

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL

3
4 Docket No. 503

5 Arx Wireless Infrastructure, LLC application for a
6 Certificate of Environmental Compatibility and Public
7 Need for the Construction, Maintenance, and Operation
8 of a Telecommunications Facility Located at 43 Osgood
9 Avenue, New Britain, Connecticut

10
11 Zoom Remote Council Meeting (Teleconference),
12 on Tuesday, October 5, 2021, beginning at 2 p.m.

13
14 H e l d B e f o r e :

15 JOHN MORISSETTE, Member and Presiding Officer
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1 **A p p e a r a n c e s :**

2 **Council Members:**

3 **JOHN MORISSETTE, (Hearing Officer)**

4
5 **QUAT NGUYEN,**

6 **PURA Designee**

7
8 **ROBERT SILVESTRI**

9 **ED EDELSON**

10 **LOUANNE COOLEY**

11
12 **Council Staff:**

13 **MELANIE BACHMAN, ESQ.,**

14 **Executive Director and Staff Attorney**

15
16 **MICHAEL PERRONE,**

17 **Siting Analyst**

18
19 **LISA FONTAINE,**

20 **Fiscal Administrative Officer**

1 **A p p e a r a n c e s:(cont'd)**

2 **For Arx Wireless Infrastructure, LLC (Applicant):**

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4 **1115 Broad Street**

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6 **By: DAVID A. BALL, ESQ.**

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10 **For NEW CINGULAR WIRELESS PCS, LLC (Intervenor):**

11 **BROWN RUDNICK, LLP**

12 **City Place I, Number 38**

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15 **By: THOMAS J. REGAN, ESQ.**

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19 **For THE CITY OF NEW BRITAIN:**

20 **LAW OFFICES OF JOHN DIAKUN**

21 **489 Bell Street,**

22 **Glastonbury, Connecticut 06033**

23 **By: JOHN DIAKUN, ESQ.**

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1 THE HEARING OFFICER: Good afternoon, ladies and
2 gentlemen. Can everyone hear me okay?

3 Very good. Thank you.

4 This remote evidentiary hearing session is
5 called to order this Tuesday, October 5, 2021, at
6 2 p.m. My name is John Morissette, member and
7 Presiding Officer of the Connecticut Siting
8 Council.

9 As everyone is aware, there is currently a
10 statewide effort to prevent the spread of the
11 coronavirus. This is why the Council is holding
12 this remote hearing and we ask for your patience.

13 If you haven't done so already, I ask that
14 everyone please mute their audio and telephones
15 now. A copy of the prepared agenda is available
16 on the Council's Number 503 webpage along with a
17 record of this matter, a public hearing notice,
18 instructions for public access to this remote
19 public hearing, and the citizen's guide to Siting
20 Council procedures.

21 Other members of the Council are Mr. Ed
22 Edelson, Mr. Silvestri, Mr. Nguyen, Ms. Cooley;
23 Executive Director Melanie Bachman, Staff Analyst
24 Michael Perrone, Fiscal Administrative Officer
25 Lisa Fontaine.

1 On September 23, 2021, the Council on its own
2 motion voted to reopen the evidentiary records
3 specifically limited to consideration of whether
4 the two alternative site suggested by the City of
5 New Britain are available and feasible options for
6 tower development.

7 This evidentiary session is a continuation of
8 the remote public hearing held on July 20, 2021,
9 and September 2, 2021. It is held pursuant to
10 provisions of Title 16 of the Connecticut General
11 Statutes and of the Uniform Administrative
12 Procedure Act upon an application from Arx
13 Wireless Infrastructure, LLC, for a certificate of
14 environmental compatibility and public need for
15 the construction, maintenance and operation of a
16 telecommunications facility located at 43 Osgood
17 Avenue, New Britain, Connecticut.

18 Please be advised that the Council's project
19 evaluation criteria under the statute does not
20 include consideration for property values. A
21 verbatim transcript will be made of this hearing
22 and deposited with the New Britain City Clerk's
23 office for the convenience of the public.

24 The Council will take a 10 to 15-minute break
25 at a convenient juncture around 3:30 p.m.

1 We'll continue with the appearance of the
2 Applicant. We will begin with the appearance of
3 the Applicant Arx wireless Infrastructure, LLC, to
4 verify the new exhibit marked Roman numeral two,
5 item B11 on the hearing program.

6 Attorney Ball, please begin by identifying
7 the new exhibit you have filed in this matter and
8 verify the exhibit by the appropriate sworn
9 witness.

10 MR. BALL: Thank you, Mr. Morissette. Good Afternoon.
11 David Ball on behalf of the Applicant.

12 We have Keith Coppins with us today and also
13 Doug Roberts who are available to testify for
14 purposes of putting -- identifying the exhibit. I
15 will ask Mr. Coppins to just answer a few
16 questions.

17 K E I T H C O P P I N S ,

18 D O U G L A S R O B E R T S ,

19 recalled as witnesses, having been previously
20 duly sworn, were examined and testified
21 under oath as follows:

22
23 MR. BALL: Mr. Coppins, did you prepare, assist or
24 supervise in the preparation of Exhibit 11 which
25 is your additional prefiled testimony dated

1 September 30, 2021?

2 THE WITNESS (Coppins): I did.

3 MR. BALL: Is it true and accurate to the best of your
4 knowledge?

5 THE WITNESS (Coppins): Yes, it is.

6 MR. BALL: Do you have any corrections or revisions to
7 it?

8 THE WITNESS (Coppins): No, I do not.

9 MR. BALL: Do you adopt the testimony in Exhibit 11 as
10 your testimony today?

11 THE WITNESS (Coppins): I do.

12 MR. BALL: Thank you.

13 Mr. Morissette, with that we would ask that
14 the Applicant's additional prefiled testimony
15 which is dated September 30, 2021, Exhibit 11, be
16 made a full exhibit.

17 THE HEARING OFFICER: Thank you, Attorney Ball.

18 Does any party or intervener object to the
19 admission of the Applicant's new exhibit.

20 Attorney Regan?

21 MR. REGAN: No objection.

22 THE HEARING OFFICER: Thank you, Attorney Regan.

23 MR. DIAKUN: John Diakun for the City of New Britain.

24 I have no objection to the exhibit.

25 THE HEARING OFFICER: Thank you, Attorney Diakun. The

1 exhibits are hereby admitted.

2 We will continue with cross-examination of
3 the Applicant by the Council starting with
4 Mr. Perrone and followed by Mr. Edelson.

5 Mr. Perrone?

6 MR. PERRONE: Thank you, Mr. Morissette.

7 Mr. Coppins, beginning with your prefiled
8 testimony in Exhibit B, could you give us a rough
9 idea where on the 48 Allen Street property your
10 preliminary tower location would be for that
11 alternative site?

12 THE WITNESS (Coppins): Yes. I looked at two different
13 parcels, one of Malbec Street which we would --
14 it's a little wooded over there. It's a
15 cul-de-sac. And I proposed it come from Malbec
16 Street to that side parcel.

17 And the -- the other proposed -- idea that I
18 proposed was off of Eddy Glover Boulevard -- where
19 we would access off of Eddy Glover Boulevard,
20 which is in the cemetery. It looked like it was
21 open for a possible tower and had proposed both of
22 those two, to the -- to the representatives of the
23 cemetery.

24 MR. PERRONE: In the proposal did you specify a tower
25 height or range of heights for those two spots?

1 THE WITNESS (Coppins): I did not. I didn't propose a
2 tower height. I figured that we would prepare --
3 we would stay at the same, pretty much the same
4 tower height that we're proposing at 43 Osgood
5 Street.

6 So far we haven't gotten into discussions
7 about heights at all with the cemetery. We -- the
8 two -- the two areas that we -- that we proposed
9 to them, they said they -- that wasn't -- that
10 probably wasn't going to work for them due to
11 visibility to the mountains for -- a lot of their
12 ancestors are buried there, and they said
13 that's -- that's a view that they would want to
14 keep.

15 So -- and that's the one off of Malbec
16 Street. The one off of Eddy Glover Boulevard in
17 the rear of property, they said they didn't know
18 if there was any -- it was possible to even put
19 something back there due to their ability legally
20 to do it.

21 So we don't -- I don't have an answer for the
22 height, yet. I don't even have an answer for a
23 proposed location, which I've asked for.

24 MR. PERRONE: Does Arx have an approximate distance
25 from the 48 Allen Street site to the proposed

1 site?

