Shamong Township September 17, 2019

A regular meeting of the Shamong Township Joint Land Use Board was held on the above date at the Municipal Building. The meeting was called to order by Chairman Sweet, at approximately 7:00 P.M.

The Secretary stated that in accordance with the Open Public Meetings Law, notice of this meeting had been published in The Burlington County Times, and posted accordingly.

Pledge of Allegiance was recited.

Roll Call (absentees noted):

Noni Bookbinde-Bell	P	Amy Huber	P	Larry Sharrot	P
Michael Cooney	P	Gene Lera	P	James Sweet	P
Dave Diamond, Alt	A	Susan Onorato	P	Barbara Valenzano	P
Michael DiCroce	A	Bonnie Schneider-Alt	P	Kathleen Wigley	P

Also present were Christopher Norman, Esq. and Dante Guzzi, P.E.

On a motion by Mr. Sharrott, seconded by Mr. Sweet the August 20, 2019 regular and executive session minutes were approved with all Board Members present voting yes except Mr. Cooney, Ms. Huber, Mrs. Schnieder & Mrs. Wigley who abstained.

Resolutions:

2019-14 Carlo Amilcare, 388 Stokes Road (block 7, lot 6) bulk variance approval to construct a 34' X 24' pole barn for accessory residential use only.
On a motion by Mr. Sweet, seconded by Mr. Lera resolution 2019-14 was approved with all Board Members present voting yes except Mr. Cooney, Ms. Huber, Mrs. Schnieder & Mrs. Wigley who abstained.

2019-15 Joseph & Marni Mitchel 416 Stokes Road (block 6, lot 15.02) bulk variance approval to permit construction of a single-family residential dwelling.
On a motion by Mr. Sweet, seconded by Mrs. Onorato resolution 2019-15 was approved with all Board Members present voting yes except Mr. Cooney, Ms. Huber, Mrs. Schnieder & Mrs. Wigley who abstained.

Application:

- **Block 19.01 lot 12.01 (426 Oak Shade Road – Jennings)** seeking subdivision of an existing 17.24-acre lot into 3 buildable lots.

  Mr. Norman swore in Mr. Forrest Jennings. Mr. Jennings stated the reason of the subdivision is to sell try to sell his property. Mr. Guzzi stated the Pinelands Commission approved the sub-division however Mr. Jennings would need additional approvals from the Pinelands Commission and possible the Board to build on the subdivided lots. The plans of the sub-division were made available for the public to review. Mr. Jennings testified the sub-division would be filed by plat. Mr. Guzzi reported a portion of the property is wet-lands and the zoning is split with Regional Growth Commercial along the roadway and Agricultural Production to the rear. Mr. Jennings stated there is no commercial operations taking place from the outbuildings currently on the lot. Mr. Guzzi submitted his report to the Board. Mr. Jennings stated he is accepted the terms outlined in the report. Mr. Norman recommended a point of sale disclosure statement to ensure the purchaser is aware they cannot develop the lots without seeking Pinelands Approval. The meeting was opened to the public, as no public comment was made, the meeting was closed to the public.

  On a motion by Mr. Sweet, seconded by Mr. Sharrott the application was approved with the conditions noted above and found in Dante Guzzi's report on application and required applicant provide funding to update the Shamong Township Tax Maps. All the Board Members present voted yes.

- **Block 7, lot 21.06 (449 Oak Shade Road- Tower North @ Opici Wine).**
  Mr. Norman summarized the history of this application dating back to the January and February 2018 meetings. Mr. Norman include a summary of the sites Tower North/Verizon assessed for the proposed tower. Mr. Sweet testified the School Board was met several times by several Township representatives and turned down the tower on their property. Mr. Norman testified on several of the locations reviewed and why the cell tower did not work on the Oak Shade Road as it is a quasi-residential zone where you cannot place a cell tower as it could not be hidden in this zone, however the location is on the boarder of a residential and commercial zone.

