

## **FEBRUARY 15, 2016 COUNCIL MEETING MINUTES**

The February 15, 2016 Council Meeting was called to order at 8:10 P.M. in Council Chambers at the Municipal Building. Mayor Sara Kuhn presiding.

### **APPROVAL OF AGENDA ITEMS**

Mayor Sara Kuhn – I will call this meeting to order. The Agenda stands as presented and could we please stand for the Pledge of Allegiance.

### **PLEDGE OF ALLEGIANCE**

All stood for the Pledge of Allegiance.

### **ROLL CALL**

Dr. Kincaid  
Mayor Kuhn  
Mr. Palumbo  
Mr. Underwood  
Mrs. Sapp

Also present were Manager Rayan, Secretary Sorce, Engineer Minsterman, Planning Director Blackwell, Finance Director Schrecengost and Solicitor Alexander.

### **MINUTES**

Mr. Underwood made a motion to approve the **January 19, 2016** and **February 1, 2016** Minutes.

Mr. Palumbo seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

### **EXPENDITURES**

Dr. Kincaid made a motion to approve the Expenditures of February 15, 2016 Journal Vouchers 1, \$87,425.01, CD Requisitions 0, \$.00 Checks 33458 – 33602, \$764,362.71 making a Grand Total of \$851,787.72.

Mr. Underwood seconded the motion.

Mayor Kuhn – I abstain from check #33488 to Don Kuhn Auto Body and check #33570 to Don Kuhn Auto Body and yes on all others.

There being no further discussion the motion was approved by a 5-0 vote.

## **RESOLUTIONS**

Mr. Palumbo made a motion to approve **Resolution No. 2016-013** – ratifying the action of The Municipal Manager on February 1, 2016 to settle a law suit brought against The Municipality by Hope Rising Church.

Dr. Kincaid seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Dr. Kincaid made a motion to approve **Resolution 2016-014** – authorizing the adoption of The County 2015 Hazard Mitigation Plan.

Mr. Underwood seconded the motion.

There being no further discussion the motion was approved by a 5-0 vote.

Mr. Palumbo made a motion to approve **Resolution 2016-015** – recommending Conditional Use Approval to Towerco 2013 LLC & Pittsburgh SMSA Limited Partnership D/B/A Business as Verizon Wireless for the construction of a Telecommunications Tower with a Facility Building at 11524 Frankstown Road (Lot block #449-N-274).

Dr. Kincaid seconded the motion.

Dana McCarty- good evening Council and I represent Towerco 2013 LLC & Pittsburgh SMSA doing business as Verizon Wireless. Towerco is proposing to construct 150 ft. Monopole on the St. James Church Property and that would be within a 50 x 50 fenced compound. Within that compound will be Verizon Wireless equipment shelter. Verizon Wireless is proposing to attach their antennas to the Towerco Tower once it is constructed. The facility will be unmanned. It will be automatic and it will only have routine maintenance. The site will be restricted. There will be 8 ft with a 1 ft barbed wire consisting of three barbed wires for a total of nine feet with a fence around the compound. There will be a gate. The gate will be locked at all times. As I said the equipment building will be within it. It will be designed to accommodate co-locators. It will not be lit for the FAA it is only 150 feet in height so it does not require being lit. With regards to the towers setback the tower does meet three out of the four setbacks for under Section 11.5.R.18. It is 100% setback for the tower so the tower is 150 ft. and it is to be set back 150 feet from all property lines. 730 ft. from the South 161 feet from the East and from the West 204 feet however we are seeking a modification from the setback to the East it is only 36 feet and we are seeking it for 114 feet. Also we are also seeking a modification of a setback under Section 11.5.R.20 which is the overhead transmission lines it indicates in the Ordinance that it is to be 200% so twice which would be 300 feet. It is currently from the nearest 224 feet and seeking a modification of

74 feet. The overhead line is actually across from Hibiscus Street so it is a distance away. We also have testimony if you would like to hear about the fact that we have not been able to find any co-locations within ¼ miles that were suitable for Verizon for Towerco to put the tower to co-locate their antennas. If I could bring up our RF Engineer to explain that. Well first actually I will bring up our site acquisition Joe Krill to explain what was done and what other sites he sought and was unable to attain and that is why we had to come to this location.