2 THE WITNESS (Coppins): I can let Mr. Roberts answer
3 that question.

4 THE WITNESS (Roberts): Thank you. I'm looking that up
5 right now.

6 I can get back to you in a few moments.

7 MR. PERRONE: And also if you have it, the ground
8 elevation as compared to the proposed site.

9 THE WITNESS (Roberts): Surely. Let me get you that
10 information. If you want to continue, I'll dig
11 that up in the meantime?

12 MR. PERRONE: Sure. Could Arx compare generally
13 visibility in distances to residences at 48 Allen
14 Street as opposed to the proposed site?

15 THE WITNESS (Coppins): Again, I -- I don't want to
16 propose a distance to -- to a site. We don't even
17 have it yet to propose a distance to, so I
18 can't -- I wouldn't want to answer that question
19 based on we don't have -- we don't have a spot.

20 MR. PERRONE: And as far as your discussions with the
21 cemetery association, can you give us your latest
22 update?

23 THE WITNESS (Coppins): Sure. So I've had -- I've had
24 conversations with three different people at the
25 cemetery. The first one that the City provided to

1 us was Seth Feigenbaum, and he was going on
2 vacation. So he e-mailed his brother to take the
3 lead. I finally got some contact with Ira on
4 Wednesday of last week, and I think that was
5 September 29th.

6 And he said they needed a proposal. So I
7 sent a proposal to Ira immediately and he followed
8 up with a phonecall on Friday, October the 1st
9 with just basic conversation of, you know,
10 what the -- what the site would like? Where would
11 we -- where would we want to propose it?

12 I was -- he wanted to know what we needed
13 from him at this point. I kind of -- I told him I
14 certainly would like to have some sort of a
15 resolution by today since we had a meeting open
16 today.

17 And we talked a little about time since he
18 said that I can't get you anything by Tuesday
19 other than, you know, we might be interested in
20 possibly providing -- to putting a site here, but
21 its not his call.

22 It would be a hundred percent approval by the
23 board, which doesn't regularly meet at this point
24 in time. So I'm, you know, trying to get an idea
25 of where it was. He said -- two weeks. He said,

1 no. That's kind of hard to get to two weeks.

2 So I said, three?

3 He said, no. Maybe 30 days.

4 We left it at that and the conversation
5 ended.

6 On Monday, yesterday I got a call from the
7 third person that I've been dealing with and it's
8 Barry Feigenbaum. He is the attorney for the --
9 for the site. He had a few things to say about,
10 well, we got your lease. We just, you know, we
11 don't like your initial location.

12 We -- we talked about the site coming off of
13 Eddy Glover Boulevard, and didn't -- wouldn't
14 commit to anything there other than it may not
15 work. He may not have the -- he may not be
16 legally -- it may not be legally available as it's
17 a working cemetery.

18 He talked about ancestors being buried there.
19 And he said there's a few things in the lease that
20 would need to be done that we'd change. He goes,
21 we just can't give you unfettered access to the
22 site.

23 And I said, what about emergency services?

24 And he says, well, we'll have to work on
25 something there, but we just can't give you

1 unfettered access.

2 Again I asked him. I said, could you and Ira
3 get together and provide some kind of a location?

4 And he said he would try to do that.

5 And I said, what kind of timing are we
6 looking for?

7 He came back to me again and said, well,
8 we're not even sure that the -- we need a
9 unanimous approval. We've got to -- we've got to
10 convene the board. He said minimum of 60 days to
11 possibly get us to even finding out if they even
12 want to move forward with a site there.

13 And then he walked into to -- he continued to
14 talk a little bit about us getting in touch with
15 the City; acknowledged that they didn't get in
16 touch with us. He acknowledged that somehow they
17 had knowledge of us trying to get in touch with
18 them, but didn't know why somebody from the
19 cemetery didn't get in touch with us over the past
20 year.

21 We've had two letters that went out, one on
22 February 7, 2020, and that was from AT&T. A
23 second certified letter went out which came back
24 to us on 8/20/2021, which was sent out by myself
25 at Arx Wireless.

1 So the other things that he said before they
2 would even be able to consider a decision would be
3 we would need to do a title search on the entire
4 parcel. And I said, do you think there are deed
5 restrictions on that?

6 And he says, I don't know. I don't have a
7 deed.

8 I said, okay.

9 And then he said, well, we'd also have to
10 have the property surveyed to see if, you know,
11 where we can -- where we can go and what lots we
12 can use. And a survey for that property, I'm --
13 I'm guessing. This is my -- this is my own
14 personal thought is -- because I've done quite a
15 bit of this stuff to get a surveyor out there and
16 get it surveyed. I'm thinking at least another 60
17 to 90 days to get something like that done.

18 So that's the latest in the discussions and,
19 you know, that these are the kind of discussions
20 that we want to have early on prior to moving
21 forward with an application so that we're not
22 sitting here in the 11th hour trying to, you know,
23 figure out if this property is available. And
24 they're not even sure if they can even do it.

25 So that's -- that's my concern. That's my

1 peace on the conversations we've had with Ira,
2 Seth and Barry.

3 **MR. PERRONE:** Were all of your discussions centered
4 around the number 48 parcel? Or were there any
5 discussions on 65, slash, 73?

6 **THE WITNESS (Coppins):** There weren't -- there wasn't
7 anything set on 65 and 73. And with the limited
8 opening of this site we didn't -- we didn't even
9 consider 73 and -- or the other two parcels across
10 the street, because everything was open to 48
11 Allen Street, not just cemetery property.

12 We did -- we did, however, look at that and
13 there are small parcels surrounded by --

14 **THE WITNESS (Roberts):** Sure (unintelligible) -- Keith.
15 Yeah, the 65 Allen Street is 3.4 acres. It's
16 owned by the cemetery as well and it's, you know,
17 the closest neighbor is 54 feet.

18 And when we looked at 73, which is .17 acres,
19 the closest neighbor is 45 feet. Comparing that
20 to our existing site, which the closest neighbor
21 is 128 feet -- maybe I'll clarify that that is to
22 the resident, the residence itself, not to the
23 property line. You know, we have very small
24 parcels that are 50 and a hundred feet.

25 **MR. BALL:** Mr. Roberts, I'm sorry to interrupt. I

1 think you just said 65 Allen Street was 3.4 acres.

2 THE WITNESS (Roberts): Point-three-four. I'm sorry.

3 Thank you for clarifying that. Yes, both are --
4 are tiny parcels, a little over a quarter and a
5 little under a quarter. Thank you.

6 And to get back to your other question to me,
7 the distance from 63 Osgood to the cemetery, again
8 we don't have a location on the cemetery. I
9 basically placed it kind of in the middle just to
10 make it simple. And it's 1740 feet in the
11 southwest direction, although the great
12 differential at the cemetery is approximately
13 50 feet lower than our site at 43 Osgood.

14 MR. PERRONE: Thank you. I believe I'm set for now.

15 THE HEARING OFFICER: Thank you, Mr. Perrone.

16 We will now continue with cross-examination
17 by Mr. Edelson followed by Mr. Silvestri.

18 Mr. Edelson?

19 MR. EDELSON: Mr. Morissette, I have no further
20 questions. Thank you.

21 THE HEARING OFFICER: Thank you, Mr. Edelson.

22 We will now follow with Mr. Silvestri
23 followed by Mr. Nguyen.

24 Mr. Silvestri?

25 MR. SILVESTRI: Thank you, Mr. Morissette.

1 Mr. Roberts, when you just mentioned the
2 acreage at 65 Allen and 73 Allen Street, are those
3 too small to build a cell tower and a compound?

4 **THE WITNESS (Roberts):** No, they're not. They're
5 50 feet and a hundred feet wide. Out typical lot,
6 we're usually looking at 75 feet if we can, but we
7 can vary that a little bit and make it a little
8 more linear.

9 But it's -- basically to build it we're going
10 to be clearing all of the vegetation on those
11 sites. My -- my thought is that we'll, you know,
12 we'd want to be pushed back to the rear of the
13 parcel and not at the street level. So we would
14 push -- we have to remove a fair amount of
15 vegetation there as well.

16 **MR. SILVESTRI:** And just hypothetically, if we're at 65
17 or 73 Allen Street, would the area at both or
18 either be sufficient to have other carriers there
19 as well?

20 **THE WITNESS (Roberts):** Yes. The design of the
21 compound would be sufficient to have multiple
22 carriers on it.

23 **MR. SILVESTRI:** Very good. Thank you.

24 Mr. Coppins, I did have a followup to your
25 discussion with Mr. Perrone. If I heard

1 correctly, the access ways that you are looking
2 at, or the access ways to the cemetery were from
3 Eddy Glover Boulevard and Marbelle Court.

