

**CITY COUNCIL MEETING OF
January 17, 2007**

VERBATIM TRANSCRIPT ITEM 111- SUP-15027

Item 111 SUP-15027 PUBLIC HEARING APPLICANT/OWNER: STEVEN PORTNOFF Request for a Special Use Permit FOR A PROPOSED 80-FOOT HIGH AMATEUR RADIO ANTENNA TOWER on the south side of OBannon Drive, approximately 140 feet west of Lisa Lane (APC 163-04-401-002), U (Undeveloped) Zone [R(Rural) General Plan Designation], Ward 2 (Wolfson).

Appearance List:

OSCAR GOODMAN, Mayor

STEVEN PORTNOFF, Applicant

BARBARA JO RONEMUS, City Clerk

GARY REESE, Councilman

LOIS TARKANIAN, Councilwoman

STEVE WOLFSON, Councilman

JAMES LEWIS, Deputy City Attorney

LARRY BROWN, Councilman

SUSAN BROWN, 2201 Country Cottage Court

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MAYOR GOODMAN

One eleven is SUP-1-5-0-2-7, same applicant owner, request for a Special Use Permit for a proposed 80-foot high amateur radio antenna tower on the south side of O'Bannon Drive, approximately a hundred and forty feet west of Lisa Lane. The Planning Commission and staff recommended denial. These are in Ward 2. These are all public hearings, which I now declare open. At this time before we hear, are you Mr. Portnoff?

STEVEN PORTNOFF

I am.

MAYOR GOODMAN

Okay. Before we hear from Mr. Portnoff, I believe we should make a matter of record a letter from Doug Rankin dated December 21st 2006 to Mr. Portnoff. Have you received that, Sir?

STEVEN PORTNOFF

I have.

MAYOR GOODMAN

Okay, very good. Ms. Ronemus, do we have it in the record yet?

BARBARA JO RONEMUS

Yes, we do, Your Honor.

MAYOR GOODMAN

Okay. Very good. I'd be happy to hear from you, Sir.

STEVEN PORTNOFF

Good afternoon Mayor, Council. I am the applicant Steven Portnoff.

**END OF RELATED DISCUSSION
RESUMED RELATED DISCUSSION**

STEVEN PORTNOFF

Okay. Sorry, this, is easier watching you guys on TV; being here is

MAYOR GOODMAN

No problem.

STEVE PORTNOFF

little intimidating.

MAYOR GOODMAN

You're doing just fine.

STEVE PORTNOFF

Thank you.

MAYOR GOODMAN

Take your time.

STEVE PORTNOFF

Okay. Ill do a little reading. Ill try not to bore you here. Im going read from part 97.15B of the Federal Communications Act. Except as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service

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communications. State and local regulations of a station antenna structure must not preclude amateur service communications; rather it must reasonably accommodate such communications and must constitute the minimum practical regulation to accomplish the state and local authorities legitimate purpose. This is PRB1, 1-0-1 FCC 2D 9-5-2, 1985.

Also from NRS Statute 2-7-8 dot 0-2-8-5 Amateur Radio Limitations on restrictions, on Amateur Service Communications, limitations on regulations of stations antenna structures exception.

One; a governing body shall not adopt an ordinance, regulation or plan or take any other action that precludes amateur service communications or that in any other manner does not conform to provisions of 47CFR and 97DOC 15, and the limited preemption entitled Amateur Radio Preemption 1-0-1 FCC 2D9-5-2-1985 as issued by the Federal Communications Commission.

Two, if a governing body adopts an ordinance or regulation or plan or takes any other action that regulates the placement, screening or height of a station antenna structure based on health, safety or aesthetic considerations, the ordinance, regulation, plan or action must; a) reasonably accommodate amateur service communications and b) constitute the minimal level of regulation practical to carry out legitimate purpose of the governing body.

The Planning Commission has decided to regulate with PRB1, pre-exemption of local zoning laws that affect amateur radio communications as follow, and I quote: The Planning and Development letter dated December 5th, two thousand and six, I believe thats in your backup, they quoted: Local regulations which involve placements, screening or height of antennas based on health, safety or aesthetic considerations must be crafted to accommodate reasonable amateur communications, end quote.

The Commission adopted a limited preemption policy for amateur communications because there were strong federal interests in promoting amateur communications. We do not believe that a zoning regulation that provides extreme or excessive prohibition of amateur communication could be deemed to be a reasonable accommodation, PRB1 2000 Item 8. That was a reconsideration.

Councilmembers, its also important to understand that at the December 15, two thousand and six meeting, in which I, the City, the Attorney, Jim Lewis, Planning was represented by Mr. Doug Rankin, and two experts in the Citys communications department having to do with fire, were present at the meeting. Im sorry. And two Citys experts in communication were present.

