

**COLLEGE TOWNSHIP COUNCIL
REGULAR MEETING MINUTES**

Thursday, May 19, 2016

7:00 PM

1481 E. College Avenue, State College, Pennsylvania

ATTENDED BY:

COUNCIL:

Lynn B. Herman, Chair
D. Richard Francke, Vice Chair
Carla Stilson
L. Eric Bernier
Steven Lyncha

STAFF:

Adam T. Brumbaugh, Township Manager/Secretary
Kent N. Baker, Township Engineer
Mark Gabrovsek, Zoning Officer
Mark Holdren, CRPA Sr. Planner
Mary E. Wilson, Asst. Township Secretary
Louis T. Glantz, Esq., Township Solicitor

CALL TO ORDER:

Chair Herman called to order the May 18, 2016, Regular College Township Council Meeting at 7:00 PM, followed by the Pledge of Allegiance.

ANNOUNCEMENTS:

1. Chair Herman announced that Council met in Executive Session immediately prior to this meeting for the purpose of discussing a property acquisition matter.
2. Chair Herman offered Council's congratulations to Mr. Anthony Fragola, who was in attendance, for his recent appointment to Council, effective June 1, 2016. Mr. Fragola will fill the seat being vacated on May 31st by Mr. Herman, who is moving out of College Township.

SPECIAL PRESENTATIONS:

SP-1 C-NET Annual Update; Ms. Cynthia Hahn, Executive Director

Ms. Cynthia Hahn, C-NET Executive Director, presented the *2015 C-NET Annual Report* and distributed a handout on College Township's sponsored C-NET programming in 2015. College Township supported 42 sponsored programs and 52 bulletin board messages, the latter equating an additional 5.2 "programs." Combined, College Township sponsored 47.2 programs, which equated to 9.02% of the total sponsorship by all C-NET members in 2015. From 2011 through 2015,

College Township's sponsorship equaled 8.79% of the total C-NET usage by all members during that time period. This is in line with the previous five-year percentage of 8.69%.

Ms. Hahn reported that C-NET is in the second year of a three-year transition to all high-definition recording and webstreaming. All C-NET participants will have been switched over to HD by the end of June.

Council members offered their appreciation to C-NET staff and production crews for another year of excellent services.

SP-2 2015 College Township Audit Report; Mr. Joseph Fedeli, CPA

Mr. Joseph Fedeli, CPA, Fiore Fedeli Snyder Carothers, LLP, presented the *Draft Report on Audit of Basic Financial Statements and Supplementary Information – Years Ended December 31, 2015*, for Council's consideration and comment. Mr. Fedeli offered the following as financial highlights for 2015:

- Property tax rate remained at 4.9 mills;
- Taxable assessed value increased by .98% to \$438 million;
- Unassigned General Fund balance equaled 14.9% of General Fund revenue (goal = 10%); and
- PennDOT paid College Township two million dollars (\$2,000,000) for the Houserville and Puddintown Roads Turnback Project.

It was the opinion of Fiore Fedeli Snyder Carothers, LLP, the financial statements reflected in the draft audit present fairly, in all material respects, the financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Township of College, Centre County, Pennsylvania, as of December 31, 2015, and the respective changes in financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Mr. Bernier asked if the goal of maintaining a ten percent (10%) fund balance was an industry standard. Mr. Fedeli replied that this percentage is College Township's preferred annual fund balance goal.

**Mr. Lyncha moved to accept the 2015 College Township Audit Report, as prepared by Fiore Fedeli Snyder Carothers, LLP.
Mr. Francke seconded the motion.
Motion carried unanimously.**

OPEN DISCUSSION:

Ms. Sue Smith, Lemont Village Association (LVA), invited Council to visit the LVA's Farmers Market, which opens on Wednesday, May 25. Ms. Smith also announced that the summer concerts would begin on June 3 on the Lemont Village Green, and the Lemont Fest 2016 will be held June 15 through 17.

PLANS:

P-1 Verizon Wireless Communications Facility Preliminary/Final Land Development Plan; 1100 Cortland Drive; Lemont

In written communication to Council, dated May 16, 2016, Mr. Kent Baker, Township Engineer, provided staff's overview of the Verizon Wireless Communications Facility (WCF) Preliminary/Final Land Development Plan proposed for 1100 Cortland Drive in Lemont. This plan review period is due to expire on June 13, 2016. Based on ten possible design considerations offered by Planning Commission, Verizon resubmitted a revised plan to Council, which incorporated four (4) of PC's items. Those items addressed monopole color, back-up generator maintenance testing hours, utility building design, and removing the requirement for an FAA light from the top of the antenna. Main issues remaining with this plan, brought forward by staff, Planning Commission, and residents, include the following.