4 Is that correct?

5 **THE WITNESS (Coppins):** That's correct. That was my
6 suggestion. It wasn't -- it was just to get a
7 conversation started. It wasn't necessary --
8 necessarily the way that we were going to go. It
9 was just my suggestion of where we were going to
10 place the site and gain access.

11 Off Eddy Glover Boulevard there's already an
12 existing gate there. So I thought that might be a
13 good way to get into the cemetery without having
14 to come from the very -- from the very front of
15 Eddy -- of Allen, of Allen Street and going all
16 the way to the site.

17 **MR. SILVESTRI:** Understood. Thank you.

18 And looking at Google Maps right now, there
19 seemed to be two major roads that are in the
20 cemetery that I believe run north to south. If
21 you came in from Eddy Glover Boulevard, would you
22 be looking at the area that's to the west of that
23 access road?

24 Is that who you had discussions with?

25 **THE WITNESS (Coppins):** Yes, I -- I mentioned anywhere

1 in that area would be fine, that it would probably
2 work.

3 I was just, again I'm still trying to get --
4 I'm still trying to get a discussion of where we
5 could possibly place it and didn't get an answer,
6 and I haven't gotten that yet.

7 MR. SILVESTRI: No, understood. I'm just looking at
8 potential locations that you've talked about, and
9 similarly with Marbelle Court I would think that
10 once you entered from that area, you're looking to
11 the west of Marbelle Court, but to the east of
12 that other access road within the cemetery that
13 runs north and south.

14 THE WITNESS (Coppins): That would be correct.

15 MR. SILVESTRI: Very good. Thank you.

16 Mr. Morissette, those are all the questions I
17 have. Thank you.

18 THE HEARING OFFICER: Thank you, Mr. Silvestri.

19 We will now continue with cross-examination
20 by Mr. Nguyen followed by Ms. Cooley.

21 Mr. Nguyen?

22 MR. NGUYEN: Mr. Morissette, I don't have any further
23 questions. Thank you.

24 THE HEARING OFFICER: Thank you, Mr. Nguyen.

25 We will continue with Ms. Cooley followed by

1 myself.

2 Ms. Cooley?

3 MS. COOLEY: Thank you, Mr. Morissette.

4 I have no further questions. Thank you.

5 THE HEARING OFFICER: Thank you, Ms. Cooley.

6 I have one question for Mr. Coppins and it's
7 related to the Eversource property in your
8 prefiled testimony. It's pretty clear that that
9 property is off the table.

10 Could you please confirm that for the record?

11 THE WITNESS (Coppins): Yes, that is correct. I -- I
12 did reach out directly to Mr. Chris Gelinas who
13 I've have known for years and works now at
14 Eversource doing their property work.

15 And he was very quick to get back with me and
16 said that that property -- while they'll lease
17 property to companies like ours, this one is not
18 available.

19 THE HEARING OFFICER: Thank you, Mr. Coppins.

20 Just a followup. In looking at 65 and 73
21 Allen Street, I think Mr. Roberts testified that
22 it is very small and you basically would be right
23 up -- not right up to, but pretty close to the
24 property lines and the abutting properties.

25 In general terms is that correct,

1 Mr. Roberts?

2 THE WITNESS (Roberts): That's absolutely correct.

3 THE HEARING OFFICER: Okay. So the property at 48
4 Allen Street does still have potential, but at
5 this point because there's preliminary discussions
6 a location for the actual site has not been nailed
7 down or been further discussed with the owner of
8 the property.

9 Is that correct, Mr. Coppins?

10 THE WITNESS (Coppins): Yes. Yes, that is correct.

11 The location, they said that the location would
12 not even be picked until they did a survey on the
13 property and got a hundred percent approval from
14 the -- from the -- and the timing of that is
15 unknown.

16 THE HEARING OFFICER: I know a lot has been happening
17 very quickly here, but do you have an estimate, an
18 off-the-cuff estimate of what more it's going to
19 cost you to develop the new site, the 48 Allen
20 Street?

21 THE WITNESS (Coppins): As far as the construction? Or
22 as far as all the things that we would have to do
23 again?

24 THE HEARING OFFICER: Overall.

25 THE WITNESS (Coppins): Overall, I think the -- I think

1 that the, you know, we would -- we would have
2 to -- we would have to do -- again we would have
3 to do a survey over all -- I mean, we'd have to
4 redo everything that we've already done for 43
5 Osgood which currently we're probably at between
6 70 and 80 thousand dollars in soft costs right
7 now.

8 So we would -- let's say we just redid those
9 soft costs of 80,000. (Unintelligible) depending
10 on where they put us may -- maybe another, you
11 know, the construction of the site could be
12 anywhere from 250 to 300, versus 200.

13 So an extra 50,000. And that's just -- and
14 that's just a rough guess in my head of what I'm
15 thinking.

16 Again, I don't know -- I don't know where on
17 the property we are, how far my power-runs are and
18 how far my -- the easements are going to be if I
19 had a new road, I just -- it's just a guess.

20 It's just a rough guess.

21 **THE HEARING OFFICER:** Yeah. Thank you. Thank you for
22 the rough guess. I understand I put you on the
23 spot there with all the unknowns associated with a
24 new site being as such, preliminary in nature.

25 That's all the questions I have in this

1 point. We will now continue with
2 cross-examination of the applicant by AT&T.

3 Attorney Regan?

4 MR. REGAN: Thank you, Mr. Morissette. No questions
5 for that applicant at this time.

6 THE HEARING OFFICER: Thank you, Attorney Regan.

7 We will continue with cross-examination of
8 the Applicant by the City of New Britain.

9 Attorney Diakun?

10 MR. DIAKUN: Thank you.

11 To Mr. Coppins, you've discussed the
12 conversations that you've had with the
13 representatives of the cemetery association. Are
14 you willing to follow through on those
15 negotiations to say if a deal could be struck?

16 I understand that it's not clear exactly
17 where the tower may end up, but given the prior
18 testimony about how 48 Allen Street really is a
19 very good location for this tower, is Arx willing
20 to follow through on those negotiations even if it
21 takes 30 to 60 days?

22 THE WITNESS (Coppins): Well, we're obviously -- we
23 were obviously willing to -- to move forward with
24 them currently just because the City is, you know,
25 asked us to do that, to look at these other two

1 properties.

2 Again, the -- the willingness of Arx, and the
3 willingness would be on the -- on the cemetery
4 side. And I'm -- I'm not necessarily getting --
5 I'm not getting -- they're talking with me, but I
6 don't have any decisions that were made. And
7 we're just, you know, I'm not going to not talk to
8 somebody for sure, but I -- we would like to be
9 able to, you know, we feel we have a good
10 location, a great location with our -- with our
11 current site at 43 Osgood.

12 We may be trading one neighborhood for
13 another neighborhood by moving it to 48 Allen
14 Street, depending on where they put us on the
15 cemetery. So it's -- you're going to have a
16 new -- it's a larger parcel. The difference is,
17 is that there's -- you get new houses that we're
18 going to be talking with.

19 MR. DIAKUN: So I just want to refer --

20 THE WITNESS (Coppins): And the other --

21 MR. DIAKUN: Go ahead. I'm sorry.

22 THE WITNESS (Coppins): And the other discussion, and
23 the other thing was we're always willing to do
24 that. Actually the City would have been involved
25 a year ago when we were going to the municipal

1 consultation, and we could have had all this
2 discussion then.

3 MR. DIAKUN: So I want to refer back to your testimony.
4 I believe it was Mr. Morissette who had asked you
5 this question back on September 2nd.

6 And actually, can you pull up Exhibit E of
7 the application? It's page 9 with the
8 700 megahertz current coverage area.

9 I think it's page 9 of Exhibit E.

10 THE WITNESS (Coppins): I -- I believe if you are going
11 to ask me about coverage areas, we may want to
12 have AT&T who is Martin Lavin to answer that.

13 MR. DIAKUN: And thank you for that, Mr. Coppins. And
14 I likely would ask Mr. Lavin, but I'm just
15 referring to your testimony.

16 So referring to September 2nd, Mr. Morissette
17 had asked in looking at AT&T's propagation at
18 700 megahertz it appears that if you were able to
19 locate your site further south somewhere in the
20 vicinity of Farmington Ave and Allen Street, that
21 you would probably get better coverage in the area
22 that you're trying to cover.

23 And I believe there was also a couple of
24 properties in that area. I think one of them, as
25 you just talked about, was 48 Allen Street and

1 that was also a cemetery. And later on you
2 stated -- and this is on page 42, so it's a little
3 bit further down in the testimony. 48 Allen --
4 this is your testimony, the Beth Alom Cemetery at
5 48. I thought that was a good site. I thought it
6 was. I thought Mr. Morissette made a good point.

