

**Newlin Township
Board of Supervisors
Meeting Minutes
December 11, 2023**

Call to Order: The Board of Supervisors' monthly meeting convened at 7:30 p.m. on Monday, December 11, 2023, at the Township Garage located at 1751 Embreeville Road. Present were Supervisors Bill Kelsall (Chair), Jim Cornell (Vice-Chair) and Bob Pearson, and Secretary/Treasurer Gail Abel.

Announcements: No announcements.

Comments: No public comments.

Minutes for Approval: Ms. Abel presented the minutes of the November 13, 2023, Board Meeting. Mr. Pearson's motion to approve those minutes was seconded by Mr. Cornell and unanimously approved.

Financial Report: Ms. Abel presented the monthly Financial Report: As of November 30, 2023, the Township had \$626,998.52 on deposit, including \$292,427.49 in general and unrestricted funds. Overall, this represents a net decrease of \$136,030.01 since October 31, 2023. Mr. Pearson's motion to accept the Financial Report was seconded by Mr. Cornell and unanimously approved.

Bill Payment Authorization: Ms. Abel presented a list of pending bills, invoices, and other recurring/routine payments totaling \$61,936.36 from the General Fund Account and requested payment authorization. Mr. Pearson's motion to approve the requested payments was seconded by Mr. Cornell and unanimously approved.

945 Marlboro Springs Road Kinter Stormwater O&M Agreement: Mr. Kelsall advised that Register Associates, Inc. had reviewed the filing relating to the Stormwater Management Agreement and Plan for 945 Marlboro Springs Road and that all of his comments had been resolved to his satisfaction. Mr. Pearson's motion to approve the Stormwater Management Agreement and Plan was seconded by Mr. Cornell and unanimously approved.

1001 Unionville Wawaset Road (AT&T Cell Tower) Land Development Application and Waivers: Kristin Camp advised that Christopher H. Schubert, Esq. from Reger, Rizzo & Darnall LLP, was in attendance on behalf of New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T") in order to request that the Supervisors grant (A) final approval of AT&T's Preliminary/Final Land Development Plans for a cell tower at 1001 Unionville Wawaset Road. and (B) waivers of three provisions of the Township's Subdivision and Land Development Ordinance:

- §185-13.A(3), in order to not require the Applicant to submit a separate preliminary improvement plan;
- §185-19.A, in order to allow the plans to be approved as preliminary/final plans; and

- §185-74.B in order to not require the Applicant to provide monuments and markers at each change in direction of boundary."

Mr. Shubert briefly reviewed AT&T's application and responded to a number of questions and comments from residents in attendance.

Ms. Camp advised that she had monitored all correspondence between AT&T and the Township Engineer, that AT&T had attended the Township's Planning Commission's November meeting and that the Planning Commission was comfortable with the proposed plans. She next presented and summarized a draft motion relating to AT&T's application and the above-referenced waivers that she had previously provided to the Supervisors (the "Motion").

Mr. Cornell's motion to approve AT&T's Preliminary/Final Land Development Plans and grant the requested waivers by adopting the Motion, in each case subject to the conditions specified therein, and that the Motion be attached as Exhibit A to the minutes of this meeting, was seconded by Mr. Pearson and unanimously approved.

Chester County Bridge #92 Harveys Bridge: Eric Quinn, Bridge Program Manager from Chester County's Department of Facilities, Rebecca Silver, PE Department Manager of Trans-Systems attended the meeting in order to present the County's project replace the bridge on Harveys Bridge Road and to obtain public feedback. They confirmed that that the project is intended to replace the existing structure (which is in poor condition) with a new, two-lane bridge that will increase load-carrying capacity and improve safety thereby enabling school buses and fire and emergency services equipment to cross the bridge. They responded to a number of questions from residents in attendance

In response to questions from Mr. Pearson and Mr. Cornell, they confirmed that construction costs will be covered by Federal funds; that preliminary engineering will begin in the Spring of 2024 with the final design out to bid in 2025 and completion expected in 2026; and that they would provide the Supervisors with a rendering of the bridge (including its façade) before making any final design decisions.

Strasburg Landfill Update: Environmental Protection Agency ("EPA") representatives Brad White (Senior Remedial Project Manager), David Greaves (Life Scientist Remedial Project Manager, Superfund Emergency Management Cleanup Division) and Akudo Ejelonu, Community Involvement Coordinator were present, following up on their presentation at the Supervisors' November meeting (at which they had discussed the recent discovery of elevated levels of perfluorooctanoic acid and perfluorooctanesulfonic acid (collectively, "PFAS") in leachate from the Strasburg Landfill Superfund site (the "Landfill)).

They advised that with Ms. Abel's assistance, EPA had already sought permission from potentially affected property owners to sample their well water, and that they hoped to commence those sampling efforts by mid-December. They confirmed that sampling results would only be released individually to the affected landowners; that if PFAS are found to be present in residential drinking water wells, either EPA or DEP will immediately begin providing bottled water to the affected residents; and that thereafter EPA or DEP will provide affected residents with whatever permanent solution is determined by those agencies to be most effective in dealing with the PFAS problem. They responded to a number of questions from attending residents.

