

**SPECIAL INFORMATIONAL MEETING
OF THE
BOARD OF PARK COMMISSIONERS
ANDERSON TOWNSHIP PARK DISTRICT
MARCH 19, 2008**

Board Member Gail Wright opened the special informational meeting concerning the cell tower installation at W.M. Johnson Hills Park for the Board of Park Commissioners of the Anderson Township Park District and representatives of Arcadia Communication at 5:35 pm at the Anderson Township Park District, Beech Acres Arts & RecPlex, 6915 Beechmont Ave. Also present were Board Members: Duffy Beischel, Dale Bartholomew and Nadine Gelter; staff members: Ken Kushner, Executive Director; Emily Armstrong, Assistant Director; Bailey Martella, Financial Officer/Board Clerk; Mike Smith, Scott Lahman, Brian Jordan, Sheila Fehn and Michael Simon.

Ms. Wright stated the purpose of the meeting is to provide information about the proposed installation of a stealth wireless communications facility at Johnson Hills Park, 2950 Little Dry Run Rd, Cinti OH 45244.

Ms. Wright gave the format for the meeting and stated that after Mr. Kushner and the representative from Arcadia Communications had given various facts about the tower installation the Board of Park Commissioners would channel questions through the park's attorney, Tom Luebbers, and the Arcadia representative. Those attendees who indicated they wished to address the Board would then be called to the microphone and would be given 3-5 minutes to speak.

Ms. Wright then introduced Ken Kushner, Park District Executive Director.

Mr. Kushner gave an overview of the park district acquisition of the Johnson Park land. He specifically explained that Mrs. Johnson sold a portion of her land for \$1.125 million to the Anderson Township Park District and the Hamilton County Park District and eventually bequeathed the remaining portion of the property to the Anderson Township Park District. The only restriction Mrs. Johnson placed on the agreement was that the property must remain a public park in perpetuity.

Mr. Kushner went on to report this project would secure a positive revenue stream to the district for a minimum of 5 years with lease options up to 30 years and that the lease agreement could ultimately yield over \$1 million to the district through the life of the contract. The Anderson Foundation for Parks and Recreation would receive a one-time gift of \$65,000. These funds could be used as matching money for grants and for initial development planning. He also stated, per Board directive, approximately 40% of the district's operating budget must come from outside the tax base.

He stated the funds raised from the cell tower will be used for general operation of the district, i.e., shelters, parking lots, trails, rental facilities etc., so the community at large can enjoy their

parks. Mr. Kushner further stated the next step in the process would be for Arcadia Communications to apply to the Anderson Township Zoning Board (BZA) for a variance permit. If either party (Arcadia or the residents) were not in favor of the BZA's decision the action could go to the Court of Common Pleas for a final decision. Mr. Kushner stated the decision to license Arcadia Communication, as well as other issues, was discussed at several monthly public meetings of the Board of Park Commissioners (dates and times are posted on the park's website).

Ms. Wright then introduced Mr. David Pike, representing Arcadia Communication to outline the proposed plans.

Mr. Pike began his remarks with the fact that Arcadia Communications does care about the residents' opinions and that he knows that not everyone in the community will be pleased with the decision. He went on to outline the process for finding the best location for a tower and the fact that the Anderson Township zoning encourages companies to find placement for the towers on public property such as park land and school property. He said the discussions with the park district lasted many months with the district insisting on the monopole style that would be less obtrusive to the surrounding neighbors. He also reiterated that over the 30 years of the contract the pole could generate over \$1 million in revenue to the park district, provide space for park surveillance cameras and provide better cell phone coverage to enable emergency calls to be made. He further reported there are studies indicating that there is no basis to believe that the tower radio frequency is unsafe particularly given the height of this tower, and the vast majority of studies have shown there is no adverse affect on property values, especially with the stream line pole. Mr. Pike encouraged anyone in the group to contact him with further questions that might not be answered in this meeting.

At this time Ms. Wright began calling the names of those individuals who indicated on the sign-in sheet they would like to speak.

Mike Cromer: Mr. Cromer asked if the photograph in the handout was accurate showing the tower no higher than the trees. Mr. Pike indicated that the pole would be 170' in height and therefore at different angles there would be different views. Mr. Cromer voiced a strong opposition to a 170' tower and indicated he thought it was inappropriate on this site.