7 So you would agree for sure 48 Allen Street
8 is a preferable area to 43 Osgood based on
9 what was just stated.

10 THE WITNESS (Coppins): I didn't. I didn't say it was
11 preferable. I said it was a good site.

12 MR. DIAKUN: But referring to the current coverage site
13 if you look at the corner of Farmington and Allen
14 Street, that's an area of either low or very poor
15 coverage versus the star where 43 Osgood is.

16 Would you agree?

17 THE WITNESS (Coppins): If that's an RF question I'm
18 going to let the RF group handle that.

19 MR. DIAKUN: Okay. Thank you, sir.

20 THE WITNESS (Coppins): I -- I refer to them on
21 things like that.

22 MR. DIAKUN: Okay. That would be to AT&T? Okay.

23 THE WITNESS (Coppins): Mr. Lavin on the call today.

24 MR. DIAKUN: Okay. I don't think I have anything else
25 regarding your testimony. Thank you, sir.

1 And I have no questions, further questions
2 for Arx.

3 **THE HEARING OFFICER:** Thank you for that. We will now
4 continue with the appearance by the City of New
5 Britain. We will continue with the appearance of
6 the City of New Britain and swear in their new
7 witnesses, Justin Dorsey, and verify the new
8 exhibits as Roman numeral four, items B6 through
9 '9 on the hearing program.

10 And Attorney Bachman will please begin by
11 swearing in Justin Dorsey.

12 Attorney Bachman?

13 **MS. BACHMAN:** Mr. Morissette, my apologies, but we do
14 have the program set up for the continued
15 appearance by a AT&T in advance of the City of New
16 Britain.

17 **THE HEARING OFFICER:** Okay. My mistake. My mistake.

18 Thank you for pointing that out. My
19 apologies to everyone. We will continue with the
20 appearance of a AT&T. We'll now continue with
21 cross-examination of AT&T by the Council starting
22 with Mr. Perrone.

1 M A R T I N L A V I N,

2 recalled as witnesses, having been previously
3 duly sworn, were examined and testified
4 under oath as follows:

5 MR. PERRONE: Thank you, Mr. Morissette.

6 In general could a tower at 48 Allen Street
7 meet AT&T's wireless service objectives?

8 THE WITNESS (Lavin): This is Martin Lavin for AT&T. A
9 tower there certainly has the potential to, but as
10 Mr. Coppins has said, until we have an exact
11 location we can't say with certainty whether it
12 will.

13 MR. PERRONE: From an RF standpoint are certain
14 portions of the property at 48 preferable for
15 AT&T?

16 THE WITNESS (Lavin): Certainly the top of the hill
17 there's about 60 feet of vertical terrain
18 variation there. So if -- and then there's some
19 indication that the landlord was worried about
20 obstructing views and things of that nature, which
21 might very well lead to the tower moving down the
22 hill.

23 So if we were right on the top I believe that
24 would be an acceptable location, but any move from
25 the top of the hill would be -- would have to be

1 examined based on the precise location chosen.

2 MR. PERRONE: Of the two sites mentioned by Mr. Coppins
3 does AT&T have a preference from an RF standpoint?

4 THE WITNESS (Lavin): I believe the one with the
5 entrance from Marbelle Court would be the one more
6 or less on top of a hill, and that would certainly
7 be our preference.

8 MR. PERRONE: And let's see. Mr. Roberts had given the
9 approximate elevation at 48 showing it about
10 50 feet lower than the proposed site. Do you have
11 a rough ground elevation for 65, slash, 73 Allen
12 Street?

13 THE WITNESS (Lavin): I haven't looked at those in too
14 much detail. They're all the way down at the
15 bottom of the hill from the cemetery, and then a
16 little bit higher on Allen Street.

17 I have not established a height that would be
18 needed there. It's generally probably 30 or
19 40 feet lower than the top of the hill.

20 MR. PERRONE: At 48 Allen Street approximately how tall
21 a tower would AT&T need to meet its wireless
22 objectives?

23 THE WITNESS (Lavin): At the theoretical location we
24 modeled a 100-foot tower, and that was sufficient
25 for our purposes.

1 MR. PERRONE: And if you were to locate at 65 or 73,
2 would that impact the tower height?

3 THE WITNESS (Lavin): In all likelihood, but I haven't
4 examined that.

5 MR. PERRONE: Besides the wireless objectives this is
6 also a FirstNet site. Would relocating the tower
7 to 48 or 65, slash, 73, would AT&T still be able
8 to meet its FirstNet objectives?

9 THE WITNESS (Lavin): Certainly. From the top of the
10 hill with a hundred-foot tower in the cemetery?
11 Yes. The other, the small parcels down on Allen
12 Street? I don't know.

13 MR. PERRONE: And moving onto the City's Exhibit
14 Number 6. This has the existing 700 megahertz
15 plot. And the 148 Farmington Ave is identified,
16 and 48 Allen Street, and the City had noted how
17 the 48 Allen Street is located in an area with
18 weaker existing coverage strength.

19 Could AT&T comment on that and how the 48
20 Allen Street site would compare with the proposed
21 site?

22 THE WITNESS (Lavin): To do it with any
23 specificity we'd have to have the exact location
24 that was on offer at 48 Allen Street. So we're
25 kind of limited in our ability to answer that.

1 MR. SILVESTRI: Thank you. That's all I have for AT&T.

2 THE HEARING OFFICER: Thank you, Mr. Perrone.

3 We will now continue with cross-examination
4 of AT&T by Mr. Edelson followed by Mr. Silvestri.

5 Mr. Edelson?

6 MR. EDELSON: No further questions.

7 Thank you, Mr. Morissette.

8 THE HEARING OFFICER: Thank you, Mr. Edelson.

9 We will now continue with cross-examination
10 by Mr. Silvestri followed by Mr. Nguyen.

11 Mr. Silvestri?

12 MR. SILVESTRI: Thank you, Mr. Morissette.

13 If I heard correctly the cemetery location at
14 48 is 50 feet lower in elevation than Osgood
15 Avenue. Did I hear that correctly?

16 THE WITNESS (Lavin): I believe I said that it is
17 approximately 53 feet. Again we don't know where
18 on the cemetery it is, and it's falling away to
19 the south.

20 To kind of elaborate more on the groundswell
21 in the 65 Allen and 73, they're at about 250 to
22 260 from what I can see compared to our existing
23 site at 344. So we're 90, 90 feet lower down
24 there. Again, this is not my survey.

25 MR. SILVESTRI: No, understood. But what I'm trying to

1 put in perspective, if elevation of 48 Allen
2 Street is lower, I heard just now that a 100-foot
3 tower would suffice, yet what was proposed for
4 Osgood Avenue is at 104 and I can't reconcile the
5 numbers and I'm hoping you can help me on that?

6 THE WITNESS (Lavin): On this case it has to do with
7 the alignment. It's -- the cemetery property is
8 closer to the middle of the coverage gap. It was
9 ruled out before based on real estate concerns.

10 It's -- given its situation in more or less
11 in the middle of the coverage gap, it doesn't need
12 the same ground elevation relative to everything
13 around it, but these things are also sensitive to
14 exactly where you are relative to all the hills
15 around there.

16 The overall ground elevation isn't the only
17 determining factor in how it's going to cover.

18 MR. SILVESTRI: Understood, Mr. Lavin. And what I just
19 heard is that 48 Allen Street from a coverage
20 standpoint seems to be better and give you a lower
21 height by comparison to what we talked about at 43
22 Osgood Avenue. Is that --

23 THE WITNESS (Lavin): A lower overall ASML, above mean
24 sea level, yes.

25 MR. SILVESTRI: Okay. Thank you. And one final

1 question I had just to close what I see as a gap
2 on the other two parcels.

3 With 65 and 73 Allen Street, hypothetically
4 if a cell tower was placed on either of those two
5 properties what would you do with a hinge point?

6 THE WITNESS (Lavin): Pre-engineered faults, we'd have
7 to look at that with the power company, but we
8 basically look at that, the distance to the
9 property line from the -- from the base of the
10 tower.

11 Again, the -- it's a 40 -- 73 Allen Street is
12 only a 50-foot wide parcel. So that gives us only
13 25 feet to the property line. So we'd have to
14 have an engineer fault at the height of the tower
15 minus 25 feet.

16 MR. SILVESTRI: Yeah, that's kind of what I was looking
17 at, Mr. Roberts, again that being in my opinion a
18 tight property for both of those, 65 and 73. I
19 was trying to figure out where the heck a hinge
20 point might be and it just didn't work in my mind
21 unless there were, say, multiple hinge points to
22 try to keep that on the property.