  Mr. Sweet confirmed the February 2018 vote was a tie vote 3 – 3. Mr. Norman confirmed vote and stated the application failed as it required 5 votes since it was a

use variance. The applicant subsequently filed a suit against the Board's denial. The Township then sued the Pinelands Commission as the Township did not agree that the Cell Tower could not be in the Rural Development Zone. As the Pinelands Commission has far more resources than the Township, the Township did not pursue the suit against the Pinelands Commission as the Pinelands Commission wanted to fight this to the end with the Attorney General on staff and the cost of fighting the Pinelands would be too costly with limited benefits anticipated. Upon review, the Judge determined the reasons of denial were not valid. Mr. Norman stated he is hard pressed to find a valid reason for the Board to deny the application at this time without incurring large attorney fees. The Judge could have approved the application himself however he remanded it back to the Board for a decision.

Mrs. Onorato stated, Mr. Cooney & Ms. Huber recused themselves and left the meeting room at 7:18 as they are not permitted to vote on the application as Class I & II members. Mr. Norman reported he had reviewed a report generated by Mrs. Onorato confirming the Board members who were present at the February 2018 meeting and the Board Members who listened to the taped recording &/or read the transcript available for the January/February 2018 meetings, which makes the Board Member eligible to vote on the application after all testimony is completed tonight.

Warren Stillwell testified on behalf of Tower North and Verizon Wireless. He confirmed the applicant height requirement is typically 35 feet tall, however in Regional Growth and Town Center does not have this restriction, which is possible why the Pinelands Commission is recommending the Regional Growth area. Mr. Stillwell testified the application was for a D1, D2 and C variance and why. Mr. Stillwell believes the D3 variance is the concern as the application does not comply with section 110-96E (4) whereas the cell tower is permitted in certain locations as a priority such as Public Land, Resource Extraction site, Fire/EMS or on a land fill.

Mr. Stillwell testified the proposed location of the base of the cell tower is approximately 498' from the right of way of Oak Shade Road and to the rear of Indian Mills School so therefore this is an isolated and large site – over 7 acres and meets all of the other requirements with exception of being located on a prioritized site. Mr. Stillwell testified his client completed an exhaustive search of possible locations for the cell tower within that did not meet the prioritized location requirements within the area established by the Radio Frequency Engineer who testified where the Cell Tower was needed. The site meets all other conditions of the ordinance except being on a prioritized location. Mr. Stillwell testified there is case law of Coventry against Westwood where discusses the standard for the Board to follow where there is a D3 conditional use. In this case both the height and use are permitted, however the location is not within the prioritized location. Mr. Stillwell testified the Board confirmed all positive criteria were met, the negative criteria is a 2-prong test whether the deviation causes substantial detriment to the public good. In this case the proposed

location is not within the listed prioritized locations. The Applicant believes that although the property is not in the prioritized location it is not a detriment of the public good as it is a large property, remote and backs up to a large property within the area the tower needs to be located. Mr. Stillwell also verified his professional planner previously testified the only deviation is the Tower would not be located on a priorities site.

Mr. Norman then swore in Bert Stern, a principle in Tower North to testify. Mr. Stern then testified he has subsequently spoke with Superintendent Vespi of the Shamong Township Board of Education, who verified the School Board still had no desire to place the cell tower on their property with no specific reasons given. Mr. Stern stated previous discussions with the school stated the school had concerns with safety. Mr. Stern then testified he had confirmed with S. Onorato, Township Clerk that the Township had not acquired any additional land that would meet the requirements of the zoning requirements.

Mr. Norman testified the Board would not present any additional evidence or expert witnesses. Mr. Norman stated the Board cannot deny this application again on the same basis as last time. The proposed location of 150' cell tower cannot be screened from neighboring residential areas of Oak Shade Road, Indian Mills Road and the Millstone Development.

Before the meeting was opened to the public - Mr. Stillwell requested the right to rebuttal testimony based upon any public comments made relative to this application.