Sandra Sullivan: Ms. Sullivan began by stating she had found information on the park district website that the park is currently in a natural state which she thought was in direct conflict with the installation of a cell tower. She asked Mr. Kushner how the district knew cell towers and cell phones would still be used in 10, 20 or 30 years from now and if the park district had sought alternate commercial business proposals to bring in additional revenue such as the stable operation. Mr. Kushner stated that there is no guarantee that cell towers will be needed in the long term future, however, residential land lines are losing favor with more and more individuals using solely their cell phones. He also stated we have been and will continue to seek grants and donations and also use the \$65,000 from Arcadia as planning and matching funds for grants to enable the district to open Johnson because the revenue from our 1.9mil levy does not yield sufficient funds for development. Mr. Beischel said the staff is constantly looking for opportunities for additional revenue and noted the stable operation is only a breakeven venture

but has been continued as it gives us a daily presence in the park. Ms. Sullivan then asked if the district had projections as to the amount of revenue that could be received with 1 – 5 tenants on the tower. Mr. Kushner stated that the district does have such a project spreadsheet and he would have it posted on the park district website.

Susan Kerscher: Mrs. Kerscher stated that she had personally talked to Mrs. Johnson and discussed her gift of the land to the park district. She felt the tower violated Mrs. Johnson's intention and what Mrs. Johnson wanted to have done with the property.

Erica Smith: Ms. Smith asked if the same company is erecting the tower at Johnson as Beech Acres and why it needed to be 170' high and so ugly? Mr. Pike stated that it was not the same company, T-Mobile, had erected the one at Beech Acres. He also said that it needed to be high because of the hilly terrain and the appearance was going to be much more unobtrusive since it will be a monopole stealth tower with no equipment on the outside. She also asked if it wouldn't make more sense to acquire a permit before signing a contract? Mr. Pike answered that it is done in the opposite order since the company needed a vested interest in the property to actually apply for a permit.

Matt Fellerhoff: Mr. Fellerhoff, attorney for adjacent resident Mr. Jim Buck, stated he had communicated previously with the Commissioners and would continue to do so. He then asked if a carrier had been signed for the tower? Mr. Pike indicated that T-Mobile had signed.

Janet Miller: Ms. Miller asked what if more than 5 carriers wanted to be located on this tower? Mr. Pike stated there is a 5 carrier maximum and that no equipment would be put on the outside of the tower to accommodate additional carriers. She also asked if the water tower site on Little Dry Run Road had been investigated as a possible site. Mr. Pike answered that the site had been reviewed and found insufficient; and since township zoning encourages cell towers be placed on public property such as schools and parks, and as this site was found to be the best location they went no further.

Marianne Powers: Ms. Powers stated she would rather pay more in taxes than have the cell tower in this park to earn additional income. She also asked what other sources of income had been researched and what amount of millage would it take to give the park district the same amount of additional income. Mr. Beischel answered that it is the Board's objective to reduce the tax burden for all the residents of Anderson Township and the maximum millage allowed for the district is 2 mils. Ms. Powers also stated that no one she had spoken to had been asked if they were in favor of locating a cell tower in the park and wondered out loud where it would stop in relation to amenities added to the site. Mr. Beischel stated he felt the township residents as a whole would rather have a cell tower than raise taxes.

Tim Shipp: Mr. Shipp asked what the Board was thinking to put a cell tower on this property for only \$15,000-\$20,000 a year and bring economic horror to a single neighborhood? He wondered why only 45 residents received a notice for the meeting after the contract had been signed and when the first letter had gone out. Mr. Kushner stated that the letters were mailed at the end of

February to owners of property abutting Johnson Park. Mr. Luebbers indicated there is no legal requirement to notify the neighbors.

Mr. Shipp also inquired as to the Commissioners' involvement in the contact negotiations and any possible conflict of interest as it pertains to Commissioner Bissinger's status as being listed as Counsel for Arcadia Communications. Mr. Luebbers stated the Ohio Revised Code addresses this matter and in accordance with this code, each time the Commissioners discussed the matter, Mr. Bissinger publicly stated his relationship with Arcadia and abstained from all discussions and voting. This is reflected in the Board's monthly meeting minutes each time the matter was on the agenda.

Kurt Reiber: Mr. Reiber stated that he moved into this neighborhood with good faith that the park district would be a good neighbor. He reiterated, as others had, he didn't think sending 45 notices of the meeting was acting as a good neighbor and that the park receiving approximately \$33,000 +/- per year was enough to warrant placement on this property. He also asked if the water tower site could be used for the cell tower and what other sites were considered. Mr. Beischel noted that the district's 1.9 mil levy is devalued over the life of the levy and the last levy was passed in 2000. He also stated that the Board had voted to place a 1.9 mil levy on the ballot this November that will replace the current one. Mr. Pike reported Arcadia did look for other locations but since the Township zoning encouraged placement on parkland and this was the best site so they did not continue the search. Mr. Reiber asked if it was possible for the district to require a performance bond from Arcadia so the funds would be available if the tower was no longer needed and Arcadia was no longer in business with the ability to take it down? Mr. Pike noted that this was possible and that they had furnished such a bond in other communities.