Planning decided to completely ignore their experts. The two experts said what I had said; staffs offer to me would not work. Furthermore, in staffs December 21st, two thousand and six letter, and I quote, this correspondence is to indicate that the Planning Department will not support your request for approval of your amended proposal. In the City of Las Vegas a 60-foot lattice tower is commonly and typically associated with factory and industrial districts and not appropriate for this developed residential area. I have a couple of, seven pictures, actually.

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MAYOR GOODMAN

Lets see, 60 or 80?

STEVEN PORTNOFF

Sixty foot, Sir. The original application was for 80-foot. We had a meeting, of which Ill allow the City Attorney to explain that, if I havent already done a fair job of that. And I had resubmitted an application with the reduced height.

This is, as I said, the City letter said that a 60-foot lattice tower is commonly and typically associated with factories, industrial districts and not appropriate for this residential development. This is a commercial broadcast tower. We all recognize it as TV 13. This is another commercial tower. This is a shot of the Nevada Power facility by the Las Vegas Water District over on Valley View and Alta. Inside here are approximately 20 different commercial towers and some microwave antennas attached to them.

This is one of the oldest stations in Las Vegas, Nevada, which is Durango and Charleston, were the old generators used to be back in the early days to support the City in the 50s when the population was very small. Again, there is a multitude of commercial towers in this facility and commercial microwave dishes in here.

This is on the Countys own TI building; thats Shadow Lane, Pinto and Palomino. This is what is called a porcupine vertical, meaning all the attachments. Again, a commercial tower. And finally

MAYOR GOODMAN

Bless you.

STEVEN PORTNOFF

Bless you, Mayor Pro Tem. Finally, this is a monopole carrying cellular devices. This is our famous stealth-type palm tree that dont believe belongs here or the palm desert. These are in commercial and industrial or factory-type areas. The fact is, the lattice amateur radio tower is routinely located in a residential area, and those which are commonly and typically located in commercial and industrial and factory areas, are the broadcast-type cellular, commercial, porcupine vertical and monopoles.

And if I may have that overhead back, please. Okay. This is a lattice-type amateur radio tower. Thats an 80-foot tower. This is a lattice-type amateur radio tower.

MAYOR GOODMAN

When did you take these pictures?

STEVEN PORTNOFF

When?

MAYOR GOODMAN

Where?

STEVEN PORTNOFF

This one was taken on DI, adjacent to the Lakes, which puts it County; does not put it City. I understand that.

MAYOR GOODMAN

In a residential area?

STEVEN PORTNOFF

Yes, Sir.

MAYOR GOODMAN

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Okay.

COUNCILMAN REESE
The last three, before this one?

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COUNCILWOMAN TARKANIAN

Mr. Mayor?

MAYOR GOODMAN

Yes.

COUNCILWOMAN TARKANIAN

I would just like to make a comment on the Nevada Power that you showed on Valley View.
That is not adjacent to residential.

STEVEN PORTNOFF

Thats correct, Councilwoman. That is a

COUNCILWOMAN TARKANIAN

Its quite a bit (inaudible)

STEVEN PORTNOFF

commercial or a industrial area or factory area.

COUNCILWOMAN TARKANIAN

Okay.

STEVEN PORTNOFF

Thats the point in which Im trying to make.

COUNCILWOMAN TARKANIAN

Oh, I see.

COUNCILMAN REESE

Your Honor, if I could.

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MAYOR GOODMAN

Yes.

COUNCILMAN REESE

Where is this in here? That one in there; wheres that at?

STEVEN PORTNOFF

This one, if memory is correct, this one is in the County at Mount Hood and Owens.

COUNCILMAN REESE

Thank you.

COUNCILMAN WOLFSON

Mr. Portnoff, what are the measurements of the antenna, part of that last one? How tall is the tower and how wide is the antenna?

STEVEN PORTNOFF

If I have to go to definitions, the entire structure will be classed as an antenna, Sir. The height is 80-foot on the tower. Im not sure what the boom and the array is on these.

COUNCILMAN WOLFSON

Okay. But the boom and array on the one youre proposing is 70 feet wide and 35 feet in one direction and 35 feet in another direction. Correct?

STEVEN PORTNOFF

That is correct.

COUNCILMAN WOLFSON

So, in order to be fair to everybody, youre showing us examples, but youre not giving us the dimensions of these examples.

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STEVEN PORTNOFF

Im going to get there in a moment, if I might.

COUNCILMAN WOLFSON

Well, Im making sure that we take things in the right context

STEVEN PORTNOFF

Thank you.