Mr. Sweet opened the meeting to the public:
Mathew Mc Crank, Esq. resident of Millstone development and representing Mr. Travis Pratt who owns property within 200' of the PIQ. Mr. Mc Crink has reviewed Judge Bookbinders report on remand of the application and confirmed this is a D variance and acknowledges the desire of the cell tower, but also is concerned of the location of this tower. Mr. Mc Crink also acknowledged the effort the applicant has taken in relationship to the requirements of the Pinelands Commission. He expressed concern of location relative to Mr. Pratts property, the school and his home. He acknowledged the risks of the tower as well as regular use of his own personal cell phone. He argued the public good, character of neighborhood & substantially impairs the intent and purpose of the master plan which equals the need for three (3) D variances. Mr. Mc Crink is very concerned with the negative impact to the character of the neighborhood.

Mr. Norman testified there is case law that local government may not regulate placement or construction of a cell tower on the basis of environmental effects of radio frequency emissions to the extent that the that such facilities comply with Federal regulations, which the applicant did submit proof the proposed cell tower would meet

these regulations. Mr. Mc Crink agreed however he is concerned that should the cell tower be approved it could operate for the next 20 – 30 years or more and continue to advance as technology advances such as 5G service which is also located very close to a school. Mr. Mc Crink also questioned if there was another location possible outside of the Township?

Mr. Travis Jason Pratt, self-employed as developer and landowner was sworn in by Mr. Norman. Mr. Pratt is also a licensed real estate agent for over 20 years. Mr. Pratt testified his six (6) properties within 200' of the PIQ will be devalued by. Mr. Norman questioned Mr. Pratt why he was not present at the January, February 2018 meetings. Mr. Pratt stated he did not received notice. Mr. Mc Crink testified he believes the Board has the proper tools to deny this application. Mr. Pratt testified a better location for the cell tower would be the gun club which he owns the land around the gun club, and he would have no objection to this sight. Mr. Norman informed the Board that the argument that the PIQ would require multiple variance is not unique. Any property within Shamong would require multiple variances for approval.

Kathy Wigley, Board member, asked Mr. Stillwell if the applicant could review for the map of the locations proposed and the area the cell tower would need to be located in for the benefit of the audience. Mr. Stillwell summarized the previous testimony of the radio frequency analysis where and why the sites chosen. He also summarized the Radio Frequency Design Analysis report and reviewed some of the charts and illustrations previously presented at the January 2018 hearing. Mr. Stillwell then summarized Exhibit A18 – A-20 which illustrated problems with existing service. Mr. Stillwell also testified that ultimately additional service providers could be located on the proposed tower in addition to Verizon as required by Federal, local and Pinelands regulations. Additionally, the tower would be made available to collocate municipal services on the Tower. Mr. Stillwell confirmed the applicant does have an FCC license for the entire area and that radio frequencies emitted from the Tower would meet all federal standards regardless. Mr. Stilwell confirmed the Tower would be part of the wireless system of current 4G and 5G service which will grow with approved technology which will meet all future FCC guidelines and regulations now and in the future. Mr. Stillwell confirmed the FCC guidelines will maintain all required and approved regulations for safety to the public in the future as well.

Mr. Norman informed the Board that there is 1999 NJ Supreme Court Case called Smart SMR which states there is Federal pre-emption and therefor the Board cannot base their decision to deny an application based upon radio frequency considerations.

Lisa Chidester - 15 Candle Court was sworn in by Mr. Norman and testified she was thankful for Shamong to take on this concern as she has no cell phone service at her home which caused her to change her occupation. She has concerns regarding the location, property value and safety for the proposed cell tower. Requested if there was

something the residents could do to assist with the process to move the tower on to another location.

Richard Shaffer - 8 Jennings Court was sworn in by Mr. Norman and asked how close the cell tower would be to the school building. The applicant estimated the cell tower would be 800 – 1,000 feet to the school building. Mr. Shaffer stated there is a German report which states living or working within ¼ of a mile of the tower could be harmful to your health. Mr. Shaffer questioned if there would be safety studies done by the Township and if the approval could be put on the ballot for the residents to decide. Mr. Norman stated the tower could not be put on the ballot based upon the regulations of State of New Jersey, municipal land use law.