Good Evening my name is Joseph Krill and I do site acquisition for Verizon Wireless as a private contractor and I have been doing it for them approximately 25 years. This particular site was issued approximately six years ago. The search area was very limited and it was in the area of Duff Manor I am sure you all know where Duff Manor is. Verizon actually entered into a lease agreement with the company was called Crossroads which owned Duff Manor but it turned out that the building came under HUD authority and after approximately six months of doing quite a bit of legal work Verizon had to abandon that site. We moved next door to an office building which was owned by a company that was out of New York City. We actually entered into an agreement with the building owner she did not tell us that she had already leased the roof out to a separate company or that she was in the process of going into bankruptcy. Verizon did extensive structural work as far as analyzing the building making sure that they could meet all our standards and things like that and it was like the rug was pulled out from under us when all of this came to we became aware of it. At that point we were looking and we were talking to St. James Church in the past. Verizon did not want to build a tower they would co-locate that was the first thing that they want to do but with their backs against the wall we entered into an agreement with St. James Church to construct the tower to fulfill the needs of the RF Department. That is Radio Frequency Department of Verizon. Any questions?

Dana McCarty – also I have Shreyas Patel. He is Radio Frequency Engineer with Verizon Wireless and if you look at your packet he provided what we call plot and it explains why Verizon needs to fill a certain gap and why this location is sufficient to fill that gap and that would be the Exhibit B in your handout.

Shreyas Patel – I work for Verizon Wireless as a full time Radio Frequency Engineer. The purpose of this site is to improve the 4G. Exhibit B is just the name of the sites that we are going to call which is the Churchill Valley of the site name. On page #2 we tried to show you the existing coverage what it looks like right now and why we need the tower there.

Dana McCarty – Shreyas in regards to its number two page number two we see a white and is that and there is a black circle and there is a lot of white is that an area where 4G there is not 4G coverage yet.

Shreyas Patel – yes that is why basically 4G very low or minimal signal there you might get a call on it but you can drop it easily so we are trying to fill in the coverage in that part.

Dana McCarty – and also with the 4G it indicates that individuals who want data on their phones are having a hard time.

Shreyas Patel – exactly commercial (inaudible). On page number three where we are trying to show the proposed site coverage which means how it will look when we have this tower up and getting the signals and as you can see by that inside the black line and we are filling in good coverage. So this will definitely help us filling in the existing coverage down into the valley.

Dana McCarty – is the 150 minimum height that would be needed to fill this gap?

Shreyas Patel – yes 150 is needed to fill this gap because the Tourane basically it goes up and down we have to raise our tower height to get that particular spot in this area so it seems to be serving well at 150 ft. height.

Dana McCarty – and with number 5 you can see the red are those existing sights that Verizon are already on?

Shreyas Patel – yes that means we are already at that location.

Dana McCarty – with regards to the distance can you explain why the sites seem closer together?

Shreyas Patel – seem closer together. 4G technology itself requires the more tower and 3G technology we had less tower and we did not have that much traffic initially but now a day's data, stream net, u-tube they consume a lot of data now a days so in order to correct those things and to offer the existing sites we had to put it out to together.

Dana McCarty – so to keep up with technology you need to put in more towers.

Shreyas Patel – that is correct.

Dana McCarty – in regards to I didn't know if you wanted me to go through every single one of the requirements of the Ordinance or not we provided a detailed narrative which I could read it or we could just submit that into evidence.

Mayor Kuhn – I believe you can just submit it into evidence.

Mayor Kuhn – I do have some questions maybe Chris you can help me. I see that the applicant meets all of the conditions with the exception of condition of 1820 and

24 regarding the setbacks, the heights overhead transmission lines and the installation of sidewalks along Frankstown Road. I know from my days back in Planning that the property lines cannot exceed 150 feet they required set back is 1 foot for each foot height of the towers. Now with the setbacks they met you said on three sides with the exception of the Eastern Portion of the property bordering Duff Manor Property. I do see also that in your requirements you are having that they have to before we go into that the transmission line provides a setback of no less than two times the height of the tower which would be 300 feet. The tower will provide a setback of 226 feet and the application states that the modification form given that the tower proposed to measure 150 feet and the tower would collapse if there was an event it is requested that the 74 feet modification be granted and I am assuming that the Planning Commission approved this and is the Planning Department alright with that?

Chris Blackwell – yes as you know there are 29 conditions in order to have a cell tower in conditional use in the Municipality of Penn Hills. In this case we try to bring you a case with cell towers where there are no weaknesses. Where it meets every condition in this case there are the three. In this case we have been told the fall on themselves they don't fall so even the reason why there is 1 ft. for every foot is that something from the industry, where did that come from? I really don't feel that it is so the three conditions that they are asking for modifications from I don't feel that they are that significant and the other one is the distance from overhead transmission lines you know that seems like it is something like a frequency issue I am not sure why maybe Mrs. McCarty can help us with that also and then the third one is as you know from being on the Planning Commission we treat this as a development. We say that this is development and we try to get landscaping and sidewalks things like that. We realize that this is a difficult sidewalk to build it would not because of 10 Duff it would not be built at the corner of 10 Duff Road so when they asked for a modification we had first requested that they we actually required that they put in a sidewalk and then they argued the negative things against it including the gas line right away and things like that.