23 THE WITNESS (Lavin): Well, once -- you know again,
24 these were all theoretical failures, but if it was
25 to shed the top 25 feet of the tower, you know, it

1 reduces its wind exposure, you know, surface area.

2 So it should be -- it should be able to
3 withstand a much higher wind speed.

4 MR. SILVESTRI: Okay. Thank you for your response.

5 Mr. Morissette, that's all I have. Thank you.

6 THE HEARING OFFICER: Thank you, Mr. Silvestri.

7 And we'll continue with cross-examination of
8 AT&T by Mr. Nguyen, followed by Ms. Cooley.

9 Mr. Nguyen?

10 MR. NGUYEN: Thank you. I have no further questions.

11 Thank you.

12 THE HEARING OFFICER: Thank you, Mr. Nguyen.

13 We will now follow up with Ms. Cooley, and
14 then myself. Ms. Cooley?

15 MS. COOLEY: Thank you, Mr. Morissette.

16 I have no further questions.

17 THE HEARING OFFICER: Thank you, Ms. Cooley.

18 I have one clarifying question in my mind. I
19 think Mr. Lavin mentioned a hill, where there was
20 discussion about a hill with a higher elevation on
21 the property.

22 It's not clear to me where that is, and I was
23 wondering if someone could help me out there?

24 THE WITNESS (Lavin): If you look on Google Earth --

25 I'm just putting the topo map up, it's concurrent

1 pretty much with that, just north of where the
2 main road coming in from Allen Street divides into
3 a circle with a road through the middle.

4 **THE HEARING OFFICER:** Uh-huh?

5 **THE WITNESS (Lavin):** It's just north of there. It's
6 the very top of the hill. It's pretty -- very
7 central to the cemetery property.

8 **THE HEARING OFFICER:** Yeah, that's real central to the
9 property. It looks like there are gravestones in
10 that area.

11 **THE WITNESS (Lavin):** Very unlikely place to be digging
12 a foundation for a tower, yes.

13 **THE HEARING OFFICER:** Okay. So if you go north -- so
14 the elevation, does it go up as you go north
15 towards Eddy Glover Boulevard? Is that correct?

16 **THE WITNESS (Lavin):** As you go maybe a hundred feet
17 past that traffic circle in the path there it
18 starts to drop down again toward Eddy Glover
19 Boulevard. That is the highest spot on the
20 property there.

21 **THE HEARING OFFICER:** I see. Okay. Thank you. That
22 was helpful.

23 That's all the questions I have. We will now
24 continue with cross-examination of AT&T by the
25 Applicant.

1 Attorney Ball?

2 MR. BALL: Thank you, Mr. Morissette. I want to just
3 ask a couple questions, if I can, to Mr. Lavin.

4 So this area where there's hill, is that
5 consistent with the Marbelle Street entrance that
6 we talked about earlier?

7 THE WITNESS (Lavin): It's the Marbelle -- the
8 cul-de-sac at the end of Marbelle Court is just
9 about the same northern location as the top of the
10 hill.

11 MR. BALL: Right. And Mr. Lavin, I think you heard
12 Mr. Coppins testify that the cemetery rejected the
13 tower in that location with that Marbelle Street
14 entrance.

15 And my question is, if you're not able to
16 locate a tower at the top of the hill and you're
17 at a lower elevation point, would that mean you
18 need a tower that's taller than a hundred feet?

19 THE WITNESS (Lavin): It's -- it's quite possible, yes.
20 I haven't studied other locations to know for
21 sure, but it's quite possible we need a bigger
22 tower.

23 MR. BALL: Thank you. Thank you, Mr. Morissette.

24 That's all I had.

25 THE HEARING OFFICER: Thank you, Attorney Ball.

1 Okay now we will go to the appearance of the
2 City of New Britain. We'll continue with the
3 appearance the City of New Britain to swear in
4 their new witness Justin Dorsey and verify their
5 new exhibits marked as Roman numeral four, items
6 B6 though '9 on the hearing program.

7 MR. DIAKUN: Mr. Morissette, might I ask a question of
8 Mr. Lavin?

9 MS. BACHMAN: I'm sorry, Mr. Morissette. Attorney
10 Diakun did not have an opportunity to
11 cross-examine AT&T.

12 THE HEARING OFFICER: Oh, I skipped? Boy, I'm not
13 doing well today. Am I? Sorry. Sorry,
14 Mr. Diakun. Please continue.

15 MR. DIAKUN: Thank you, sir. I'm going to return to
16 the question I asked Mr. Coppins.

17 Mr. Lavin, I'm going to refer you to Exhibit
18 E of the application. This is going to page 9,
19 which is the current coverage map. Can you please
20 flip to that portion of the exhibit, please?

21 THE WITNESS (Lavin): I have it right here, yeah.

22 MR. DIAKUN: Thank you. So I'm looking at where
23 Farmington Ave meets Allen Street, which is just
24 south of the gold star which represents 43 Osgood.

25 I refer you to the testimony of the exchange

1 between Mr. Coppins and Mr. Morissette on
2 September 2nd discussing that, sort of, that
3 corner where Farmington Avenue meets Allen Street.

4 Would you agree that that area represents an
5 area that is experiencing low or very poor
6 coverage for AT&T?

7 **THE WITNESS (Lavin):** That area is -- compared to the
8 proposed location? Yes, the signal levels -- the
9 signal levels in that location are lower than
10 those at the proposed site location.

11 **MR. DIAKUN:** And how would you describe the coverage
12 area in the proposed site, which is 43 Osgood?

13 **THE WITNESS (Roberts):** In terms of what exactly?

14 **MR. DIAKUN:** As in terms of cellular coverage. I mean,
15 I suppose green is the best -- this map, this map
16 would represent green being, I guess, the best
17 that this is showing. And then the white being
18 the worst.

19 Am I reading that correctly?

20 **THE WITNESS (Lavin):** It's -- green is our optimal
21 coverage. Orange is acceptable. White is below
22 the threshold.

23 **MR. DIAKUN:** And you would agree that 43 Osgood is in
24 optimal.

25 **THE WITNESS (Lavin):** Optimal is a rather difficult

1 thing to achieve in this area. Given all the
2 constraints we had, that was the best site there
3 was available.

4 MR. DIAKUN: But you would agree that 43 Osgood -- what
5 this map is showing is that 43 Osgood is an area
6 of optimal coverage, if green represents optimal
7 coverage?

8 THE WITNESS (Lavin): The location where it is?

9 MR. DIAKUN: We're at 43 Osgood.

10 THE WITNESS (Lavin): At 43 Osgood, yes. There's green
11 coverage there.

12 MR. DIAKUN: Okay. So just by that, would it not --
13 and given the fact that this map shows poor to
14 less optimal coverage south of 43 Osgood, but
15 would it not be preferable for the Arx Wireless
16 tower to be constructed at 48 Allen Street, which
17 is located in the corner of Farmington Ave and
18 Allen Street to fill in those gaps?

19 THE WITNESS (Lavin): Once we get a landowner agreed
20 location we can discern whether it will be better
21 or not.

22 MR. DIAKUN: But can you tell from this map just based
23 on --

24 THE WITNESS (Lavin): No, I can't. It has to be a
25 specific location, otherwise I'm just speculating.

1 MR. DIAKUN: Would it be a fair inference that it could
2 be better, better for the tower to be in that
3 location?

4 THE WITNESS (Lavin): If, if we get the spot right at
5 the top of the hill -- where it seems like we
6 can't build anyways, that is certainly an
7 acceptable location for us. Anyplace else we'll
8 have to analyze.

9 MR. DIAKUN: Okay. Thank you, Mr. Lavin. That is the
10 end of my questions for AT&T. Thank you.

11 THE HEARING OFFICER: Thank you. And I apologize for
12 skipping over here.

13 MR. DIAKUN: (Unintelligible) -- Morissette.

14 THE HEARING OFFICER: Okay. So now we will continue
15 with the appearance of the City of New Britain.

16 We will continue with the appearance of the
17 City of New Britain to swear in their new
18 witnesses, Justin Dorsey, and verify the new
19 exhibits marked as Roman numerals four, items B6
20 through '9 on the hearing program.

21 Attorney Bachman, can you please begin by
22 swearing in Justin Dorsey?

1 J U S T I N D O R S E Y,

2 recalled as witnesses, having been previously
3 duly sworn, were examined and testified
4 under oath as follows:

5
6 THE HEARING OFFICER: Thank you, Attorney Bachman.

7 Attorney Diakun, please begin by verifying
8 your new exhibits you have filed in this matter,
9 and then verifying exhibits by the appropriate
10 sworn witness. Please continue?