Eileen Carlos – 109 Indian Mills Road was sworn in by Mr. Norman. Ms. Carlos questioned if the map shows where other cell towers are located, which the application stated it did. Chairman Sweet again informed the public all exhibits are available for anyone to review. Ms. Carlos stated she is here because this is about big money and Tabernacle has three cell towers valued from $450K to $750K in value and the one in Shamong is valued at over $400K. She would like to see Verizon be the good neighbor in this case and she is not saying it is not necessary but that it could be placed in another non-municipal site that would benefit everyone. Ms. Carlos asked if the Board discussed reducing the municipal restrictions to another site? Mr. Norman stated the Township Ordinances meet the requirements of the Pinelands Commission requirements, which he presented to Judge Bookbinder who did not accept this argument in deciding on the appeal. Mr. Norman confirmed the applicant made an exhaustive search of possible sites that the Pinelands also recommended, all of which failed. Mr. Norman reviewed the zoning within the Township that the cell tower is permitted. Mr. Jennings stated he owned property in the zone permitted. Ms. Carlos asked that this property be evaluated, and stated people are afraid and don't trust government or big businesses as Mr. Jennings just proved there is another potential site. Mr. Norman confirmed the Board is responsible to review the application in front of them which has meet the CMP and has Pinelands Approval. Mr. Norman testified the Board included in the initial resolution that the location of Red Onion Road might be a better location, but this was not recognized. Mr. Norman stated the Township went as far as to sue the Pinelands on this but had to make the decision to not pursue the lawsuit as it would cost tens of thousands of dollars to do so per Mr. Norman and take years with no surety the Township would win. Mr. Norman reminded those present that the Pinelands Commission has more resources than the Township to pursue the lawsuit further.

Kitty Stanley – 462 Shade Road was sworn in by Mr. Norman and testified she moved into her home in February and has grandchildren who visit her home which is located across from the proposed cell tower and would like to know why the Shamong Township Board of Education denied the cell tower. Mr. Norman stated this is a

question for the school board. **Shane Radcliff** stated was safety and security. Mrs. Wigley stated that kids climb towers and that is a potential safety risk.
Bert Stern stated the School Board was concerned the kids would climb tower and how to maintain security of the site with technicians on the property to maintain the tower on a regular basis. Chairman Sweet confirmed for the public that the school board owns the property not the Township.

Mr. Norman stated the FCC says the Tower is safe and the exposure of radio frequency cannot be used by the Board to deny the claim. Mr. Stillwell stated the proposed tower would put out 150 times less than what is approved by the Federal government for exposure risks.

Forrest Jennings 426 Oak Shade Road stated his property is zoned within the Regional Growth zone. Mr. Stilwell asked Mr. Jennings to show his property on the map. Mr. Stillwell showed the location of Mr. Jennings property to the Board and stated this site is just as close to several homes as the original site.

Andrew Pollock – 56 Meadowview Court was sworn in by Mr. Norman. Mr. Pollock stated he does not believe the health risks are not there as this is evolving. He does not want to see this technology tested on the kids of the school. Mr. Norman stated the Judge did not accept these concerns as valid reasons to deny the application. Mr. Norman stated if we deny the application again the Township will pay both the Township's and the applicants legal bills. Mr. Pollock is concern with the future technology of 5G on the children at the school. Mr. Sweet stated that the Board confirmed the current and future technology would be required to meet FCC approval.

Shane Ratcliff – 1 Jennings Court was sworn in by Mr. Norman. Mr. Ratcliff stated he is a Verizon customer and does not have any problems with his cell phone service. Mr. Ratcliff is concerned with the safety of the kids. Mr. Stillwell testified chain link fence would be placed around the base of the fence which would restrict the ability to climb the fence due to small holes in chain link. Additionally, climbing pegs would be removed to 15' so there would be no way to climb the tower without a ladder. Mr. Stillwell suggested his engineer and Mr. Guzzi, Board engineer review and make recommendations to make conditions of any approval to ensure safety of residents.