COUNCILMAN WOLFSON

because the tower youre proposing is 60 feet

STEVEN PORTNOFF

Yes.

COUNCILMAN WOLFSON

with a 70-foot, 35 feet on each and 10 array.

STEVEN PORTNOFF

That is correct.

COUNCILMAN WOLFSON

Okay.

STEVEN PORTNOFF

This is a 70-foot lattice tower.

COUNCILMAN REESE

Where

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STEVEN PORTNOFF

This one

COUNCILMAN REESE

Excuse me, if I can, Your Honor.

MAYOR GOODMAN

Yes.

COUNCILMAN REESE

Wheres that last one? Wheres it at?

STEVEN PORTNOFF

This one, I believe, is also on the Mount Hood/Owens area. And now this brings us into the City of Las Vegas, being Charleston and 8th. This is a 60-foot tower. This array is probably 24 by 30; Im not sure. Id have to go back and look at it. There are other antennas that are on this particular residential house. The point that Im trying to bring up is that we have lattice towers that are here in residential areas.

This one is at Rancho and Gowen. There happen to be three towers here; one in the background, one here and one over here. Height, I didnt write down this. Im pretty much, so this is well above 50 feet in height.

This one is at Jones and Vegas. This is a 65-foot tower. This is a school at Lindell and West Oakey; the Hancock Elementary School. This is somewhere between 60 and 80 feet and there are houses around this, right across the street. Its a very tall tower with a very small dish on it. Its an open area. For one, I dont know why its up there, but it is; it does exist. Im thankful its in the City.

This is a lattice tower thats on Charleston/Campbell and Alta. The school is the Howard A. Wasden School, which thats a 60-foot lattice tower also. And thats right in the heart of a residential area, a very old residential area. I think its right next to the historic area off of Palomino, Pinto and Alta.

This is at Buffalo and Alta; in the Sperial home. Its an 80-foot tower and this is at least 30-foot of boom, Councilman. I dont know what brand antenna it is. Its something that I dont recognize, but

COUNCILMAN WOLFSON

Thirty feet each way or thirty, fifteen feet in

STEVEN PORTNOFF

The element, the elements -- are pretty close to the same.

COUNCILMAN WOLFSON

Okay, but my question is, for

STEVEN PORTNOFF

I dont know, honestly, how much the elements are that drape on it.

COUNCILMAN WOLFSON

Okay. Now you understand my point, though, Mr. Portnoff, cause youre proposing the elements which are the side antennas, as Im calling them.

STEVEN PORTNOFF

Yes.

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COUNCILMAN WOLFSON

What youre proposing is, on top of a 60-foot tower, 35 feet in each direction

STEVEN PORTNOFF

And Ill be happy to get to that.

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COUNCILMAN WOLFSON

which will total

STEVEN PORTNOFF

Ill be happy to get to that.

COUNCILMAN WOLFSON

Mr. Portnoff, hold on, which what youre proposing is 35 feet in each direction for 70 feet of antenna.

STEVEN PORTNOFF

Yes, Sir.

COUNCILMAN WOLFSON

Okay. Thank you.

STEVEN PORTNOFF

This is a 55-foot tower at Durango and just north of Alta, just north of Canyon Gate, just east of Peccole. And finally, this lattice amateur radio tower is 60-foot at Durango and Westcliff. This is in a side yard with what appears to be less than 10 foot to the neighbor, cause I know issues were brought up at one time about if it fell would it stay in your yard, does it rotate in your yard?

Whats the deal? And this is, again, another permitted tower thats in the City of Las Vegas.

Nevertheless, Im going to read again. Local regulations which involve placement, screening or height of antennas, based on health, safety or aesthetic considerations must be crafted to accommodate reasonable amateur communications and to represent the minimum practical regulation to accomplish the local authorities legitimate purpose.

And finally, in paragraph 26 of PRB1, the Commissioner said that, were confident, however, that state and local governments will endeavor to legislate in the manner that affords appropriate recognition to the important federal interest at stake here, and thereby avoid unnecessary conflicts in federal policy, as well as time consuming and expensive litigation in this area.

Amateur operators who believe the local state governments have been overreaching and thereby have precluded accomplishment of their legitimate communication goals, main addition use as document to bring the policies in attention to the local tribunals in forms.

