

**Birmingham Township Planning Commission (BTPC)**  
**Minutes of the meeting July 9, 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.

A motion to approve the minutes of the June 11, 2019 meeting was made by **Mr. Garrison** and seconded by **Mr. Nash**. Motion carried unanimously.

**Review Revised Wireless Communications Facilities Ordinance**

Mr. Frone Crawford presented the red-lined version of the Revised Wireless Communications Facilities Ordinance that he and Ms. Venzie reviewed after the last meeting. One of the outstanding items that Ms. Venzie wanted an answer to this evening -- is if Country Club is one of the roads that is to allow new poles since it doesn't currently have utility poles. Discussion ensued and it was decided that by allowing Rt. 202, Rt. 926 and Creek Road, the township is allowing coverage both N/S and E/W within the township.

Mr. Hawkins had a question about the definition of a DAS and the fact that when the term is first introduced, it references another page for the definition. Instead he suggested that the definition be added within the document where the first reference is made so that it is apparent what it is referring to. This is located on page 3 of the ordinance.

Mr. Crawford noted that the fence language was stricken from the ordinance per the conversation last month.

Mr. Crawford suggested that in the major definition section for the entire ordinance, the first reference to antennae should be cross-referenced to section 122. Mr. Crawford provided his reasoning - a definition that should apply to the entire ordinance versus one that applies only to a certain section - and the committee agreed this cross-reference should be added.

Mr. Crawford also suggested that the DCU be defined in the ordinance as it is not currently defined. They are the Data Collection Units that collect the meter information so that meter readers do not need to gather that information any longer. The consensus from the committee is to include a definition of this.

Mr. Crawford went through the list of questions he had sent to Ms. Venzie and went through the answers and communication that transpired between them. All the items were resolved to his satisfaction and have been incorporated in the red-lined version.

Mr. Crawford is going to create a clean copy from the red-lined copy and then make the additional changes as noted above. He will send that out to the committee and it will be reviewed at the next meeting prior to moving the ordinance forward to the Board of Supervisors.

### **New Business:**

Mr. Pratap Kesarkar is in attendance tonight (resident of 1370 Old Wilmington Pike). He has a question about what the purpose of the Comprehensive Plan is. Is it just to meet the requirement of the MPC or is there more to it?

Mr. Crawford answers this question and explains that a Comprehensive Plan is the broad picture of the way the township Planning Commission and Board of Supervisors foresee the future of the township taking place. It is not set in stone and thus the reason it must be re-evaluated every 10 years. When someone has tried to state that a zoning ordinance change is invalid because it doesn't track to the Comprehensive Plan, the position that courts have taken on this is that the change to the zoning ordinance is in fact a defacto change to the Comprehensive Plan as there was a rational basis to the new ordinance. Additionally, there are many aspects of the Comprehensive Plan that are not directly relatable to the zoning ordinances - such as open space, recreation, highway improvements, water and sewer, etc. That being said, a Comprehensive Plan is generally a good guideline.

Mr. Kesarkar also asked a question about solar arrays and why applicants have to go before a zoning hearing board meeting rather than just being allowed to install them since they are considered green energy. Mr. Crawford answered the question explaining special exceptions and the waiver allowance. Special exceptions are required to be granted unless one of two things happens: (1) the applicant fails to meet a quantifiable objective requirement or (2) objectors to the special exception carry the burden of raising legal basis to reject it and present preponderance of evidence to support that basis. Somewhere around 95% of special exceptions are granted either through the regular process or via a waiver. Mr. Kesarkar then asked about the cost of this process. Mr. Crawford stated that there was discussion about having different fees for different applications, but at the end of the day, it was decided that differing fees would cause more administrative burden than was necessary. Mr. Hawkins commented that there are many issues to be weighed in making decisions with regard to alternative energy - besides just being green. Mr. Nash stated that although it does seem like a hurdle for the applicant, since 95% of special exceptions are approved, it's just a necessary step to protect the historical nature of the township.

A motion to adjourn the meeting was made at 8:12pm by Mr. Garrison and seconded by Mr. Nash and approved unanimously. The next meeting is scheduled for August 13, 2019.

Respectfully submitted,  
Jennifer A. Boorse  
PC Secretary