Doug Wilkens – 17 Rutland Court was sworn in by Mr. Norman. Mr. Wilkens grew up in Shamong and moved back to Shamong several years ago and he believes the tower is bad idea. Mr. Norman stated the applicant reviewed several sites and has authority over the placement of the cell tower within the Township and within the area approved by the FCC. Mr. Wilkens stated he believes the tower will drive property value down

Gary Winger – 470 Oak Shade Road was sworn in by Mr. Norman. Mr. Winger agreed with Mr. Wilkens as this is a horrible location for the tower. According to Zillow

his property is not going up in value very fast and the cell tower will adversely affect the value of homes as well. He believes the cell tower will take away from the feel of the community, reduce property values and people will not want to move into our community if a cell tower is placed so near to a school. Mr. Winger does not want the tower, find another location.

Jim Michalowitz – 8 Candle Court was sworn in by Mr. Norman. Mr. Michalowitz stated he is concerned with decision being driven by the costs of potential litigation going forward. Mr. Michalowitz reviewed a case Hillsboro Township won earlier this year on placement of a cell tower. He would like to see what other options the Township has.

Richard Shaffer testified he supports Mr. McCrink's earlier statement of the neighborhood characteristic will change and the property values will be affected. Mr. Norman stated from Judge Bookbinders findings requires expert testimony that property value would be negatively affected.

Rich Marcowitcz – 113 Shadow Lake Drive was sworn in by Mr. Norman. Mr. Marcowitcz questioned what does the Board need to have expert testimony on to prove the adverse effect of the character of the Township and property value will decline? Mr. Norman stated the Board would have to obtain the expert to research and testify property values.

Mr. Pratt testified on the negative effect of property value as it relates to cell towers located near a property.

Shane Ratcliff stated that he has received no notice of any Township meetings relative to this application. Mr. Norman reviewed the Municipal Land Use Law notice requirements for any property owner within 200' of the PIQ was notified. Mr. Ratcliff stated he only learned of the cell tower from a petition which was brought to his door.

Mr. Norman stated the Township already denied the application for the same reasons being requested by residents tonight, but Judge Bookbinder stated it was not a sufficient basis for denial. Residents asked if they could meet with the Pinelands Commission which they were informed they could and should review the contact information and meeting schedule on the Pinelands Commission website.

Carolyn Bruninghaus – 474 Oak Shade Road was sworn in by Mr. Norman. Ms. Bruninghaus stated she moved here 3 years ago due to the character of the neighborhood. A cell tower would negatively affect the character and property values. She has health concerns relative to the proposed tower. A website, bioinitiative.org is a good source of research on cell towers. Ms. Bruninghaus stated she went as far as to purchase a meter to measure radio frequency in her home which went off the charts

when placed near the router. Based upon this she is very concerned what the long term affects from the cell tower could do and how high the RF would be generated from the Tower. She stated over the years smoking and fertilizers on farms were both deemed safe and now they are not. How long will it take for the same results from the cell tower which she is against.

Aron Cunningham – 460 Oak Shade Road was sworn in by Mr. Norman. Mr. Cunningham stated he moved here seven years ago and is concerned that he did not get a notification on this application and learned it from someone knocking on his door. He has concerns with long term affects on health. He also believes the tower will affect the character of the area and property values which is a concern for him. He is less concerned about future litigation than the tower and is willing to pay higher taxes to do so. He is against the tower.

Matt Kingsley – 13 Crested Butte was sworn in by Mr. Norman. Mr. Kingsley is chief technology officer which designs radio frequency technology for aircraft so not an expert in the field but knowledgeable. He wants the Board to think about all of Shamong when making a decision. He stated when he searched for a house, his wife and himself checked their cell phones for signal strength from the driveway of any home they looked at and believes it is important to salability of a home. Mr. Kingsley stated he found a study which supported the higher frequency of a radio wave was safer as it would "bounce" off the human skin.

Arthur Stanley – 462 Oak Shade Road was sworn in by Mr. Norman. Mr. Stanley stated he moved here after researching locations without powerlines. He believes the property value will be negatively impacted by placing the tower near homes. He is also concerned for the health of his family due to the cell tower and wants the Township to hire experts to prove how this cell tower will affect our community.