Now, what has happened is that I went through staff, I placed an application for an 80-foot tall tower. I was told by staff that, no problem, along with my other two other variances. I didnt realize what no problem meant. I left the room. My planners, people said its okay to submit that application. I was under the impression with my engineer, who cant be here today, that, no problem, wasnt no problem, as I took it. It was going to be a problem, hence weve been here a long time; better than six months with the antenna. I have grown to know the Deputy City Attorney here. I think that we both gotten into some law thats new grounds for all of us because, as much as anybody else, I watch TV and I dont see amateurs come up before this Council or any other in this City. And I know that they just dont all appear overnight because Im going to do something that youre not going to see me do or catch me. Maybe its like the block wall next to my property. I dont know. I cant believe everybody is this blatantly turn their back on the law. It cant be, especially when I see the law allows us to come before a Council like this, present our case because of the importance of amateur radio and to get this type of permission on. I am compatible in a residential neighborhood based on the law, based on what I am installing. Councilman Wolfson is very right in the fact that Ive a very large antenna ray on top of this tower because staff has come back to me with limiting factors. Amateurs speak on many different bands and frequencies, many different distances from across the street to across the country to intercontinental. And those communication distances are done based on height of a brown, based on antenna array, different jobs. This is why I have found an antenna that has replaced three antennas, I hope, in my mind, its considerably more money than what I was

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originally going to put up. And yes, its large, but its not three or four devices that are in the air that look like clutter from hell. Its one piece thats very trimmed down. It has, as the Councilman is aware, it has six elements on it, not twelve, seventeen or twenty. Yes, its 34-foot long on its support. If you think of a TV antenna from the old days on top of your house, and the elements that lace over it are 35 feet on both sides or 70 foot. Yes, it will spin in my yard and stay in my yard, if it were to come down. Its centered in my lot. Its high in the air. I cant imagine this becoming a problem in the neighborhood because its a residential approved antenna. Its not something has been laid on me thats found in a commercial or industrial factory area. And with that, Im here to answer any questions the best I can, and I would respectfully request unanimous approval on this.

MAYOR GOODMAN

All right before we open up for questions as this time, lets hear from the Attorney and give us your perspective on what were supposed to decide here. I have one question of somebody, before we go forward, is this a target for any kind of potential terrorism? I mean, are these targets or

STEVEN PORTNOFF

You mean, is the antenna a target?

MAYOR GOODMAN

Yes.

STEVEN PORTNOFF

No.

MAYOR GOODMAN

Okay.

STEVEN PORTNOFF

In fact, you know, we do live in strange times, and I hate to pull the 9-11 tag out, but you yourself have been instrumental in getting us back on the Citys watch list and getting us an opportunity to go after, I think 10 million in federal funds because you too wish to build a communication center in the northwest, is what I read.

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MAYOR GOODMAN

Thats correct.

STEVEN PORTNOFF

And HAMS, as youre very well aware, I dont care what kind of disaster it is, we are the educated communicators, were the ready force and volunteers, no pay, we spend thousands, ten of thousands dollars on our own stuff, we pay our own way. We are the spread between municipalities and FEMA and TSA and homeland security. Were the ones that are there because were prepared, and when all of this doesnt work, were the guys that seem to have communications up.

MAYOR GOODMAN

Alright, before, Mayor Pro Tem.

COUNCILMAN REESE

Yes, this is to staff. Margo, has there been a, done any research on when the last tower like this was approved in the City.

MARGO WHEELER

No, Sir, we did not do any research of that type. The, all of the photos that he showed this evening were not given to us so that we didnt have that information.

COUNCILMAN REESE

Well, I mean, I would never question the man where he told us where they was. Ive been here a long time and I cant remember the last time I voted on an antenna like this in a backyard.

MAYOR GOODMAN

I dont think, from my recollection, I dont think that an issue like this has come before us.

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COUNCILMAN REESE

Well, Ive here for twelve years and I cant remember cause I know, with me, I would have a hard time approving this or avoided something like this in a backyard. And like I said, I dont remember, the twelve years Ive been here voting for something like this. I dont know when those antennas went up, whether they are legal whether theyre not legal, thats not for me to say today. Im just putting that on the record that I dont remember the last time antenna like this was approved in a backyard.

MAYOR GOODMAN

All right. Yes, Sir.

JAMES LEWIS

Mr. Mayor, thank you. If you wouldnt mind, Councilman Wolfson, I can, maybe explain the Citys interpretation of the relevant FCC regulations in this area. Mr. Portnoff did read you the relevant FCC regulation. That regulation has been interpreted three times since 1985 by the FCC. The catch phrase is PRB1. You might have heard him say that. That regulation, PRB1, and the considerations of that regulation by the FCC were codified by the State some number years ago. And he read to you as well. It was a 2-78 reference. Basically it says, City, you gotta look to PRB1 when making decisions with regard to these amateur radio antennas. Okay.

