

## **Birmingham Township Planning Commission (BTPC)**

### **Minutes of the meeting June 11, 2019**

The regular meeting of the BTPC was called to order by Ms. McCarthy at 7:30pm in the Birmingham township building.

PRESENT: Scott Garrison, Eric Hawkins, MaryPat McCarthy, Brendan Murphy, Christopher Nash

ABSENT:

Also present: Frone Crawford, Esq., Kim Venzie, Esq.

A motion to approve the minutes of the May 14, 2019 meeting was made by **Mr. Garrison** and seconded by **Mr. Murphy**. Motion carried unanimously.

### **Review Revised Wireless Communications Facilities Ordinance**

Ms. Kim Venzie with Buckley Brion is in attendance again tonight to follow-up with the answers to the questions from the last meeting and also to discuss the proposed revised Ordinance for Wireless Communication Facilities.

In answer to the two questions from the last meeting regarding the height requirements and the noise the DAS facilities make -- the answer to the first question - if you allow for higher towers it does not necessarily equate to less towers as their locations depend on the landscape. Hills and other structures can impact the DAS towers ability to communicate with each other and so those items impact the number of towers more so than the height. The second question was about the sound that the DAS facilities make. Her contact stated that he has never had anyone complain about the noise they make - he equated it to the sound a computer makes.

Ms. McCarthy indicated another outstanding item was how far they need to be spaced for the technology to travel from pole to pole. Ms. Venzie indicated that this relates back to the landscape issue and can't be determined ahead of time. Discussion ensued about the many ways this technology is used besides just data for phones - such as for driverless cars, etc. Mr. Crawford stated that the intensity of the use is also going to be a factor in how frequent the poles must be located.

Mr. Crawford as legal liaison to the PC would like to sit down with Ms. Venzie to discuss some of the legal language in the ordinance -- this does not need to be done tonight during the meeting. He thinks that the ordinance is well written but has a couple issues he would like clarification on.

Mr. Crawford stated that items to be discussed tonight would be policy decisions such as the 45-foot height requirement, how to handle places where the utilities are

underground and the language regarding the roads on which the facilities would be permitted.

Mr. Murphy asked about the fencing requirement in the ordinance. His question is really related to the fencing requirement and whether there is something driving the fence requirement. Discussion ensued about the fencing requirement in the public right of way around a tower exceeding 45 foot in height. Mr. Crawford looked up the existing ordinance requirement for the height of fences in the township which is not permitted to exceed 5 feet. This relates to section (2)d(1) Mr. Murphy asked if to avoid the exception rule, perhaps use wording related to anti-climbing language instead. Don't prohibit the fence, but don't require it since there aren't fences around existing telephone or electric poles within the township.

Mr. Crawford asked for clarification on the definition in 105(a) of DAS tower-based hubs and if they are different than the other DAS facilities in terms of height? Ms. Venzie will look that up and see why the language reads that way and report back to the PC.

Discussion ensued about the roads that already have existing utility poles within the township since these devices can be co-located on the existing poles as a first choice. The PC suggests that the following road be listed in the ordinance for allowing new poles -- 202, 926, Creek Road and Country Club. Mr. Garrison asked if Ms. Venzie can provide a map of any other townships that already have the technology installed so that we can evaluate how many facilities are being installed to get the coverage needed. She will provide these maps for a couple of the local townships.

Ms. Venzie indicated that she was not able to get any information on the scenic byways within the township. After further discussion and lack of evidence of scenic byways within the township, other than Creek Road, she is going to remove that language at this point.

The next steps are that Ms. Venzie and Mr. Crawford will meet to discuss the outstanding items. Ms. Venzie will provide the PC with another version to review and hopefully the PC can make a recommendation in July.

Ms. McCarthy summarized that she will look at the comprehensive plan with regard to the Wireless Communication Ordinance and Mr. Hawkins is going to reach out to his contact about the scenic vistas.

### **New Business:**

Mr. Pratap Kesarkar is in attendance tonight (resident of 1370 Old Wilmington Pike). He has a question about a procedural issue with regard to an application that may be submitted to the township and is missing some information. If at some point it becomes apparent that the information was misrepresented or omitted, what is the recourse for the township? Mr. Crawford indicated that any appeal must be within 30 days of the plan. Mr. Crawford indicated that the plans submitted are reviewed by the township

engineer to determine if the submitted plans to be in compliance with the township standards prior to the PC rendering a decision.

Mr. Kesarkar has site plans and photographs that he showed to the PC indicating trees and landscaping that he believed are not accurately depicted on the plan. He then outlines his understanding of items that were missed during the entire process. He indicated that he and some neighbors have filed an appeal. Mr. Crawford indicated that the PC has no standing to do anything.

Ms. McCarthy thanked Mr. Kesarkar for bringing this issue to the attention of the Planning Commission.

Motion to adjourn the meeting was made at 8:37pm by Mr. Garrison and seconded by Mr. Nash and approved unanimously. Next meeting is scheduled for July 9, 2019.

Respectfully submitted,  
Jennifer A. Boorse  
PC Secretary