Gary Winger – 470 Oak Shade Road testified he is concerned with the students that live all over the community that attend the school which will provide great cell service but the cell tower next to a school will drive potential buyers away.

Andy Pullock why weren't all residents notified of the application. Mr. Norman than reviewed the state of NJ municipal land use laws requirements which have been in existence since 1956. This law was followed on this application as required.

Eileen Carlos questioned what is the maximum height of the tower? Mr. Stillwell stated it is 150' including a 5' lightening rod. The ordinance matches the Pinelands requirements of being expandable to 200' tall. Ms. Carlos questioned if the Township hired experts when fighting the Pinelands, which Mr. Norman stated yes as he represented the Township. Mr. Norman testified the Pinelands has more resources to fight the Township and the Pinelands Commission already determined the alternative

location on Red Onion Road was not permitted. Mr. Norman recommended residents bring this to the attention of the Pinelands Commission.

Ms. Carlos asked if the Township considered changing the master plan. Mrs. Onorato stated we can make amendments to the Master Plan, but the Pinelands approval is required, and their requirements are what we can't get past now. There was a discussion on locations of cell towers within our community and in the local area.

Ms. Carlos asked if the Township could make changes to the Zoning. Mr. Guzzi stated Mr. Norman and himself give expert direction on these issues and the Township cannot make changes on the fly against a specific application. Mr. Norman confirmed the Board has the authority to hire experts to assist with processing an application provided it is in the budget. If the Board does not have sufficient funds in the budget, then the Board is required to gain approval of the Committee to spend extra funds. Mr. Norman stated if the Board wanted to pursue hiring experts for this application is would need to pass a continuance on the application to request the funds from the Township Committee at the next Township Committee meeting.

Diane Wagner – 448 Oak Shade Road was sworn in by Mr. Norman. Ms. Wagner stated this issue is bigger than everyone realizes at this time. She is a nurse; a neighbor is a Trooper and another neighbor is a surgeon. All neighbors can rely on getting their cell phone calls. Ms. Wagner then referred to reports conducted in Europe. Ms. Wagner stated she is a nurse, who was taught out of nursing school how much radiation she could be exposed to and remain safe. These levels have been reduced since then. Due to the Tower she is considering selling her home, but due to real estate requirements she would need to disclose the tower in the contract. Ms. Wagner is also concerned with a reduction of the bee population which has been adversely affected due to cell towers and is concerned with the cell tower being located near the school. Ms. Wagner recommends the Township hire Lieberman and Belcher as they have already fought this type of litigation. She also stated that although the requirement to notify property owners within 200' is not realistic as the cell tower will be visible from further away than 200'.

Carolyn Burninghaus – 474 Oak Shade Road was sworn in by Mr. Norman. Mrs. Burninghaus would like more time to pool money between residents, hire the experts and go up against the Pinelands now as once the tower is here, it will remain here. She has experienced when big business takes over when she lived in Pennsylvania, it changes the landscape of the community, property values, and school districts. She requested a continuance.

Jim Michaelwicz asked Mr. Norman what the timeline of the application is and what options are there. Mr. Norman stated the remand from the Superior Court did not state a timeline for official action. The Board could approve a continuance which is an option

to gain Township Committee approval for additional funding to hire professionals. Mr. Norman does not believe we can drag this application out past 2 month, and he is not optimistic we can fight the Pinelands as it is an uphill fight.

Eileen Carlos, who was present at the meeting with the Judge? Mr. Norman state he was present with members of the Pinelands staff.

Warren Stillwell asked where else did the Pinelands Commission state would be appropriate? Mr. Norman stated the Pinelands wanted it in the Regional Growth area as it permits cell towers over 35'. Mr. Stillwell stated this use is permitted as a conditional use in this zone. If this application was for the School Board property, the application would be in front of the Planning Board and same impact to the residents by moving the tower approximately 150'.