Now, what is PRB1 do? What PRB1 has been found to do by the FCC is one, it says that our ordinances that regulate these antennas must reasonably accommodate radio amateur operators. What that means is, we cant have an ordinance that says no amateur radio antennas; only 10-foot radio, amateur radio antennas or the like. What ours does is say, if you want something above 15 feet, you must come to the City and get a discretionary approval. That allows the City to take into consideration any factors in the request. Maybe he lives out, maybe the applicant lives somewhere where nobody else is living. Maybe he lives in an area where there are several existing antennas. Who knows? But as to PRB1 and our regulations, what it says is that we must reasonably; our regulation must reasonably accommodate the request. And it does because we have the Special Use Permit process and hes here before you making his case.

Number two, any action by the City on a particular application must reasonably accommodate his, the applicants specific request. And again, to not take too long here, he came in in May, August. He went to the Planning Commission once. He came to this Board once. This Board said, now, lets go back to the Planning Commission so we can discuss this further with you. That is the City trying to reasonably accommodate this mans request, the applicants request. In this case, we sat down with him, Doug Rankin and I, had Lou Amell, our Communication Supervisor and one of his people and we discussed with him what he is he wanted to do and what the Planning Department thought was appropriate in an area where youve got about two hundred and thirty some odd homes in a thousand foot radius from his house. What we came to was that we found that we couldnt agree, and that where we find ourselves today.

Lastly, PRB1 says to the cities, you may deny an application if the application is proposed in a residential area and it appears to be the type of tower or antenna that would be found typically in a factory area or an industrial area of the City. And Mr. Wolfson, Councilman Wolfson, youve got some pictures of some antenna that our Planning, may I come up and get those from you. Thank you, Councilman and Mr. Mayor.

MAYOR GOODMAN

Yes.

JAMES LEWIS

We've got a few pictures here of antenna, and if I can get the overhead, that would be helpful, of antenna, if you can just zoom in, please. Okay, very good. This one here is on Polaris near Spring Mountain. It's an industrial zoned area within our City. You'll notice that there is a antenna there that is of a similar nature to the antenna requested at the applicant's residence.

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Here is another picture. This is at Procey near Spring Mountain. It is again of a similar nature to the antenna that the applicant is requesting.

And then lastly, this you'll need to zoom in as far as we can, please. This is Channel 3 at Foremaster Lane. Again, you've got an antenna there that is similar character to the one that's being requested, except this has microwave antennas on it and the applicant's will not.

Anyway, to sum up on our interpretation of the relevant law the federal government nor state government has said that you must approve this application when one comes in for one. It says you've got to talk to him. You've got to negotiate with him, and if you can come to some reasonable agreement, great. If you can't and the tower looks like something that would be in an industrially zoned area, then you're free to deny it. So, that's where we find ourselves today, and I can answer any other questions you may have.

MAYOR GOODMAN

All right. Thank you very much. All right. Well, we have the, both positions have been put forward rather forth rightly. And do you have any questions of either of the gentlemen?
Councilman Brown.

COUNCILMAN BROWN

Thank you, Your Honor. Mr. Lewis, can you explain, there was some reference to the local authorities' mission or purpose.

JAMES LEWIS

Yes.

COUNCILMAN BROWN

And

JAMES LEWIS

And Mr. Mayor, if I may. What I need to find the PRB1. Okay. What the applicant was reading from was the opinion that was given by the FCC in 1985 when the Amateur Radio Board went to ask the FCC for a determination and declaration as to what does the, what do these certain regulations mean. What he read to you was one of the regulations that they were in fact trying to interpret. And let me read it to you again.

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JAMES LEWIS

Do you have it there?

STEVEN PORTNOFF

What do you want, the RB1 (sic) 2000 (inaudible)?

JAMES LEWIS

Yes, the thing that you had with it.

STEVEN PORTNOFF

That's exactly what I read. It's 2000.

JAMES LEWIS

Yeah, right. Right. Let me read this again. This was, and tell me, Councilman, if this what it is you're asking. Local regulations within, which involve placement, screening or height of the antenna is based upon health, safety, aesthetic considerations must be crafted to accommodate reasonably amateur communications. Is that the one?

COUNCILMAN BROWN

Continue.

JAMES LEWIS

The Commission, okay and then he's got some words here. Oh, this is quoting PRB1 from the 2000, that was the 2000 reconsideration. The Commission adopted the limited preemption policy for amateur communications because there was a strong federal interest in promoting amateur communication. We do not believe that a zoning regulation that provides extreme or excessive prohibition could be deemed to be a reasonable accommodation.

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COUNCILMAN BROWN

But I understand a reasonable accommodation, but maybe Mr. Portnoff can help out. On two occasions you referenced something about the local authorities' purpose or mission.