11 MR. DIAKUN: Let me just make sure I get the numbers
12 correct here.

13 So let's start with Exhibit Number 6. This
14 is an email from Joseph E. Skelly, Jr. Can you
15 just take a look at that, sir? This is Exhibit
16 Number 6.

17 Is this a true and correct copy of the
18 e-mail? You're on this e-mail chain?

19 THE WITNESS (Dorsey): Yes.

20 MR. DIAKUN: And so do you wish the Council to accept
21 this as a full exhibit?

22 THE WITNESS (Dorsey): Yes.

23 MR. DIAKUN: Okay. I'm now referring you to Exhibit 7
24 which is your affidavit. And had you submitted
25 this affidavit to the Siting Council on September

1 29, 2021.

2 THE WITNESS (Dorsey): Yes.

3 MR. DIAKUN: And your affidavit was signed under oath,
4 sir?

5 THE WITNESS (Dorsey): Yes.

6 MR. DIAKUN: And have you had an opportunity to review
7 your affidavit?

8 THE WITNESS (Dorsey): Yes.

9 MR. DIAKUN: And is the information set forth in your
10 affidavit true and accurate to the best of your
11 knowledge?

12 THE WITNESS (Dorsey): Yes.

13 MR. DIAKUN: And are there any additions, corrections,
14 modifications or clarifications which you would
15 like to make?

16 THE WITNESS (Dorsey): No.

17 MR. DIAKUN: And are you asking the Siting Council to
18 accept your affidavit as your testimony today?

19 THE WITNESS (Dorsey): Yes.

20 MR. DIAKUN: I'm now referring you to Exhibit Number 8.
21 This is a copy of two assessor cards, one for 65
22 Allen and one for the other Allen Street property,
23 73 Allen. Have you seen exhibits before?

24 THE WITNESS (Dorsey): Yes, these look right.

25 MR. DIAKUN: Okay. And so these are true and accurate

1 copies of the assessor cards that you've seen for
2 these two properties?

3 THE WITNESS (Dorsey): Yes.

4 MR. DIAKUN: And would you like the Siting Council to
5 accept Exhibit 8 as a full exhibit?

6 THE WITNESS (Dorsey): Yes.

7 MR. DIAKUN: And the last one is an e-mail. This is
8 Exhibit 9 from Ira Feigenbaum to Joseph E. Skelly,
9 Jr.

10 Have you seen this e-mail before?

11 THE WITNESS (Dorsey): Yes.

12 MR. DIAKUN: Okay. And is it a true and accurate copy
13 of the e-mail itself?

14 THE WITNESS (Dorsey): Yes.

15 MR. DIAKUN: Okay. And would you like the Siting
16 Council to accept this Number 9 as a full exhibit?

17 THE WITNESS (Dorsey): Yes.

18 MR. DIAKUN: I believe that is it, Mr. Morissette.

19 THE HEARING OFFICER: Thank you.

20 MS. BACHMAN: Mr. Morissette? I'm sorry to interrupt
21 you again. We did receive an additional e-mail
22 correspondence this morning. Attorney Diakun, did
23 you want to introduce that into the record?

24 MR. DIAKUN: I would. I didn't want to push my luck as
25 I didn't see it was on the actual list of

1 exhibits -- but let me pull it up here, because I
2 would like to do that.

3 MS. BACHMAN: And that would be Exhibit Number 10.

4 MR. DIAKUN: Yes, and let me just see if I have it.

5 Oh, I've got it right here. Okay.

6 Mr. Dorsey, this is being marked as -- was
7 that Exhibit 10, Attorney Bachman?

8 I'm sorry, is this going to be Exhibit 10,
9 you said.

10 MS. BACHMAN: That's correct, Attorney Diakun.

11 MR. DIAKUN: Thank you. I'm marking this as Exhibit 10
12 for identification.

13 Have you seen this e-mail before, Mr. Dorsey?

14 THE WITNESS (Dorsey): Yes.

15 MR. DIAKUN: Okay. And is this a true and accurate
16 copy of the e-mail between Mr. Skelly and yourself
17 CC-ing an e-mail from Barry Feigenbaum?

18 THE WITNESS (Dorsey): Yes.

19 MR. DIAKUN: And would you like the Siting Council to
20 accept this exhibit as a fill exhibit?

21 THE WITNESS (Dorsey): Yes.

22 MR. DIAKUN: Okay, I believe that is it. Thank you.

23 THE HEARING OFFICER: Thank you, Attorney Diakun. And
24 thank you, Attorney Bachman.

25 Does any party or intervener object to the

1 admission of the City of New Britain's exhibits?

2 Attorney Ball?

3 MR. BALL: No objection.

4 THE HEARING OFFICER: Thank you, Attorney Ball.

5 Attorney Regan?

6 MR. REGAN: No objection.

7 THE HEARING OFFICER: Thank you. The exhibits are
8 hereby admitted.

9 We will now begin cross-examination of the
10 City of New Britain by the Council, starting with
11 Mr. Perrone followed by Mr. Edelson.

12 Mr. Perrone?

13 MR. PERRONE: Thank you, Mr. Morissette.

14 With respect to the cemetery owned
15 properties, does the City have a preference
16 between 48 Allen Street versus 65 and 73 Allen
17 Street?

18 THE WITNESS (Dorsey): No.

19 MR. PERRONE: Thus far have your communications with
20 representatives of the cemetery association, have
21 they been related to 48 Allen Street only?

22 THE WITNESS (Dorsey): Yes.

23 MR. PERRONE: Okay. That's all I have. Thanks.

24 THE HEARING OFFICER: Thank you, Mr. Perrone.

25 We'll now continue with cross-examination by

1 Mr. Edelson followed by Mr. Silvestri. Mr.
2 Edelson?

3 MR. EDELSON: Thank you, Mr. Morissette.

4 Mr Dorsey, in your affidavit you indicate
5 that you've been in the office of the mayor since
6 November of 2013. Have you been the Chief of
7 Staff that whole time?

8 THE WITNESS (Dorsey): No, I became the Chief of Staff
9 in January of 2020.

10 MR. EDELSON: And what was your role or position before
11 that?

12 THE WITNESS (Dorsey): Deputy Chief of Staff.

13 MR. EDELSON: Okay. And so in that time since you
14 became Chief of Staff and even before you were
15 well aware of communications that would be sent to
16 the Mayor.

17 Would that be fair to say?

18 THE WITNESS (Dorsey): Communications pertaining to
19 what, sir?

20 MR. EDELSON: The Town, the town activities?

21 THE WITNESS (Dorsey): Oh, yes, I'm aware of those.

22 MR. EDELSON: Okay. And on the second page of your
23 testimony you indicate that you had two telephone
24 conversations with Attorney Feigenbaum, but I
25 don't believe you've indicated when those

1 happened.

2 Can you clarify when you had those two
3 conversations?

4 **THE WITNESS (Dorsey):** I can't recall the exact dates.
5 I do know they both happened after your last
6 Siting Council meeting.

7 **MR. EDELSON:** I guess my question is, when at our last
8 meeting we had a request from the Town to continue
9 this hearing to look at two sites -- and I took it
10 at that time to be that the Town already knew that
11 those two sites were potentially available.

12 What we've learned this morning is it appears
13 that -- or this afternoon, that the Town had not
14 contacted Eversource because Eversource, as we've
15 heard before this afternoon, was not interested.
16 And it appears that prior to your conversations,
17 which as you say happened after the hearing, you
18 had not reached out to Attorney Feigenbaum.

19 So I'm wondering if you could clarify when
20 the Town asked us to continue this hearing, what
21 made you believe that these two sites might be
22 available to the Applicant?

23 **MR. DIAKUN:** Well first of all, I just want to say
24 we're no longer -- we no longer -- we all believe
25 that 148 Allen Street is -- or 148 Farmington Ave

1 is no longer a viable location.

2 MR. EDELSON: We opened this hearing on the basis of --

3 THE HEARING OFFICER: Excuse me? Excuse me for a

4 second. Excuse me? The attorneys cannot provide

5 testimony in the hearing. Please have your

6 witness respond without responding yourself.

7 Thank you.

8 THE WITNESS (Dorsey): Sir, I can't speak to all of

9 that. I was not at your last hearing. I know

10 what I was -- the folks I was asked to reach out

11 to immediately preceding at that hearing. That's

12 the only information I can provide.

13 MR. EDELSON: So just to be clear, you were not aware

14 of the petition to reopen the hearing to review

15 the two sites?

16 THE WITNESS (Dorsey): Well, I was aware of that -- but

17 I'm saying was I was not aware of what was

18 discussed at your last hearing, sir.