Ms. Carlos asked if Verizon could find another location such as the Gun Club? Mr. Stillwell asked if this would be any closer to houses or just other houses. Mr. Norman stated this would be close to Rutland Court.

Mr. Stern summarized locations he tried to place the tower at that were within the Pinelands Rural Development area that the Township owned. The Pinelands said no. They did look at other Township properties, which were either located on restricted properties and closer to more homes than the location approved by the Pinelands Commission. Mr. Stern stated he looked at 64 properties.

Jim Michaelwicz stated it seems that the Pinelands Commission is the primary obstacle due to the Pinelands Commission restrictive guidelines. Mr. Stillwell stated in order for a carrier to go outside of their approved area it would need to seek approval. This particular plan needs to be in the regional Growth area, or they would need to submit a new plan which would take 2 - 3 years to pursue approval to place a tower in a different location.

A resident questioned why the cemetery parcel was not considered. Mrs. Onorato stated the approved area of tower location does not include the cemetery property or the municipal building parcel. Mr. Lera referred to the reports presented to the Board in January/February 2018 which supported the need for the Tower.

Sean Rowe – 454 Oak Shade Road was sworn in by Mr. Norman. Mr. Rowe asked if Verizon they could speak relative to the difference of 4G to 5G service. Mr. Stern stated he is not a radio frequency expert and cold not comment on this. Mr. Rowe stated he understands to meet demand, how many towers are going to be needed in Shamong for this? Is this tower required to meet the requirement of the community? Mr. Stern stated that more sites will be needed around the county due to more devices

being run everywhere. Mr. Rowe stated the next Pinelands Commission meeting is 9:30 October 11th. Who from the public can take off to attend this meeting?

Mr. Norman stated the attorney representing Mr. Pratt's testimony will be taken as his legal argument not factual data. Mr. Rowe thanked the Board for their actions of 2018 and asked that the Board will consider denying this application again. Mr. Rowe also requested a discount on his taxes if the tower is approved as it relates to his property value.

Mike Frysztacki – 41 Millstone Drive was sworn in by Mr. Norman stated and questioned about the case in Hillsboro as this is a relatively new case. Mr. Frysztacki stated there are similar issues to Shamong however Hillsboro is not within the Pinelands area. Mr. Norman stated the fact that Hillsboro is not within the Pinelands area is a significant difference. Mr. Frysztacki testified the Superior Court did support the Board in that case as there was expert testimony that the Tower would negatively impact property value by 10 – 12%. Mr. Stillwell stated he is familiar with the case and the resident(s) hired the expert to testify in this case. The Hillsboro case was also a Verizon tower near a school, which this location is a concern to Mr. Frysztacki. Mr. Frysztacki stated we all know good schools have a direct positive impact on property value. His also has concerns on how the tower would affect property value.

Cindy Wegman – 20 Cobblestone Lane was sworn in by Mr. Norman. Mrs. Wegman is a 33-year resident of Shamong, and she sympathizes with residents living near the tower as she would not want the tower in her back yard either. She is also concerned with the possible health concerns as we often are told something is safe to use and then find out later that it is not safe such as the current controversy surrounding the use of "round-up" and vaping.

Doug Wilkens – Confirmed if meeting is being recorded and if it can be made public. Mr. Norman informed Mr. Wilkens a copy of the recording could be requested via an Open Public Records request.

Richard Schaffer – asked if the material could be placed on the website. Mrs. Onorato stated most of the material can, but the larger site plans would need to be sent out to be scanned to place on the website.