- A determination needs to be made as to whether the structure is considered to be an antenna atop an existing utility pole or if this is considered to be a tower-based structure. The latter is not permitted in the R-1 Zoning District. Both the College Township Zoning Officer and the Township Solicitor previously determined that the replacement of an existing West Penn Power wooden pole with a metal pole of the same height is considered to be an "in-kind" replacement and that an antenna could be placed on top of the pole.
- A determination needs to be made as to whether or not the proposed antenna is adequately camouflaged using stealth technology, as required by the College Township Code Section 200-39.1D(4).
- A review of construction and maintenance standards is needed, those standards being regulated and requiring approval from agencies other than College Township.
- A review of control of radio frequency emissions needs to be made. Those emissions, for the most part, are regulated and require approval from agencies other than College Township.
- There still exists a lack of an approval from First Energy to verify that they agree to the landscaping and proposed structures under their transmissions lines.
- Council requests the opportunity to review the actual design of the new metal pole to verify that the diameter will be similar to the existing pole and that a connection exists between the proposed antenna extension and the top of the new pole.
- Council deemed that the lightning rod on top of the pole would exceed the height maximum.

Mr. Baker advised that, once the final pole details have been reviewed, staff would likely recommend a conditional approval of the plan. Should Council disagree with the Zoning Officer's and the Township Solicitor's determinations relative to the in-kind pole replacement or be dissatisfied with the stealth design, this matter could be tabled until the June 2nd meeting. Staff could be directed to formulate a motion for denial. Action must be taken prior to the June 13 plan expiration date.

Richard M. Williams, Esq., Hourigan, Kluger & Quinn P.C., introduced Mr. Eric Brinser, P.E., Rettew Associates, Mr. Scott Devlin, UBT Site Acquisition, and Mr. Paul LaGuardia, Diamond

Communications, LLC (First Energy's agent), before presenting the subject preliminary/final land development plan to Council. The developer is proposing to replace a new antenna site on an existing facility belonging to First Energy via replacing the most eastern pole with a 73.5-foot monopole topped with a 15-foot antenna, in compliance with Township ordinances. Verizon would construct a diesel generator shelter that, for security purposes, would be fully enclosed by a black, wrought iron, tube type fence. The developer requested a waiver from the sidewalk requirements on Boalsburg Road.

In response to Council inquiry about the type of foundation that exists for the current pole, Mr. LaGuardia stated that he did not know, nor would he know what type of foundation would be used for the new pole until the pole design work was completed following this plan approval.

Council commented on, or inquired about, the pole meeting the definition of a tower; decibel ratings on the diesel generator when being tested; the Wireless Broadband Co-Location Act regulations not addressing this proposed plan due to the pole's height; whether or not evidence of need is required; and painting the pole not being sufficient to make the pole unnoticeable to the casual observer.

Atty. Williams advised Council that Verizon was working with College Township in modifying the plan. However, he added that, had this proposed pole been 75 feet tall or greater, it would have fallen under PUC regulations and could have been placed anywhere in the Township without any Township input, restrictions, or approval.

Louis T. Glantz., Esq., Township Solicitor, stated that 1) the Public Utilities Commission (PUC) regulates such installations and usually does not challenge the utility companies when it comes to what is needed; 2) College Township's ordinance does not define a structure; 3) every ordinance is construed against the municipality, not against the applicant; 4) the "stealth" element is a gray area in the WCF ordinance; and 5) pole diameter increase could be restricted to less than 20 percent (20%) of the current diameter (such as, from 20 inches to 24 inches).

Mr. Dennis Bannon, Cortland Drive, spoke in opposition to the construction of this pole based on neighborhood values being destroyed and submitted a petition to this effect requesting Council to deny this plan.

Mr. William Ingram, Nittany Orchards subdivision near Cortland Drive, voiced opposition to the approval of this plan based on loss of tranquility, suggesting that the cell tower would be better placed at the water tower site at Country Club Lane and Oak Ridge Avenue.

Ms. Gayle Rice Roberts, Cortland Drive, submitted her personal petition relative to the need for this WCF; reiterated her written comments previously submitted to Council in opposition to this plan; and, requested Verizon's evidence of necessity proving it needed to be on Cortland Drive.