19 MR. EDELSON: Okay. Just to be clear, so prior to --

20 THE WITNESS (Dorsey): (Unintelligible.)

21 MR. EDELSON: Prior to the hearing, you as Chief of

22 Staff had not been involved in reaching out to

23 either Eversource or to the cemetery?

24 THE WITNESS (Dorsey): Prior to the hearing, no.

25 MR. EDELSON: Very good. So if I could, I would like

1 to ask about some things that came up at our last
2 hearing, and that's in regard to your position as
3 Chief of Staff.

4 Were you aware that back in September of
5 2020, before the application went in that
6 Mr. Skelly had written a letter to the Applicant
7 indicating that the Town was opposed to the site?

8 THE WITNESS (Dorsey): I cannot say for certain.

9 MR. EDELSON: Okay. Were you aware of the
10 communication, the Fedex received -- or sent to
11 the Town with the technical report? I believe
12 that was in November, November 14th of 2020?

13 THE WITNESS (Dorsey): I cannot say for certain.

14 MR. EDELSON: So do you remember ever seeing the
15 technical report?

16 THE WITNESS (Dorsey): I cannot say for certain, no.

17 MR. EDELSON: Okay. Were you aware of Mr. Skelly's
18 letter of November 17th where he proposed two
19 alternative sites?

20 THE WITNESS (Dorsey): I cannot say for certain, no.

21 MR. EDELSON: I mean, maybe I should have asked the
22 prior question at your role as Chief of Staff --
23 and again, I realize every town can kind of define
24 a position of Chief of Staff differently, but I
25 would appreciate if you could describe a little

1 bit of what your responsibilities are as Chief of
2 Staff with regard to communication from people
3 in -- I really should say, developers in the town,
4 people who want to do business activities in town
5 and the Mayor.

6 Do you typically not see those communications
7 because that's not part of your role? Or can you
8 elaborate on what your responsibilities are?

9 THE WITNESS (Dorsey): See -- oversee the day-to-day
10 operations of this building, sir. There are
11 things that are brought to my attention, but a lot
12 of times directly they are filtered through our
13 front of the office which we have trained the
14 different departments that the things go to.

15 So a lot of times things will get to the
16 front of our office and go directly to Corporation
17 Counsel, or go directly to Economic Development or
18 go essentially directly to any part/department
19 that specifically handles those.

20 MR. EDELSON: So just to be clear, you're here today
21 because someone in the Town -- I asked you to
22 reach out to Mr. Attorney Feigenbaum.

23 Is that your purpose here today?

24 THE WITNESS (Dorsey): Correct.

25 MR. EDELSON: Okay. Not because you have some overall

1 involvement as Chief of Staff in vetting
2 information for the Mayor regarding development
3 applications that come before the Town?

4 **THE WITNESS (Dorsey):** Well, not necessarily. Just
5 based off of the things that I've heard today,
6 sir. So they had mentioned, you know, about title
7 searching and surveying would be a step in the
8 process.

9 That kind of information I can tell you, you
10 know, I'm sitting right now 30 feet away from the
11 room that they're going to do the title search
12 from, that if that was necessary, I could walk
13 downstairs and grab the paper for them and save
14 them a huge step in the process.

15 Same thing with surveying. Our public works
16 department surveys, you know, we have surveyors
17 that work for us. So if an A2 survey needed to be
18 completed, I could call up to the Public Works and
19 say, hey. We're going to send somebody out to do
20 that.

21 So for that matter I can speak to those
22 issues.

23 **MR. EDELSON:** Well, a very important part of our
24 process is what we call municipal consultation and
25 what I thought we were about today is trying to

1 lean over as far as we could to make sure that
2 municipal consultation was done in a proper way.
3 And we heard testimony in the prior hearings that
4 indicated there were -- things did not go as well
5 as we might like as a Council.

6 And I was kind of hoping maybe you could help
7 me clarify that, but apparently that that's not
8 the case. So with that, thank you very much.

9 And Mr. Morissette, that's all I have at this
10 time. Thank you.

11 **THE HEARING OFFICER:** Thank you, Mr. Edelson.

12 We'll now continue with cross-examination of
13 the City of New Britain by Mr. Silvestri followed
14 by Mr. Nguyen.

15 Mr. Silvestri?

16 **MR. SILVESTRI:** Thank you, Mr. Morissette.

17 And Mr. Dorsey, good afternoon.

18 **THE WITNESS (Dorsey):** Good afternoon.

19 **MR. SILVESTRI:** A major question I have for you is, why
20 is there interest from the City at building a cell
21 tower and a compound at the cemetery at 48 Allen
22 Street?

23 **THE WITNESS (Dorsey):** I don't know if there's interest
24 in that specific site. I just know that it's an
25 option. The proposed site that we're currently at

1 we're very concerned, one, of the expressed
2 displeasure of the residents in the area; and two,
3 any further development that could happen on that
4 site.

5 MR. SILVESTRI: Well, going back to displeasure that
6 you mentioned from residents in the area, if
7 something were to be built around Allen Street, do
8 you see the same type of dissension?

9 THE WITNESS (Dorsey): To my knowledge, it's not as
10 heavily populated. And you know, not for nothing,
11 a good part of the residents in that area are in a
12 "cemetery," for lack of better term.

13 So -- but the direct area around I'll refer
14 to as Israel Putnam School because that's what we
15 know it here in New Britain as -- which is the 43
16 Osgood.

17 I mean, our phone was ringing, you know,
18 almost four or five times a day from different
19 residents saying that. So the Mayor, you know,
20 took to the objection of that with -- also the
21 intention is that, hey, we will help you guys find
22 another location that's suitable for everybody.

23 MR. SILVESTRI: And again, I'm just curious as I don't
24 think anything has been disclosed to the
25 residences in the area of Allen Street or even in

1 the Eversource property area. I would surmise
2 that should something be disclosed, you'd probably
3 get the same type/amount of phone calls from them
4 as you did Osgood.

5 Would you agree with that?

6 THE WITNESS (Dorsey): It's possible. I mean, anything
7 is possible, sir. But there's also a higher
8 density from what I could picture in my head right
9 now of trees that I feel that would provide more
10 coverage than the Osgood area.

11 MR. SILVESTRI: Okay. I think I'll stop there. Thank
12 you, Mr. Morissette.

13 THE HEARING OFFICER: Thank you, Mr. Silvestri.

14 We will continue with cross-examination by
15 Mr. Nguyen followed by Ms. Cooley.

16 MR. NGUYEN: Thank you, Mr. Morissette. I have no
17 further questions.

18 THE HEARING OFFICER: Thank you. We'll now continue
19 with cross-examination by Mr. Cooley followed by
20 myself.

21 Ms. Cooley?

22 MS. COOLEY: Thank you, Mr. Morissette. I have no
23 further questions.

24 THE HEARING OFFICER: Thank you, Mr. Cooley.

25 I have one question for Mr. Dorsey. Would

1 you be the person -- well, let me ask a higher
2 level question. Is the Town willing to support
3 the Applicant in securing hopefully a spot on the
4 property that we've been talking about here today?

5 **THE WITNESS (Dorsey):** You're speaking of the Allen
6 Street one?

7 **THE HEARING OFFICER:** Yes, the 48 Allen Street.

8 **THE WITNESS (Dorsey):** Yes, sir. I wouldn't have been
9 asked to make the phonecall if we weren't
10 interested in supporting that.

11 **THE HEARING OFFICER:** Okay. So going forward, you're
12 committing that the City of new Britain would be
13 willing to support the efforts by the Applicant to
14 secure a site on that property?

15 **THE WITNESS (Dorsey):** Absolutely.

16 **THE HEARING OFFICER:** Okay. And would you be the
17 person that would be leading that effort?

18 **THE WITNESS (Dorsey):** I would make it a point to, sir.
19 I mean, for lack of a better term -- the Mayor
20 leads all efforts in the City, but as far as under
21 her, I would, absolutely.

22 **THE HEARING OFFICER:** So on her behalf you would be the
23 person that's leading that effort?

24 **THE WITNESS (Dorsey):** Yes, sir.

25 **THE HEARING OFFICER:** And what are your thoughts about

1 the -- at this point in time I know everything is
2 pretty much preliminary and there's been some very
3 early discussions, I'll call it, relating to the
4 48 Allen Street.

5 What are your thoughts about the ability to
6 successfully move forward on that property?

7 THE WITNESS (Dorsey): Other than supporting it and,
8 you know, you'll have to forgive at least some
9 naivety on my behalf. I mean, I think you guys
10 have the official approval of it. But as far as
11 any, you know, other issues that the City would
12 have, I don't foresee any for certain.