Mr. Pearson thanked the EPA representatives for their attendance and for the acceleration of their well-testing timetable.

Roadmaster Update: Mr. Pearson advised that the Township would be installing some brick inlets on Wheatland Drive, but that he expected no further projects of significance in 2023.

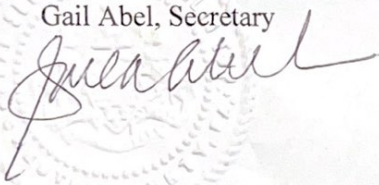
Budget Adoption 2024: Mr. Kelsall reviewed the Township's proposed 2024 Budget, confirming that there had been no changes from the Proposed Budget presented at the Supervisors' November meeting. He highlighted the Township's fire companies as a major source of cost increases, noting that the statewide decrease in volunteer firefighters was putting increasing pressure on fire companies' budgets. Mr. Pearson pointed out that nevertheless, the proposed 2024 Budget was balanced with no increase in taxes. Mr. Pearson's motion to approve the proposed 2024 Budget was seconded by Mr. Cornell and unanimously approved.

Adjournment: Upon Mr. Pearson's motion, seconded by Mr. Cornell, the meeting was adjourned.

Time: 8:40 p.m.

Respectfully Submitted,

Gail Abel, Secretary

A handwritten signature in cursive script, appearing to read "Gail Abel", is written over a faint circular embossed seal. The seal contains the text "TOWNSHIP OF WHEATLAND" around the perimeter and "NEW YORK" in the center.

**MOTION OF THE BOARD OF SUPERVISORS OF NEWLIN TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA
PRELIMINARY/FINAL LAND DEVELOPMENT APPLICATION
OF NEW CINGULAR WIRELESS PCS, LLC, d/b/a AT&T MOBILITY**

RE: New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility
1001 Unionville-Wawaset Road, Kennett Square, PA (formerly 940 Unionville-Wawaset Road)
Chester County Tax Parcel Number: 49-5-16
Preliminary/Final Land Development Application

The Board of Supervisors of Newlin Township (the "Board") tenders this Motion granting final approval of the Preliminary/Final Land Development Plans submitted by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("Applicant") for the development of a 116 foot tall monopine wireless communication tower with a lightning rod on top for an overall height of 120 feet. The proposed monopine will have six antennas and nine remote radio heads attached and will include the development of a proposed walk in cabinet and generator mounted on a concrete pad, and associated appurtenances. The Board's approval of the Plans is subject to the conditions listed herein.

FINDINGS OF FACT/DISCUSSION

Applicant is the lessee of a 60 feet by 60 feet area (the "Leased Property") of the 63.5 acre parcel of property located at 1001 Unionville-Wawaset Road, (f/k/a 940 Unionville-Wawaset Road), which parcel is also identified as Chester County Tax Parcel No. 49-5-16 (the "Property"). The Property is located on the north side of Unionville-Wawaset Road and is owned by Samuel P. Wickersham, George P. Wickersham, Jr., and Earle H. Wickersham (collectively, the "Owners"). Applicant obtained conditional use approval to develop the Leased Property with a Tower-Based Wireless Communication Facility in a Conditional Use Decision and Order dated July 12, 2021 (the "CU Order"). Following an appeal to the Court of Common Pleas, Applicant and the Township entered a Settlement Stipulation dated November 10, 2022 (the "Settlement Stipulation"), which was approved by an Order of the Court of Common Pleas dated December 13, 2022. Certain conditions in the CU Order were modified in the Settlement Stipulation.

The Property is located in the FRD Flexible Rural Development Zoning District.

Applicant submitted preliminary/final land development plans prepared by Qualtek Wireless dated April 18, 2023, last revised November 14, 2023 (except the landscape plan, Sheet LP which was last revised November 10, 2023) consisting of 16 sheets (the "Plans").

The Township engineer, Regester Associates, Inc., reviewed the Plans and issued its most recent review letter dated November 28, 2023 (the "Township Engineer Review Letter").

At the December 6, 2023 public meeting, the Township Planning Commission recommended that the Board of Supervisors grant preliminary/final land development approval of the Plans and the waivers requested, subject to Applicant satisfying all outstanding comments in the Township Engineer Review Letter.