Dr. Peter Bordi, Elmwood Street, expressed opposition to this plan based on safety issues, PC's not reviewing the full spectrum of information, and Verizon's not following the rules. Dr. Bordi subsequently submitted three files of background information for Council's consideration: First Energy email exchanges regarding installation of sheds and power generators beneath transmission lines; selecting the right tree and vegetation for the location; and transmission rights-of-way restrictions.

Mr. Mark Gabrovsek, Zoning Officer, advised that, should this plan be approved, he would not sign a zoning permit without first receiving an authorization from First Energy, as the property owner, giving their permission for this WCF.

Mr. Michael Betts, Cortland Drive, opposed the plan based on the proposed pole not being an in-kind replacement; “in-kind” not being defined; weakness in the WCF ordinance that would allow flagpoles to be replaced by WCFs as an “in-kind” replacement; diesel fuel being within 200 feet of several homes; the Rabian’s home being located in the potential fall zone of the proposed tower; safety issues; and the commercial development of a residential property.

In response to Council inquiry regarding evidence of necessity and primary use of a site, the Township Solicitor advised that the applicant, if proposing a tower, must demonstrate that their proposed WCF cannot be accommodated on a utility pole; and added that the required power generator shelter is permitted because the ordinance encourages placement of WCFs on utility poles. However, he added that there would be a problem with the lightning rod, as it would be considered part of the antenna extension.

Mr. Jim Marden, Nittany Orchards, reiterated his previously submitted, written comments in opposition to this plan based on site modifications not meeting in-kind replacement and power lines being a safety issue and requested an answer about in-kind replacements.

Mr. Shane Whiteker, Cortland Drive, opposed the plan based on negative impacts on property values, which were reflected in a handout as estimated to be a \$30,500 loss per household.

Mr. Brian Rabian, Cortland Drive, voiced opposition to the plan based on painting the pole being insufficient stealth that did not render the pole unnoticeable to the casual observer. Mr. Rabian suggested that Verizon consider coming up from Boalsburg Road instead of down from Cortland Drive and recommended that Council demand that the pole diameter be restricted to only ten percent (10%) larger than the existing pole.

Following a discussion on options, staff was directed to review and address matters associated with stealth, height, Boalsburg Road access, pole diameter and design, and seek additional legal opinion relative to the sum of all activities on the site.

Ms. Stilson moved to deny the Verizon Wireless Communications Facility Preliminary/Final Land Development Plan due to its tower-based system not being unnoticeable to the casual observer, College Township Code §200-39.1D(4), and exceeding height requirements, as per Code §200-39(D)(2)(a).

Mr. Francke seconded the motion.

Motion failed 1 – 4 (Herman, Francke, Bernier, Lyncha voting nay).

REPORTS:

a. MANAGER’S UPDATE:

Council accepted the May 19, 2016, Manager’s Update without significant comment.

b. COMMITTEE REPORTS:

Spring Creek Watershed Commission (SCWC), May 18, 2016: Mr. Lynch reported that the SCWC received a presentation from ClearWater Conservancy (CWC), which included an update on the Americorp position; questions to SCWC that could aid in the Strategic Planning process; and a request for funding for the "Connection Program," which brings Centre County school students to the Millbrook Marsh. The Committee was advised of the following upcoming events; 1) PA Groundwater Association's "Summer Field Conference," on June 10, from 9:00 AM to 3:00 PM next to Home Depot; 2) Trout Unlimited's "Family Fishing Picnic" at Tussey Mountain Pond, on June 12, from 12:00 Noon to 4:00 PM; and 3) SCWC's 20th Anniversary event, on September 10, from 12:00 Noon to 3:00 PM at the Millbrook Marsh pavilion. The event planning committee requested \$400 to secure the pavilion and to cover some other expenses. Municipalities are being offered an opportunity to set up a display table of their watershed projects at the Millbrook Marsh event. The Committee also received updates from the Spring Creek Watershed Association and the Spring Creek Watershed Atlas group.

Finance Committee, May 12, 2016: Mr. Francke reported that he and Mr. Bob Long attended the Finance Committee meeting. Members 1) reviewed municipal comments on the 2017 COG Budget guideline for an increase in municipal shares; 2) reviewed proposed changes to the 2017 COG Program Plan; 3) reviewed possible funding for proposed fiber optic study, which required Council feedback on broadcasting of one of the five budget meetings; 4) reviewed refurbishment of Engine #514; 5) reviewed Finance Committee-specific COG priority questions and answers; 5) received report on the \$600,000 estate gifts to Schlow Centre Region Library; 6) reviewed and approved extension of current Pension/Risk Management Agreement with State College Borough, 7) approved February and March 2016 Voucher Report; and, 8) received April 2016 voucher and financial reports.