STEVEN PORTNOFF

You're, you, if I can find the exact, but the local authorities over legislating or regulation has a balancing act, is where you're coming from. And this stems back to PRB1 1985. If I might, PRB1 2000 was an opinion or memorandum that was tried to be reshoved down the FCC's throat.

COUNCILMAN BROWN

I understand and I've heard what you've said. All I need to hear again is the context of

STEVEN PORTNOFF

Okay.

COUNCILMAN BROWN

that language. And the only thing I caught was the local authorities' purpose or mission or sense of life. Somewhere in there it was referenced twice. I needed to know what context that was given.

STEVEN PORTNOFF

A governing body shall not adopt an ordinance, regulation or plan or take any other action that precludes amateur service communications. Was that the one?

COUNCILMAN BROWN

No.

STEVEN PORTNOFF

Okay.

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COUNCILMAN BROWN

I think I heard this twice. Is that your prepared text?

STEVEN PORTNOFF

Would you like my text to skim through?

COUNCILMAN BROWN

Could I take a look at it?

STEVEN PORTNOFF

Certainly.

COUNCILMAN BROWN

And I would defer until I find it. Thank you, Your Honor.

MAYOR GOODMAN

All right.

STEVEN PORTNOFF

It's either on that page or the next.

MAYOR GOODMAN

No problem. All right. Any other questions at this time.

COUNCILMAN BROWN

Your Honor, here we go.

MAYOR GOODMAN

Okay.

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COUNCILMAN BROWN

It's, rather it must reasonably accommodate such communications and must constitute the minimal practical or regulation to accomplish the state or local authorities' legitimate purpose. If you could, and that's in that first paragraph

JAMES LEWIS

Right. I

COUNCILMAN BROWN

could you give some insight on that, context

JAMES LEWIS

Thank you.

COUNCILMAN BROWN

as far as our legitimate purpose.

JAMES LEWIS

Yes, certainly, Councilman Brown, through you, Mayor. The, your legitimate purpose is it is when were talking about what it is you do up here; the health of your citizens, the safety of your citizens, and the general welfare of your citizens. Aesthetics falls within the police power. And so, they use those few words to explain a lot of words, which is what it is you do on a daily basis up here. That mission, that purpose is to make sure that you balance the amateur radio operators needs to communicate as he sees fit and the public at large.

COUNCILMAN BROWN

And that is our legitimate purpose to balance that.

JAMES LEWIS

Yes.

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COUNCILMAN BROWN

Okay. Thank you, Councilman.

MAYOR GOODMAN

All right. This is a public hearing, folks, if anybody would like to be heard, that should certainly go in our equation. Just step up and give us your name, please. Be happy to hear from you.

SUSAN BROWN

Doctor Susan Brown, 2201 Country Cottage Court; its a property about 50 yards from the proposed site of the tower. I met Mr. Portnoff last night for the first time at our community meeting. And he seems like a very nice man and all of us in the community would love to see him come and build his home. However, we are in vigorous opposition to this tower for many reasons. I dont want to belabor the point that it is an eyesore that its, it will be unappealing characteristic for the neighborhood. We respect Mr. Portnoffs enthusiasm and passion for his hobby, but we have serious concerns about the tower and are opposed.

Id also, I dont wanna belabor the aesthetics point because, obviously, you hear a lot of that, but two other concerns that are of primary importance to us are, number one, these type of towers are well-known to produce a lot of interference in the area with other electronic equipment. I, myself, am a physician. I provide emergency services in the evening and I need my cell phone to work. I need my communications equipment to work and Mr. Portnoff isnt able to give us any concrete assurance that his activity with his hobby wouldnt interfere with those type of functions. Therere also several people in the community which, who have implemented medical devices in. I dont see many of them here today, but they had also expressed concern about possible interference with their medical devices that are implanted.

And second of all, Id just like to point out that in this specific area we have a situation where there are tandem high power lines, which run down Lisa and which also run down Durango surrounding our properties. And those already admit, emit a relatively high amount of, I guess, whats referred to as electromagnetic radiation. This is a known cause of deleterious health effects, so much so that the FCC has maximal exposure levels which must be adhered to. And I havent heard anyone address what the addition of a high output tower like Mr. Portnoffs on top

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of the exposure that we get from those power lines, would do to our cumulative exposure in the area. And I thank the Council for their time.

MAYOR GOODMAN

All right. Thank you very much. Anybody else want to be heard? See, my problem, and hearing the Doctor make her presentation, she raises three issues that, basically, are hypothetically. We dont have any empirical data, other than, you know, your representation that there may be issues concerning interference with yourself, the electromagnetic issue. And of course, those things are, or the, an implement, those things are true, then thats something we should worry about. I dont know whether we have enough. I think right now were stuck with aesthetics, unless you disagree.