Arthur Stanley – 462 Oak Shade Road was sworn in by Mr. Norman. Mr. Stanley asked the Board to take a vote to hire a professional on the children's health as he does not believe the board is concerned with children's health which several Board members argued against and stated they are volunteer members of the community serving on the board and several do have children either in the Memorial School or that will be going to the school. Mr. Stanley then asked the Board to hire experts to give testimony relative to the affects on property values the Tower will have. If the Township

Committee will not fund the Board to hire a professional, will the Board give a continuance to permit the public to hire a professional and what is the timeline. Mr. Lera summarized the court order and the guidelines to be followed by the Board. Chairman Sweet stated that nothing precludes a resident hiring an expert separate from the Board. Mrs. Wigley stated an expert hired by the Township will evaluate the whole township, whereas if a resident hires an appraisal directly to show the impact of the property value with and without a cell tower across the street would likely be more realistic as she does not believe the Township would have a specific property evaluated. Mr. Norman reminded the public that if they were to hire an expert, they expert would be required to be present during the next hearing, submitting a report is not enough as they would be sworn in to testify as required by municipal land use law. Mr. Norman stated the Board can consider property value, but his believes the bigger issue is the Pinelands Commission as the Pinelands Commission wants the tower in the Regional Growth area and the applicant is within the zoning required. Mr. Stillwell stated the height of the tower is permitted in the zone and therefore the height of the tower should not be considered against property value. This case differs from Hillsboro as the tower is a permitted conditional use within the zone, in Hillsboro it was not a permitted use. Mr. Stillwell stated the proposed tower was supported by testimony that the height of the tower is needed.

Chairman Sweet closed the meeting to the public and **made a motion to enter Executive Session under Attorney Client Privilege – (Resolution 2019-16) which was seconded by Mrs. Onorato. All the Board Members present voted yes.** Mrs. Onorato announced to the public that the Board would take no actions during the Executive Session, any actions taken by the Board would be taken during the public portion of the meeting when the Board returns. (approximately 10:19 pm)

The meeting was opened to the public by Chairman Sweet at approximately 10:50 pm. **Chairman Sweet made a motion that the Board adopt a two-month continuance on the application.** Mr. Norman gave the public some brief direction as to what valid arguments against the cell tower are. Public health concern is not a valid argument based on 20-year old case law. Relative to property values; the property values has no relationship to the grounds for the variance, which is that the location is not on a Township owned lot and a two uses on a 7 acre lot with the cell tower located 200 feet behind the initial use of Opici lot, which Mr. Norman does not believe is a strong argument. The third variance is for the size of the compound which is

250 sf which is not visible from the road which he does not believe is a strong argument either. Mr. Norman believes the only avenue to argue this application is to hire a planner to evaluate the affect of the cell tower on the neighborhood, zone district and the master plan. The planner would also need to consider the CMP under the Pinelands Commission to make a convincing argument not only to the Board but possible to the Court. The impacts are more related to a specific area of the Township which were reviewed at the prior hearings. Mr. Norman stated he represents the Board on this matter and is not permitted to represent residents as well. There was a comment from the public if it would be beneficial for the public to attend the Pinelands Commission at the October 11th meeting, Mr. Guzzi stated that without an application on the Pineland's Commission Agenda, comments would only be taken during the regular public meeting. Mr. Norman stated that a lot of what you are asking the Pinelands to review was already done by the applicant. Mr. Norman confirmed for Chairman Sweet that the average citizen could raise concern with a quasi-governmental agency, so he recommended residents go home and start emailing them (the Pinelands Commission) if they like. Mr. Norman suggested emails be sent to Sue Grogan the Director of the Pinelands Commission. Mr. Norman stated the applicant will not need to re-notice the hearing on November 19th, 2019. Mr. Sweet confirmed that no new certified notices would go out and Mrs. Onorato confirmed this is normal practice approved by the Municipal Land Use Law. **Mrs. Bookbinder-Bell seconded the motion of two (2) month continuance and all the Board Members present voted yes with exception to Mr. Sharrott who voted as non-eligible.**

Correspondence:

Secretary Onorato circulated the July/August 2019 edition of the NJ Planner and noted all correspondence from the Pinelands Commission had been previously circulated via e-mail.

Mr. Sweet opened the meeting to the public. There being no comments from the public, the public portion of the meeting was closed.

There being no further business, **on motion by Mrs. Onorato, seconded by Mrs. Schnieder the meeting was adjourned at approximately 11:08 with all Board Members present yes.**

Attested by:

Susan D. Onorato, Secretary
Shamong Township Joint Land Use Board