Council concurred with municipal shares increases not to exceed 2.75% but did not support broadcasting of any of the COG budget review meetings.

Parks Capital Committee, May 12, 2016: Ms. Stilson reported that Parks Capital 1) discussed the Committee's role in helping future projects estimates to be more accurate; 2) agreed to amend #4 of their COG priorities list to include municipal and community interests in a comprehensive parks plan; and, 3) received an update on Stahl Shaffer's analysis of Whitehall Road Regional Park development.

Executive Committee, May 17, 2016: Mr. Bernier reported that the Executive Committee set the agenda for the next COG General Forum Meeting to include discussions on the Keystone Initiative for Network-Based Education and Research (KINBER) Fiber Optic Infrastructure Study; a budget amendment to cover the refurbishment of Fire Engine #514; and, a presentation on regional electric bikes.

c. STAFF/PLANNING COMMISSION REPORTS:

Planning Commission (PC) Meeting, May 18, 2016: Mr. Anthony Fragola, Planning Commission-Council Liaison, reported that PC reviewed four ordinances: Duplexes in the R-1 Zoning District; Solar Energies; PSU UPD Definitions Revisions; and, PSU UPD Map Revisions.

Council members extended their congratulations to Mr. Fragola for his recent appointment to Council, filling the upcoming vacancy created by the resignation of Mr. Lynn B. Herman.

CONSENT AGENDA:

- CA-1** Minutes, Approval of: a. April 21, 2016, Regular Council Meeting
b. May 5, 2016, Regular Council Meeting
c. May 18, 2016, Council Special Meeting
- CA-2** Correspondence: /1: Ltr from PSU OPP, dtd May 2, 2016, regarding PSU Beneficial Reuse Water System
/2: Ltr from Central PA 4th Fest, dtd April 28, 2016, regarding Contribution
/3: Ltr from GD&F, dtd May 3, 2016, regarding Water Allocation Permit
/4: Ltr from Richard White and Carol Pollard, dtd May 3, 2016, expressing appreciation of the latest Township newsletter
/5: Email from Gayle Roberts, dtd May 9, 2016, regarding Verizon Wireless Communications Facility (WCF)
/6: Ltrs from Lemont Elementary School, dtd April 25, 2016, regarding Spring Creek Park Restroom Replacement Project
/7: Ltr from PSU OPP, dtd April 29, 2016, regarding College Township's Participation at the Earth Day Birthday event
/8: Ltr from Jim Marden, dtd May 5, 2016, regarding Planning Commission's May 3, 2016, discussion of the Verizon WCF matter
/9: Ltr from Tim Kerchinski, dtd April 21, 2016, responding to Mr. Oravec's ltr on Manor Drive/Mountain View Avenue
/10: Email from Anthony Fragola, dtd May 18, 2016, resigning from Planning Commission, effective June 1, 2016
- CA-3** Advisory: Participation in Ferguson Township's 2016 Microsurfacing and Pavement Painting Contracts

Council requested that staff respond to the elementary school students' letters.

**Mr. Bernier moved to approve the May 19, 2016, Consent Agenda, as presented.
Mr. Lyncha seconded the motion.
Motion carried unanimously.**

NEW BUSINESS:

No *New Business* was presented.

OLD BUSINESS:

No *Old Business* was presented.

STAFF AND ABC INFORMATIVES:

No *Staff Informatives* were pulled for discussion.

OTHER MATTERS:

1. Mr. Francke announced that, as a result of Mr. Fragola's move from Planning Commission to Mr. Herman's place on Council, a vacancy now exists on PC. Council directed that invitations to apply be sent to current ABC members and current ABC applicants, with a one-week window for application submissions.
2. Ms. Stilson announced that this was Mr. Herman's last College Township Council meeting as a Council member and extended Council's appreciation for the time Mr. Herman dedicated to his position on Council. All agreed that Mr. Herman would be missed.
3. Mr. Herman expressed his appreciation to the citizens, staff, residents, and all of the Authorities, Boards, and Commissions members who serve College Township.

ADJOURNMENT:

Hearing of no additional business, Chair Herman called for a motion to adjourn.

**Mr. Bernier moved to adjourn the May 19, 2016,
Regular College Township Council Meeting.
Mr. Lyncha seconded the motion.
Motion carried unanimously.**

Chair Herman adjourned the May 19, 2016, Council Regular Meeting at 10:32 PM.

Respectfully submitted,

Adam T. Brumbaugh

Adam T. Brumbaugh
Township Manager/Secretary