JAMES LEWIS

Mr. Mayor, if that question is directed at me, youve got, yes, aesthetic is a large part of what it is youre going to be thinking about and discussing today. You, youre also, you can also take into consideration the wom, the Doctors comments. Do we have any empirical evaluation of those comments? No, we do not. So

MAYOR GOODMAN

No, I mean Ive heard similar things, but I dont know whether theyre truthful or not, particularly about the electromagnetic wires. Ive heard that for years, but I dont know whether thats ever been a proven fact. But Im concerned that if we rely on that, that that may not be a legitimate basis. Im more concerned with the aesthetics. Of course, the Councilman knows that Ward better than we do and knows the neighborhood better than we do. So, we have to look to you for some guidance here.

COUNCILMAN WOLFSON

Thank you Mayor Goodman. First of all, Mr. Portnoff, Id like to thank you for participating in this process. I know it hasnt been an easy one. Youve been to a couple of Planning Commission meetings, to Council, neighborhood meetings and back to Council again, over a six or eight-month period, and I just kind of think that the system works. Right or wrong, whether you agree

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with our decision or not, we try to give you a fair opportunity to present your side of the case, and I think you have.

Id like to thank you Mr. Lewis for your input. Youve been working on this for a long time. Doug Rankin, there you are, Doug, Id like to thank you as well. Its been kind of joint effort to come to where we are today.

We did have a neighborhood meeting last night and Id guesstimate there were about 20 to 25 people, and almost universally, the people that attended the meeting were in opposition to the tower. I mean, we discussed the wall, fence, gate; we discussed your overhang as well, but certainly the central issue for discussion is this antenna.

I do have a couple of petitions. First of all, Id like to make part of the record our sign-in sheet for the neighborhood meeting last night, if I could add that to the record.

MAYOR GOODMAN

All right.

COUNCILMAN WOLFSON

Secondly, I have two separate petitions and Im told that on these petitions, one petition contains 36 signatures in opposition to the antenna tower; and the other one contains 17 persons in opposition. Id like to make these part of the record as well. Thank you.

MAYOR GOODMAN

All right, be made part of the record.

COUNCILMAN WOLFSON

And then finally, is there any way that we could have this put on the overhead, Roni? Margo, did you have one cause Id like to be able to refer to mine. Its right, a couple of, Jim, if we could use Margos so, I can refer to this, thank you.

A number of things came out at the meeting last night. And if we could zoom in just a little, thank you. Certainly the subject property is that square right in the center but to the immediate east or left on the screen is a set of newly constructed Richmond American Homes, thank you.

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And I don't know how many homes there are. I guess maybe 40 homes or so, and we sent out notices for purposes of our neighborhood meeting. I don't think anybody from Richmond American attended, and I think my best guess would be that, I don't think escrow has closed on any of those homes. So the Assessors records don't have any new individual owners; they only have Richmond American homes. And the point is that Mr. Portnoffs property is directly adjacent to single family residents that are very close to each other and directly, potentially, impacted by this antenna. Certainly, if you look to the north, those are two or three or four residential streets, somewhat dense. And then to the east, both north and south, those are a little larger properties. But this is truly a residential area, no doubt. We did, your first proposal, Mr. Portnoff was for an 80-foot tower and this 80-foot tower. Did your first proposal for an 80-foot tower also have the 70 foot antenna elements?

STEVEN PORTNOFF

No. It had a different array of arrangement on it.

COUNCILMAN WOLFSON

Okay. Well, in any event, what we tried to do is work with you as Mr. Lewis has discussed, and I think at some point in time the City talked about trying to accommodate you with a 40-foot retractable tower.

STEVEN PORTNOFF

Uh-huh.

COUNCILMAN WOLFSON

Meaning 40 foot in height, the tower, which could be lowered at certain times of the day. In other words, if we thought it was appropriate to allow you to have your tower in a raised position for 12 hours a day or 18 hours a day or whatever, the retractability would allow you to lower it, so that your neighbors and anybody else that, whether it be aesthetic value or there is the danger factor, people are concerned about in- strong winds, this tower being blown over. With a 40-foot retractable tower, we tried to accommodate you, and apparently that's not acceptable to you

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and you came back with a 60-foot tower with a 70-foot antenna array, is that right?

STEVEN PORTNOFF

Yeah. Can I respond a little bit on that?

COUNCILMAN WOLFSON

Sure.