Mayor Kuhn – right, I do see that though and that would be my next question was with us wanting sidewalks so desperately to be put in but I saw here that the gas line there is a gas line easement and it goes through a part of the property and that is why the development of the sidewalk is not possible. Is that accurate?

Chris Blackwell – that is accurate and I think you know from being on the Planning Commission we still argued in favor of the sidewalks regardless and however the applicant brought forth their legal argument against that this was even development. There is more to it than just the gas line but I think for us it didn't seem like a reasonable argument to try to push harder for the sidewalks. I think I would like to state here that and with your time on the Planning Commission you can remember when these cell towers were approved the cell tower companies were often quite generous with what they gave the Municipality. I mean things in the neighborhood we could require a siren on the fire department that they put one in maybe at the cost of \$25,000.00 so there

have been in the past these companies perhaps there was more money that they were able to do this. You are looking at this and thinking man they are not giving us a whole lot.

Mayor Kuhn – and that does come from when I served on Planning for ten years.

Chris Blackwell – and I would like to point out that they are giving as we have as a commission on all of these towers they would give us the Municipality and the vendors free space of the tower.

Mayor Kuhn – I did see that that they are saying that the Municipality its vendors and Allegheny County. The reason I brought up the 150 ft. is because of the fact even though they are saying it collapses on itself I don't want residents in the area to be concerned if it comes down and it is going to fall on to their property.

Chris Blackwell – also to the East is the Duff Manor Property so it is not a single family home and I calculated if it collapsed it would be in the parking lot but not actually hit the building.

Mayor Kuhn – ok because I know like I said that was usually the number one concern of the residents that came to the Planning Commission was that and I was curious as to why we were not having the sidewalks put in but if you are saying because as far as the easement you don't think that is a real 100% argument but you were saying that there were some legal issues.

Chris Blackwell – yes Mrs. McCarty can expand on that.

Dana McCarty – yes if I may it is our position and we believe the legal authorities supports us is that the construction of cell towers that does not require any sewage or use of water supply or any of the utilities or new street layout that it doesn't fall under land development and that Ordinance does not apply and we provided that under exhibit D analysis and we are relying on the Upper South Township Case in which the courts have indicated that the construction of a cell tower compound unmanned and automatic that it doesn't fall because it is not a major development as was contemplated by the land development.

Mayor Kuhn – as the solicitor stated you said major development.

Dana McCarty – large scale development. I am sorry it is major it is tall. Large scale which is contemplating the use of the sewage.

Mayor Kuhn – so the argument is that your argument is that your tower is not considered a development and therefore the sidewalks are not required.

Dana McCarty – correct.

Mayor Kuhn – I just have to ask the solicitor.

Craig Alexander – is there a site for the case?

Dana McCarty – it is 934A2nd1162.

Craig Alexander – o.k. thank you.

Dana McCarty – you are welcome.

Mayor Kuhn – and then I see the Planning Department recommended the following conditions. Erosion and Sedimentation Control Plan and the Storm Water Management Plan shall be submitted to the Planning Department. The Erosion and Sedimentation Control Plan is to be submitted to the Allegheny County Conservation District for review and approval. And the Storm Water Management Plan must meet the requirement of the Turtle Creek Watershed. Are you and your company in agreement with those?

Dana McCarty – I am so sorry I was still on The South Hampton, I apologize and I am in agreement with

Mayor Kuhn – are you in agreement with the Planning Departments recommendations for conditions one, two and three.

Dana McCarty – yes. We were requested to sign something.

Chris Blackwell – we actually received the Erosion and Sedimentation Control Plans in our office maybe yesterday or today.

Mayor Kuhn – and there were three residents who lived in the vicinity who had concerns about the height and location and loss of woodland and necessity of an additional tower and the distance from the towers. You are not anticipating the necessity of an additional tower?

Dana McCarty – within this area? I am not but I want to check with RF.

Shreyas Patel - No at this moment people need a lot of data so I don't know about tomorrow with new technology it might be something that we need maybe sooner than we expected.

Mayor Kuhn – now if that would come about that you did need an additional tower would they have to come before our Planning and then our Council?

Chris Blackwell – the question wasn't necessarily an additional tower at this site

It was just why do we need another tower in general. The residents thought that they had enough towers.

Mayor Kuhn – being that we brought this up Chris if they would decide that they would need an additional tower at that site would they have to come before us again?

Chris Blackwell – absolutely and it was explained to us say thirty years ago there were no cell phones and we all remember those times and now it is data with the last ten years of the smart phone so it is saying that less than actually 20% of the use is conversation and it is the technology that pushed for more towers so I think but the question is if they would come before us for any tower it would go back before the Planning Commission and Mayor and Council. Any tower constructed in the Municipality of Penn Hills would come before you.