13 THE HEARING OFFICER: Okay. Do you see it as your
14 preliminary discussions, that something that the
15 parties could -- I know these are very high level
16 questions I'm asking, but I'm trying to get a
17 sense from you as to what your, you know, are you
18 optimistic about moving forward or not?

19 THE WITNESS (Dorsey): I would be personally, yes,
20 optimistic.

21 THE HEARING OFFICER: Well, thank you for that. I know
22 it was -- those are based on your thoughts and
23 feelings rather than on fact. But thank you,
24 Mr. Dorsey.

25 We will now continue with cross-examination

1 of the City of New Britain by the Applicant.

2 Attorney Ball?

3 MR. BALL: Thank you. Mr. Morissette.

4 Good afternoon, Mr. Dorsey. My name is David
5 Ball. I represent the Applicant.

6 So as I'm understanding your testimony, you
7 support -- the City supports the location of a
8 tower on 48 Allen Street? Is that your testimony?

9 THE WITNESS (Dorsey): Yes.

10 MR. BALL: You're aware that 48 Allen Street is a
11 residential neighborhood?

12 THE WITNESS (Dorsey): Yes.

13 MR. BALL: Has the City consulted with any of the
14 neighbors immediately adjacent to 48 Allen Street
15 to gauge whether there would be neighborhood
16 opposition to the location of a tower at 48 Allen
17 Street?

18 THE WITNESS (Dorsey): No.

19 MR. BALL: As you sit here today isn't it fair to say
20 you don't even know where on 48 Allen Street a
21 potential tower would be located? Right?

22 THE WITNESS (Dorsey): Are you saying where on the
23 property?

24 MR. BALL: Yes.

25 THE WITNESS (Dorsey): No, I believe that would be up

1 to you guys in the cemetery.

2 MR. BALL: Yeah. So without knowing the precise
3 location of the proposed tower on the site, the
4 City wouldn't even be able to know which neighbors
5 to reach out to, to gauge whether they are opposed
6 to a tower in their neighborhood. Right?

7 THE WITNESS (Dorsey): Yes.

8 MR. BALL: Has the City done any visibility analyses
9 associated with the tower on 48 Allen Street?

10 THE WITNESS (Dorsey): I have not.

11 MR. BALL: Has anyone in the City?

12 THE WITNESS (Dorsey): I can't answer that question.

13 I'm not sure if we -- if some of our attorneys did
14 or not.

15 MR. BALL: You don't know whether a visibility analysis
16 was performed, sir?

17 THE WITNESS (Dorsey): I do not, sir.

18 MR. BALL: Okay. Are you aware of any environmental
19 analyses performed with respect to a tower at 48
20 Allen Street?

21 THE WITNESS (Dorsey): I am not.

22 MR. BALL: Do you know whether there are any deed
23 restrictions that could impede locating a tower at
24 the cemetery site?

25 THE WITNESS (Dorsey): At the current moment, no, but I

1 could have that information in five minutes if I
2 go to the town clerk office.

3 MR. BALL: Okay. Do you know whether there would be
4 any impediments to locating underground utilities
5 at the cemetery?

6 THE WITNESS (Dorsey): No.

7 MR. BALL: All right. I just want to be clear. It
8 sounds like you're supporting a tower now at 48
9 Allen Street, but when you were asked earlier
10 about 65 Allen and 73 Allen you said you had no
11 preference. So is the City also supporting a
12 tower at 65 Allen and 73 Allen?

13 THE WITNESS (Dorsey): If you don't mind, if I could
14 just look at this property real quick one more
15 time?

16 MR. BALL: I don't mind.

17 THE WITNESS (Dorsey): That's correct, sir.

18 MR. BALL: All right. Now you agree 65 Allen is
19 .34 acres. Right?

20 THE WITNESS (Dorsey): Yes.

21 MR. BALL: And you heard Mr. Roberts testify that the
22 closest home is just 54 feet away?

23 THE WITNESS (Dorsey): Yes.

24 MR. BALL: And the City is supporting a tower there?

25 THE WITNESS (Dorsey): Yes.

1 MR. BALL: Have you consulted with the neighbors near
2 65 Allen to see if they are opposed to a tower
3 54 feet away?

4 THE WITNESS (Dorsey): I have not.

5 MR. BALL: Okay. Let's just talk about 73 Allen. That
6 property is 0.1 acres. Right?

7 THE WITNESS (Dorsey): Yes.

8 MR. BALL: You heard Mr. Roberts testify that the
9 nearest home is just 45 feet away.

10 The City is supporting a tower there?

11 THE WITNESS (Dorsey): Yes.

12 MR. BALL: And have you consulted with any of the
13 neighbors, the neighbor that's 45 feet away to
14 gauge whether they oppose it?

15 THE WITNESS (Dorsey): No.

16 MR. BALL: Mr. Dorsey, both 65 Allen and 73 Allen are
17 currently undeveloped lots.

18 Is that an accurate characterization?

19 THE WITNESS (Dorsey): From what it looks like, yes.

20 MR. BALL: They're covered with trees from all the --

21 THE WITNESS (Dorsey): Right.

22 MR. BALL: Right. How many trees would need to be
23 removed at 65 Allen Street to build a tower there?

24 THE WITNESS (Dorsey): I do not know.

25 MR. BALL: Okay. Do you know how many trees would have

1 to be removed at 73 Allen to build a tower there?

2 THE WITNESS (Dorsey): No, sir. I have never built a
3 tower.

4 MR. BALL: I understand you, in response to
5 Mr. Edelson's questions, you indicated, I guess,
6 that you weren't aware the technical report was
7 sent to the City in November of 2020.

8 Is that accurate?

9 THE WITNESS (Dorsey): I believe my response was, I
10 can't say for certain.

11 MR. BALL: Okay. At any time during the municipal
12 consultation period did the City ever suggest to
13 Arx that Arx should evaluate a tower at 48 Allen
14 Street even though its certified letters went
15 unanswered?

16 THE WITNESS (Dorsey): I cannot say for certain.

17 MR. BALL: Are you one aware of any communication from
18 the City to Arx asking Arx to look at that site
19 during the municipal consultation period?

20 THE WITNESS (Dorsey): I cannot say for certain.

21 MR. BALL: Okay. Are you aware of any time in the ten
22 months from the time we sent you the technical
23 report to the last hearing in September, 2021,
24 when the City asked Arx to look at building a
25 tower at 48 Allen Street?

1 THE WITNESS (Dorsey): I cannot say for certain.

2 MR. BALL: Can you for the record testify as to
3 anything the City did in that ten-month period to
4 facilitate any discussion between Arx and the
5 owner of the cemetery?

6 THE WITNESS (Dorsey): I cannot say for certain.

7 MR. BALL: Thank you, Mr. Morissette.

8 I have nothing further.

9 THE HEARING OFFICER: Thank you, Attorney Ball.

10 We'll now continue with cross-examination of
11 the City of New Britain by AT&T.

12 Attorney Regan?

13 MR. REGAN: No questions, Mr. Morissette.

14 THE HEARING OFFICER: Thank you, Attorney Regan.

15 Moving on. Before closing the evidentiary
16 record in this matter the Connecticut Siting
17 Council announces that briefs and proposed
18 findings may be filed with the Council by any
19 party or intervener no later than November 4,
20 2021.

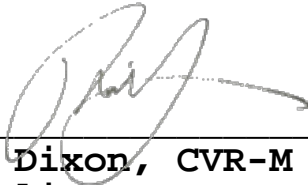
21 The submission of briefs or proposed findings
22 of fact are not required by this Council, rather
23 we leave it to the choice of the parties and the
24 intervenors.

25 Anyone who has not become a party or

1 CERTIFICATE

2
3 I hereby certify that the foregoing 63 pages
4 are a complete and accurate computer-aided
5 transcription of my original verbatim notes taken
6 of the remote teleconference meeting in Re:

7 DOC. NUMBER 503, ARX WIRELESS INFRASTRUCTURE,
8 LLC APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL
9 COMPATIBILITY AND PUBLIC NEED FOR THE
10 CONSTRUCTION, MAINTENANCE, AND OPERATION OF A
11 TELECOMMUNICATIONS FACILITY LOCATED AT 43 OSGOOD
12 AVENUE, NEW BRITAIN, CONNECTICUT, which was held
13 before JOHN MORISSETTE, Member and Presiding
14 Officer, on October 5, 2021.

15
16
17 

18 _____
19 Robert G. Dixon, CVR-M 857
20 Notary Public
21 BCT Reporting, LLC
22 55 Whiting Street, Suite 1A
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24 My Commission Expires: 6/30/2025
25

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