DECISION

AND NOW, this 11th day of December, 2023, the Newlin Township Board of Supervisors hereby GRANTS preliminary/final approval of the Plans, subject to Applicant's compliance with all of the notes and conditions therein contained, and all of the foregoing conditions:

1. The development depicted on the Plans shall comply with all relevant terms and provisions of the Zoning Ordinance, the SALDO, the Stormwater Ordinance and all other applicable regulations, except as otherwise modified and/or waived by the Board of Supervisors through this Motion.
2. Applicant shall comply with all terms and conditions in the CU Order as amended in the Settlement Stipulation.
3. When constructed, the monopine may have six antennas and nine remote radio heads attached. If Applicant seeks to add additional antennas or other appurtenances to the tower, it shall obtain in advance all necessary permits and approvals to add such additional appurtenances.
4. The regulations for tower-based wireless communications facilities in the Zoning Ordinance allows an applicant to submit certain documents to prove compliance with the ordinance criteria prior to issuance of a building permit. Applicant shall supply the following materials to the Township prior to the issuance of the building permit:
 - (a) A written certification from a structural engineer registered in Pennsylvania certifying that the proposed monopine meets the structural standards offered by the Electronic Industries Association or Telecommunication Industry Association.
 - (b) A certificate of insurance evidencing general liability coverage in the minimum amount of \$5 million per occurrence and property damage coverage in the minimum amount of \$5 million per occurrence covering the monopine.
 - (c) Financial security in an amount approved by the Township engineer sufficient to guarantee the removal of the monopine ("Removal Security"). The Removal Security shall be in form and substance acceptable to the

Township, the Township Engineer and the Township Solicitor prior to the Plans being released by the Board of Supervisors for recording and shall remain in place until the monopine is removed from the Property.

- (d) A soil report complying with the standards of Appendix I: Geotechnical Investigations ANSI/EIA-222-E, as amended, to document and verify the design specifications of the foundation of the monopine and anchors for guy wires, if used.
5. The Board grants waivers from the following sections of the Township Subdivision and Land Development Ordinance:
 - §185-13.A(3) to not require Applicant to submit a separate preliminary improvement plan;
 - §185-19.A to allow the Plans to be approved as a preliminary/final plans; and
 - §185-74.B to not require Applicant to provide monuments and markers at each change in direction of boundary.
 6. Applicant shall comply with all outstanding comments in the Township Engineer Review Letter to the satisfaction of the Township Engineer prior to the Plans being released by the Board of Supervisors for recording.
 7. Applicant shall contribute to the municipal stormwater control and BMP operation maintenance fund in the amount of \$250 prior to the Plans being released by the Board of Supervisors for recording.
 8. Applicant shall execute a Land Development Agreement and Financial Security Agreement and post financial security in an amount approved by the Township Engineer and in form and substance acceptable to the Township, the Township Engineer and the Township Solicitor prior to the Plans being released by the Board of Supervisors for recording.
 9. Applicant shall execute a Stormwater BMP Operations and Maintenance Agreement in form and substance acceptable to the Township, the Township Engineer and the Township Solicitor prior to the Plans being released by the Board of Supervisors for recording. Such agreement shall be recorded contemporaneously with the Plans and a time-stamped copy provided to the Township.

10. Prior to release of the Plans for recording, Applicant shall present to the Township complete and correct copies of all required outside agency approvals for the tower-based WCF as required by law including, but not limited to, the Commonwealth of Pennsylvania Department of Transportation (PennDOT), FAA, and the Commonwealth of Pennsylvania Historical and Museum Commission (PA SHPO), as applicable.
11. Prior to release of the Plans for recording, Applicant shall provide evidence to the Township that the Property Owners have granted it in writing the necessary property rights to use the access driveway and all areas required for the stormwater management facilities depicted on the Plans and that such property rights shall remain in full force and effect for as long as the monopine and development proposed is on the Property.
12. Applicant shall adhere to all requirements in the Zoning Ordinance upon removal of the tower-based WCF.
13. Prior to the release of the Plans for recording, Applicant shall reimburse the Township for all outstanding reasonable engineering, administrative, legal, and other review fees associated with the Township's review of the Plans. If Applicant disputes any of the review fees, the parties shall adhere to the procedures in Section 10503 of the MPC. If the Township incurs engineering, administrative, legal and other consultant fees associated with the inspection of the improvements associated with the proposed development of the tower-based WCF, it shall, within thirty (30) days of receipt of any subsequent invoices from the Township or its professional consultants, remit payment to the Township for all reasonable engineering, administrative, legal and inspection fees associated with Applicant's development of the Property. Should Applicant wish to dispute any of the above-referenced inspection fees, the parties shall adhere to the procedures in Section 10510(g) of the MPC. Any balance not paid within such thirty (30) day period shall bear interest at the rate of one and one-half percent (1-1/2%) per month.
14. Applicant shall provide the Township with a copy of the recorded Plans in 11x17 format.
15. To the extent that any of the above conditions are later determined to be invalid, the invalid condition(s) are severable, and their invalidity shall not affect the validity of the remaining conditions imposed.
16. This Motion and conditions contained herein are binding on Applicant, its successors, and assigns, for the benefit of the Township in general and any successors in interest to the proposed tower-based WCF.

A motion made at the public meeting of the Board of Supervisors on this 11th day of December, 2023 by Supervisor Jim Cornell seconded by Supervisor William Kelsall, and carried by a vote of 3 to 3.

ATTESTED BY:


Gail Abel
Township Secretary

By counter-signature below, Applicant agrees to and accepts each of the conditions to the grant of its application for preliminary/final land development approval set forth above.

Date: _____

By:

Authorized Agent for Applicant

Printed Name