STEVEN PORTNOFF

The 40-foot tower, I would be concerned about it falling over in the wind, personally, because their designed to support less antenna array. Thats not the reason that was discarded and said no thank you for the offer. I have radios that run 24-7, theyre called repeaters, and you do not raise them up and down. They also utilize a transmission line called hard line. Hard line is the same as copper plumbing would be to a water heater in the garage, not flexible but its rigid. You dont fold it up and down, youd break the line. The 60-foot tower was come about because the original tower at 80 foot (sic), Planning said that it was not compatible with the neighborhood. I might tend to agree with that. The tower was also physically made smaller from a 36-inch diameter triangle to an 18-inch diameter triangle. The tower was to be a guided tower, meaning its engineered to handle 90 mile an hour winds. And as I said at last nights Planning Commission, for my almost 35 years of living here, Ive not recalled winds above 81, 84 miles an hour in this valley. I clock winds at my own weather station up on Sunrise Mountain right now where I currently live, and the biggest wind up there has been 61 miles an hour in the past 30 months. I would only hope that my engineers, the building department are smart enough to build structures that dont come down in the winds, Councilman. So Im very comfortable about whatever Im told I have to build, thats whats gonna be built.

COUNCILMAN WOLFSON

Certainly appreciate your comments, Mr. Portnoff.

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STEVEN PORTNOFF

Thank you.

COUNCILMAN WOLFSON

The concern I have is this, is that if you were out in a more rural area, an area to the northwest for example, that we apparently keep drawing on today, where it wasn't as dense. Secondly, if you weren't the last person to join this neighborhood, I mean you- practically are, I mean from, I went out and walked the property myself, and from what I recalled almost everything around you is developed. So you're kind of like the last guy to- move in. Thirdly, we're talking about a tall tower, I mean, no matter what the dimensions are, we're talking about a 60 foot high with a 70 foot antenna array, 35 feet in each direction.

STEVEN PORTNOFF

Aesthetically it should look more pleasing way up in the air. It should look smaller.

COUNCILMAN WOLFSON

Well, okay, but it's gonna be in the center of your backyard and your house is surrounded by other residences. And the people that have spoken to me that lived in this area

STEVEN PORTNOFF

and two-story houses.

COUNCILMAN WOLFSON

Mr. Portnoff.

STEVEN PORTNOFF

Sorry.

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COUNCILMAN WOLFSON

Its all right. The people that live in this area have spoken loud and clear. I mean Ive received emails, Ive received telephone calls, we have petitions, weve had a neighborhood meeting, and with very- few exceptions, your surrounding neighbors are against this proposal. Now I fully recognize that there is a need for HAM radio operators for some of the reasons that have been discussed, in case of a God-forbid, an attack where some of our traditional communication equipment goes out, we rely on HAM radio operators, but youre not the only HAM hand radio operator in the City. I mean you, yourself, have given us pictures of other operators. So personally, God forbid if that act occurs where we need to rely on some HAM radio operators to come to our citizens aide, and you dont have your radio operating because of no antenna. Theres a lot of other people that are out there to help us. Its not like youre the only guy in town and if we dont allow you to put up your antenna, God forbid something happens, were without help. I mean you, yourself, showed us pictures and we have pictures. Theres a lot of HAM radio operators that would step in. So, once again I certainly appreciate what, its not like youre trying to bring a bad thing to the community, but just the physical thing youre trying to introduce to this community, I dont think is appropriate. So, **my motion would be for denial.** Im sorry, you want- to respond. Sure.

STEVEN PORTNOFF

And to answer two things. The reason the array is so large is because, yes, I probably based on what youve seen, would be the only one in the community that could operate any given band to get out of the city. Thats why the array is large. Also, I have been asked to accept the position as Communications Officer for the Military Affiliate Radio Association here in Las Vegas. And, as I said before, I didnt want to blow my horn about this, but Commissioner Goynes said it at Planning, he asked the question, Are you the go-to guy? Are you Mr. Emergency? And I dont want to go there with that, but I have been asked to step into that position. If this doesnt happen at this point, its not going to happen as fast as its going to. Now Im-

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COUNCILMAN WOLFSON

You- present that to us after eight months, the last 30 seconds of your presentation with nothing in writing. Weve got nothing that- support, Im not saying youre- misleading us but if you had some letter to give us that showed us that youre the go-to guy. But for you just to come in at this last minute and say that, I just- cant go with it, so with all due respect, **my motion is for denial.**

MAYOR GOODMAN

All right, lets vote please. Post. Motion carries. All right, thank you.

STEVEN PORTNOFF

Thank you.

MAYOR GOODMAN

Good luck to you, Sir.

(END OF DISCUSSION)

/ac/lc;yy