much will it cost Homeland to put it up?

Moderator: Go ahead Ray.

R. Vergati: Good morning, thank you Selectman Lyon and residents of Washington. Ray Vergati with Homeland Towers, the question

was what is the cost to construction the tower itself. A typical construction cost for the tower itself is approximately about \$300,000 at the end of the day. There's a bunch of other costs to go into the site. We call them soft costs, paying the attorneys to take it through zoning, paying all of our vendors, environmental companies, like today we have a company doing the balloon photo simulations. So at the end of the day it could be up to a half million dollars that we've invested into a site.

A. Johnson: Does the city have a secured interest in the tower?

M. Lyon: I'm not sure what you mean?

A. Johnson: Well, I mean if somebody leases land from me and they put something on it, I want to make sure that I'm paid so I would secure whatever they put on the land. I'm asking you if Washington has a secured interest in the tower.

M. Lyon: We have in the lease, we used Murtha Cullina in Hartford to make sure that our interests were protected if they default. There's a lot of sections. If they default on their rent payments, yes, we can take over the tower. We can become the landlord of the tower. We could sell the tower itself to another entity.

A. Johnson: So you own it at that stage.

M. Lyon: We can, yes, there's provisions in the lease for that.

A. Johnson: Alright, and the rent of two grand includes one carrier?

M. Lyon: Correct, the first carrier.

A. Johnson: Alright, the second carrier comes on, how much do they pay?

M. Lyon: I don't know what they're fee to Homeland would be, but we have the right to review the contracts and we would get 20% of Homeland's revenues.

A. Johnson: You have the right to approve it?

M. Lyon: Yes, annually.

Moderator: Hold on, I think Mark said review the contract, not approve the contract.

M. Lyon: Right.

A. Johnson: Oh.

Moderator: Slight difference, but nevertheless the Town is in the midst of the process.

A. Johnson: How many other towers does Homeland have around here?

R. Vergati: Our portfolio is roughly twenty towers primarily concentrated in New York, Dutchess, Westchester, Sullivan County. To answer your question a little bit further regarding the rents of carriers, we work with the carriers on a day to day basis. Obviously they're our customers, our clients. We have relationships with them. We will charge them what we feel is a fair market rent to come onto our towers because we sublet to the. Typical price that we would charge a carrier, it's not set in stone, every site is a case by case, depending on what our costs are at the end of the day as well and how good the site is, ballpark is anywhere between \$2500 and \$3000 per month is what we would collect from one of our tenants coming onto the tower. So the \$2000 would be starting rent for the Town of Washington. The second carrier coming on, the Town would receive the \$2000 and then an additional 20% of what the carrier pays Homeland. If you took the \$3000 a month, it would be an additional \$600 that the Town would receive each month.

A. Johnson: Is the money from the rent, or from the tower, does that go into a special fund for this Town or is that just general fund money?

M. Lyon: Currently I would anticipate that it just goes into the general fund, but that would be the way it is set up now. There's no special fund been established for it.

A. Johnson: Do you have to pay tax on that income?

M. Lyon: No.

A. Johnson: The question I'm asking about the approval of the lease is that theoretically you could give them a sweetheart deal on Washington because you have to charge them in Putnam County.

Moderator: I don't know where to take that one.

Male: Someone else needs to speak.

Moderator: Looking for hands. Yes?

J. Buonaiuto John Buonaiuto, Washington, Shearer Road. I realize that there are state laws now and this has nothing has to do with the approval of the tower, but speaking on cell phone while driving, maybe in the future we could have a stricter town ordinance that perhaps would fine people who are, you know, violators of both state law and maybe a town ordinance. Obviously people realize that it's very, irresponsible and hazardous to others and you can cause a serious accident by talking on your cell phone. It would be potentially some more income for the town if we simply enforced, you know, laws that are already in place. I realize that the technology in automobiles now is improving so ultimately so people won't have ... use a handheld device. For the time being, let's, you know, try to enforce the laws that are existing, prevent accidents.

Moderator: I, I agree with you. I think your point is valid whether this tower is approved or not. Excuse me, in the back, yes, hold on.

R. Tomlinson: Robert Tomlinson, I would like to move the question please.

W. Fairbairn: Second, Bill Fairbairn.

Moderator: Ok, we have a second motion to move the question. That means that we need to, if the motion is approved, bring it to a vote right now with no further discussion. It's consistent with Robert's Rules of Orders and the motion is in order. In order for the motion to carry it needs a 2/3 vote of approval. So all of you who have heard everything that's been said before, if you feel like you're ready to vote and you do not need further discussion and you want to approve the motion that Rocky has made, please raise your hands.

Ok, thank you, and any who want to disapprove the motion and want to continue talking about it, raise your hands.

Well I think we clearly have our 80%. It looks like it's more like 99% so we are now going to go directly to the vote on the primary motion that is before us today. Any questions on the process that we just went through? Great, let me read the motion again.

Moderator: The motion on the floor is:

Resolved – that the Board of Selectmen is authorized to execute and deliver to Homeland Towers LLC on behalf of the Town of Washington an Option and Ground Lease Agreement effective at a date to be determined by the Board of Selectmen on or before June 3, 2013, substantially in the form as approved by the Board of Selectmen on January 17, 2013.

All in favor of that motion please say aye?

Audience: Aye.

Moderator: Any opposed?

Audience: Opposed.

Moderator: Thank you, in the opinion of the Moderator the motion carries and has been adopted. Thank you.

Audience: [Clapping]

Moderator: Having no further business, I declare this meeting to be adjourned.

Adjourned at 10:24 a.m.

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I, Sheila Silvernail, certify to the best of my ability the foregoing is a true and accurate transcript of the Town of Washington Special Town Meeting on March 9, 2013.



Dated at Washington, CT this 10th day of March 2013.