Barry Peterson: Mr. Peterson held up papers that he noted were petitions against the tower signed by 150 residents and indicated that he thought there would be more residents at the meeting. He then asked the Board what they thought Mrs. Johnson's intention had been when she put in the Deed – "Also subject to all easements, reservations and restrictions of record and to the further restriction that no part of the real estate described above shall be sold, given away, conveyed, transferred or otherwise alienated for purposes other than use as public park". He stated that he didn't think the Board really cared about the residents since only 45 letters had been mailed; no survey had been done to seek public opinion of cell towers on park property, and, nothing written in any of the park's newsletters.

Mr. Peterson also asked if the tower had been put out for competitive bid to maximize the district's revenue and how the district knows we got the best deal. Mr. Luebbers stated that the district is not required seek competitive bids for this type of project. Mr. Peterson addressed the fact that Mr. Pike had noted there were no studies to indicate health risks from radio frequencies from cell towers. Mr. Peterson stated that the government has told the public there are no health risks on many matters that later were found otherwise.

Mr. Peterson asked if the first tower lease for T-Mobile had been executed before or after the park district executed the contract with Arcadia and if Mr. Luebbers was aware that Mr.

Bissinger had drafted the contract. Mr. Pike answered that the T-Mobile tenant contract had not been executed before the district signed the contract with Arcadia. Ms. Wright answered it was an oversight that Mr. Bissinger's name was on the contract and reiterated again that he did not participate in any way, shape or form in the negotiations between Arcadia and the Anderson Township Park District. Mr. Peterson then asked why the contract had not been changed to reflect this. Mr. Luebbers stated he had reviewed the contract for content to be sure it was favorable to the park district and not who drafted it. Mr. Peterson also asked if Arcadia hoped to garner favor by the fact that Mr. Bissinger sits on the Board of Park Commissioners. Mr. Peterson ended by saying that he didn't think the park district was acting as good stewards of the parkland and the district was doing an injustice to the residents of Anderson Township.

Ray Jackson: Mr. Jackson stated that he is a Real Estate Appraiser and a landlord and owns several properties housing cell towers in the adjacent Village of Newtown. He stated there is no documentation to substantiate the claim that cell towers have an adverse affect on adjacent property values.

Laura Friedmann: Ms. Friedmann asked about the utilities being brought in to support the cell tower. Mr. Kushner stated that they were very similar to what will be needed when the district starts construction of the park amenities i.e. asphalt drives, parking lots, shelters and other rental facilities. Mr. Kushner advised that there would be an 8' fence surrounding the 3,600 sq ft. area housing the support features for the tower. Ms. Friedmann closed by saying that the beautiful woods should be kept as they are.

Steve Magas: Mr. Magas thanked Mr. Kushner for the information sent to him. He noted that in the September 12, 2007 minutes Mr. Kushner asked the Board if they were sure they wanted to continue with the negotiations with additional mention of the project in October, November and the contract authorization in December. Mr. Magas stated that he thought that the discussions had been going on for over a year and there had never been any public notices or articles in the district's newsletter. Mr. Magas asked Mr. Luebbers if he had reviewed and written an opinion letter concerning the deed language that states: "Also subject to all easements, reservations and restrictions of record and to the further restriction that no part of the real estate described above shall be sold, given away, conveyed, transferred or otherwise alienated for purposes other than use as public park". Mr. Luebbers stated that he had reviewed the language but had not written an opinion letter. In closing, Mr. Magas outlined 5 reasons why the neighboring property owners are not in favor of the tower:

1. People fear their property values will decline
2. Health issues
3. The tower is ugly
4. Appeared to happen in a secretive atmosphere
5. No development plan for the park

Dan Parker: Mr. Parker stated that he is a 19-year user of the park district and just wanted to go on record as being opposed to the cell tower. He asked the location of the next closest tower, if the tower actually needed to be 170' in height and who was responsible for the maintenance after it is built. Mr. Kushner stated that he wasn't sure about the location of closest tower but this

tower had to be at least 170' because of the hilly terrain and that Arcadia Communications is responsible for the maintenance. Mr. Parker then asked who appoints the Park Commissioners, if they were all residents and if any one of them had a cell tower in their yard. Mr. Beischel answered the Board of Park Commissioners are appointed by the Township Trustees, they are required to be Anderson Township residents; and, he can clearly see a cell tower from his front yard. Mr. Parker also asked if the tower had been competitively bid and if Arcadia came to the district or if the district actively sought companies. Mr. Kushner reiterated that there is no legal requirement to competitively bid this type of project and that Arcadia had initiated the discussion with the district. He also stated that the tower construction is based on need for coverage in the area and not on a desire by the district. In closing Mr. Parker stated that he thought this decision is very short sighted of the Board and hoped the Commissioners would "take it off the table".

At 7:27 p.m. Ms. Wright asked if anyone else had comments. With no one coming forward she thanked everyone for attending and adjourned the meeting.

Submitted by,

Bailey H. Martella
Financial Officer/Board Clerk

Dale Bartholomew

Duffy Beischel

Nadine Gelter

Gail Wright