Mayor Kuhn – so what we are saying if they wanted to put in extension antennas they could do that but if they wanted to put in an additional tower on this site they would have to come before us.

Chris Blackwell – yes.

Mayor Kuhn – thank you.

Dana McCarty – just to make this clear there wouldn't be a new tower at this location this is a 50 ft x 50 ft. lease area so it is only contemplating and it can only hold the monopole and equipment building or a co-locators equipment building.

Mayor Kuhn – so what was stated when the statement was made that maybe in the future he was referencing another location.

Dana McCarty – another location in the community.

Mayor Kuhn – o.k. thank you for the clarification.

Mrs. Sapp – Mrs. McCarty I have a question it says that this unmanned facility will be visited for only routine maintenance how often is that routine check?

Dana McCarty – I believe it is usually once every two weeks. If there are no issues it is once every two weeks. If there would be some type of outage they would be there but the routine maintenance is every two weeks or so.

Mrs. Sapp – so my next question to you would be would this facility building remain locked?

Dana McCarty – yes.

Mrs. Sapp – who will have access to this building?

Dana McCarty – Verizon and Towerco who owns it and any other co-locator who would be able to access the fence but each carrier would have their own equipment building or equipment cabinets and only that carrier would have access to their own equipment inside the fence compound.

Mrs. Sapp – thank you.

Mayor Kuhn – we are really out of the public but Greg if you would like to come up and make a comment.

Mr. Rambo – I live in Churchill Valley and the people on Veronica, Penney and all those, Long Road have zero phone reception on Verizon. So this would be a huge help to our area. It is very frustrating.

Mayor Kuhn – o.k. thank you.

Member of audience – did not give name – I live in the same area and I have AT&T will it help me?

Dana McCarty – no, right now the only carrier to go on the Tower is Verizon I don't know who in the future may want to deal with Towerco to go on but right now it is only Verizon.

Mayor Kuhn – so you are going to have to change your service to Verizon.

Member of audience – No. I hate Verizon.

Gayle Galesby – I was speaking before and I live in the neighborhood. The cell tower would be right behind my house. I don't have the benefit of the plans that you have of the size of the area around the tower.

Chris Blackwell – do you want to see it now?

Gayle Galesby – yes.

Chris Blackwell – explained everything to her that is on the plans. I will be glad to give you all of this information.

Moe Rayan – just a quick question for you. You mentioned that the fence height would be 8 ft. plus the one ft. of the marker lines and in your documents here indicating ten feet 3 feet of barbed wire

Dana McCarty – if you look at the actual drawings it might have been in the actual narrative if you go to F-I of the drawings the site plan exhibit A it is 8 ft and then there is a foot with the three foot of barbed wire so it would be a total of 9 feet it will not be greater than ten feet.

Moe Rayan – and the question on the guide wire that there was no response required on the question where guide wire is

Dana McCarty – the guide wire if there is a guide wire tower a real tall ones where you have guide wires coming out this will not have that this is just a self standing monopole and has no guide wires.

Moe Rayan – if the municipality would like to place a repeater how high or how far is it suppose to be from the Verizon locator site?

RF – usually we keep ten feet separation so we are at the 145 ft so 130 to 140 feet would be the separation in order to avoid interference. That is not the rule of thumb if necessary we can squeeze a little bit but always good to keep 10 foot separation.

Moe Rayan – o.k. thank you.

There being no further discussion the motion was approved by a 5-0 vote.

## **REPORTS**

Mayor Kuhn – I just want to acknowledge that we had received through the Manager some thank you notes for the services that our paramedics have done. You treated me at Forbes Hospital last Saturday the worst weather day of the year and I wanted to thank you for being kind, considerate and professional. I was discharged and I am doing well. Thank you and God Bless and keep you safe. And then we had from a Phillip Resic I would like to acknowledge great work to Penn Hills who brought in a young woman who was unresponsive and had seizure activity for them and was found to have a CBS of 600. Finding access difficult and 1/0 was placed fluids and meds were given and patient was being bagged by then on arrival. She is going to the ICU just wanted to acknowledge them. Awesome work. I live in Penn Hills and I feel safer knowing they are there. Penn Hills is always a skilled crew that gives patients not only good care but a fighting chance. Moe if you could relate that I would appreciate it. There being no further reports we will adjourn and we are having an Executive Session regarding personnel.

**AJOURNMENT**

Mayor Kuhn entertained a motion to adjourn.

Dr. Kincaid made a motion to adjourn.

Mr. Palumbo seconded the motion.

The meeting was adjourned at 8:50 P.M.

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DATE

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MAUREEN M. SORCE  
MANAGER'S SECRETARY