

**LOWER NAZARETH TOWNSHIP
BOARD OF SUPERVISORS
SPECIAL MEETING
MINUTES
June 27, 2016**

The Lower Nazareth Township Board of Supervisors held a special meeting at the Lower Nazareth Municipal Building on Monday June 27, 2016. The Chairman called the meeting to order at 6:00 PM.

Present were:

| | | | | | |
|---------------------|---|---------------|----------------|---|-------------------------------|
| James S. Pennington | - | Chairman | Gary Asteak | - | Solicitor |
| Gerald R. Green | - | Vice Chairman | Timm A. Tenges | - | Manager, Secretary/Treasurer |
| Robert S. Kucsan | - | Supervisor | Tammi Dravec | - | Assistant Secretary/Treasurer |
| Martin J. Boucher | - | Supervisor | Lori B. Seese | - | Zoning Administrator |

Absent were:

| | | |
|---------------|---|------------|
| Eric E. Nagle | - | Supervisor |
| Albert Kortze | - | Engineer |

Old Business

Cell Tower – Township Property – Mr. Pennington stated that tonight’s meeting is a follow up from Wednesday night’s meeting. At that meeting, the Board voted to “place a pause” on the installation of the cell tower to see if proper procedures were taken in the approval. Over the past couple of days, Township Staff & Solicitor Asteak reviewed the file and actions taken. Mr. Pennington reminded everyone about the FCC ruling on health issues and that the Township is precluded from making decisions based on health concerns. He stated that Township Staff does the day to day job and the Board relies on them. Mr. Pennington added that the Board is just as concerned as the residents.

Solicitor Asteak reported that he requested and reviewed a complete copy of the cell tower file. He learned that on April 28, 2015 the Township Zoning Officer received a building, zoning, and grading permit application for the installation of a 160’ cell tower to the rear of the Township Recycling Center. He notes that cell towers are permitted. The application submitted was reviewed along with the zoning ordinance and our outside agency (CodeMaster). Solicitor Asteak noted only 7-8 homes were built at that time of submission and approval. He reported that the requirements of the zoning ordinance were met. The permit to commence construction was issued on June 24, 2015.

Solicitor Asteak stated, as the Chairman said, federal law indicates that we may not use health concerns to deny approval of a tower. Those concerns must go to the FCC.

Solicitor Asteak added that there is no legal reason to revoke the permit. Lower Nazareth Township did reach out to Verizon in regards to the residents request for the Township to revoke the permit and relocate the tower. The response from their attorney indicates that any effort to revoke the permit would likely result in payment of monetary damages resulting from both permit revocation and/or breach of the lease.

Solicitor Asteak commented that while we are extremely sympathetic there is no legal reason to revoke the permit at this time.

Mr. Boucher made a motion and Mr. Kucsan seconded the motion to rescind the previous motion and take no action at this time.

Jeff Shepherd, 4485 Whitetail Drive, stated that he has lived or owned a home in the township since 1991. He spoke for the entire neighborhood and he stated that they understand the Township has liability, but they are upset about what has been done and the reduction in their home values. The community wants to work towards a resolution.

He questioned how that location was determined. Mr. Pennington stated that providers conduct studies to determine a suitable location. Mr. Pennington added that towers contain data in addition to cell service. Mr. Tenges commented that Verizon evaluated the site and determined that to be the best location. Mr. Tenges asked them to consider moving it elsewhere, but Verizon did not wish to move it.

Mr. Pennington commented that in the staff's research, towers were found to be located next to hospitals, schools, and homes throughout the Lehigh Valley. He believes that the effect on home values is all about what people are looking for in a home.

Mr. Pennington noted that companies like Verizon look where customers need the service and is sure some of the Trio Fields residents are Verizon customers. Businesses come to Lower Nazareth to serve customers and as Solicitor Asteak pointed out, it is a permitted use.

Mr. Shepherd asked if the Board want the tower in that location? Mr. Pennington commented that there are transmission towers already within the township.

Mr. Shepherd asked the Board if there was an opportunity to work with Verizon. Mr. Pennington reiterated that the township has already spoken with Verizon and nothing is going to change. Mr. Shepherd clarified that the staff has already spoken with Verizon. Mr. Pennington stated that Verizon was contacted and the Township received a response from Verizon's attorney. This would be a breach of contract.

Mr. Shepherd asked if we could all meet with Verizon.

Mr. Pennington noted monetary damages from revoking the permit or breaching the contract would be over a million dollars and noted that in order to move the tower Verizon would need to go back to the FCC for approval.

Solicitor Asteak noted that the residents are free to discuss with Verizon whatever you want.

Mr. Pennington stated that the Township is taking the position that the tower is staying where it is.

Mr. Shepherd asked for the proper contacts at Verizon. Mr. Pennington directed him to check with Ms. Seese.

Mr. Shepherd noted that the residents feel this was handled incorrectly. Kay Builders was never notified by the Township and they continue to sell homes without disclosing details.

Mr. Shepherd closed by saying that the residents will be seeking legal representation.

Tammy Kenny, 641 Mulberry Drive, stated that while there may have been few homes constructed when the tower was approved, there were plans for more. This is the most densely populated area within the township. She feels there is very little transparency by the Board. Ms. Kenny stated that the zoning ordinance indicates that a cell tower cannot be within 3 miles of another cell tower; it does not say within the township's borders. She closed by saying they will move forward with legal action.

John Kenny, 641 Mulberry drive, commented that Verizon does not own the land, the township does. Therefore the Township has the final say on the location. He questioned whether the plans submitted were available for public review. Mr. Tenges stated yes and added that there were residents within the neighborhood that knew of the tower and never approached the township.

Solicitor Asteak noted that everyone needs to do their due diligence when buying a property.

Mr. Pennington added that is not just a financial decision.

Gina Ronca, 643 Mulberry Drive, asked why the Board is appealing Mr. Lengyl's tower. Mr. Tenges commented that the Board of Supervisors is appealing the Zoning Hearing Board's decision because they chose to ignore the Township's tower, which was approved, but not built.

Rachel Lily, 4502 Whitetail Drive, questioned if this meant the end to the park. Mr. Pennington commented that the Township still intends to develop a park.

Jeff Shepherd, again noted that the residents want to work together and would appreciate the Township's support.

The Board voted 4-0. The motion carries.

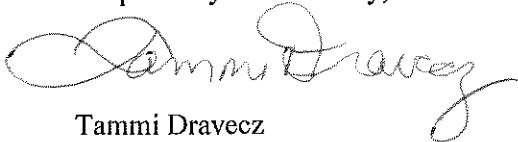
Courtesy of the Floor

There were no comments under Courtesy of the Floor.

Adjournment

The meeting adjourned at 6:38PM.

Respectfully submitted by,



Tammi Dravecz
Assistant Secretary/Treasurer