

## **STATED MEETING - CITY COUNCIL – AUGUST 9, 2016**

A meeting of the Lancaster City Council was held on Tuesday, August 9, 2016 in Council Chambers, 120 North Duke Street, (Rear Annex) Lancaster, PA, at 7:30 p.m., with President Graupera presiding.

The Council led the assembly in the Pledge of Allegiance.

Present – Mr. Reichenbach, Mr. Roschel, Mr. Soto, Ms. Williams, Ms. Wilson and President Graupera – 6

Excused – Ms. Sorace - 1

The minutes of the meeting of Council for July 26, 2016 were approved by a roll-call vote. Ms. Wilson abstained.

### **PROCLAMATIONS, HONORS, AWARDS AND RESOLUTIONS OF RECOGNITION**

Fire Chief Tim Gregg announced the promotion of eight firefighters. They are:

- Captain Ken Barton to battalion chief
- Captain Fred Lenhart to battalion chief
- Lieutenant Todd Hutchinson to captain
- Lieutenant Jason Greer to captain
- Lieutenant Ken Wright to captain
- Firefighter Chris Delong to lieutenant
- Firefighter David Martin to lieutenant
- Firefighter William Nonnemacher to lieutenant

Chief Gregg called each of the promoted firefighters forward individually and pinned on their new badges. Lieutenant Martin and Captain Wright were not in attendance. Lieutenant Martin was involved in extinguishing a basement fire. Captain Wright was away at a week-long arson training course in Lewisburg.

Mayor Gray noted that he swore-in many of the promoted firefighter when they were hired. He praised them for their willingness to take leadership roles in the Fire Bureau. Further, the mayor noted that the number of fires in Lancaster City has declined by nearly half in the last 10-15 years. He credited that decrease to the work of fire prevention and fire safety undertaken by City firefighters. He also noted the extensive training, science and physical demands of firefighting. The mayor said the citizens of Lancaster City rely on firefighters for their safety and said City firefighters are appreciated for the job they do.

### **REPORTS REQUESTED BY COUNCIL**

**PUBLIC HEARING – Zoning Ordinance Amendment for the regulation of telecommunications towers and telecommunications antennas.**

President Graupera said the public hearing was being held in accordance with the provisions of the Pennsylvania Municipalities Planning Code regarding the proposed amendment of the City of Lancaster Zoning Ordinance. That amendment was prepared by the City's special counsel, the

Cohen Law Group, with the input of the City administration. The proposed amendment would add a new Article 19, Wireless Communications Facilities, to the Zoning Ordinance and will establish certain general and specific standards relating to the location, placement, construction and maintenance of telecommunications towers and telecommunications antennas. The purpose of the public hearing is to obtain public comment on the proposed ordinance.

The City Clerk reported that he had received a copy of the legal notice advertising the public hearing and that it was published in LNP on July 25, 2016 and August 1, 2016.

Charlotte Katzenmoyer, City Public Works director, said that under Pennsylvania and federal law, the City of Lancaster has strong legal rights through the adoption of zoning ordinances to control the location, placement and construction of wireless telecommunications facilities. The law has changed, and so has the technology. Companies now wish to install - in lieu of what we commonly call towers – wireless facilities equipment to boost power and expand signal range on monopoles, which typically range from 70-120 feet in height. Applicable law does not allow municipalities to effectively control the placement of these monopoles through a street and sidewalk ordinance. Accordingly, the City’s special counsel, the Cohen Law Group has prepared an amendment to the City Zoning Ordinance to cover all forms of communication towers and equipment and to update the ordinance to be compliant with current state and federal law.

The amendment requires telecommunications companies prior to installing a monopole or similar equipment to demonstrate that it is filling a void in service and not simply improving existing service. The ordinance accommodates the need for wireless communications facilities while complying with applicable federal and state law, including Pennsylvania’s Wireless Broadband Collection Act and the Federal Communications Commission’s Shot Clock Rule, the National Environmental Preservation Act and the Municipalities Planning Code of the Commonwealth of Pennsylvania.

Ms. Katzenmoyer asked the City Clerk in read into the record the following memorandum from the Lancaster County Planning Commission, dated August 9, 2016, which provides a summary of the ordinance:

*MEMORANDUM*

*To: Craig Lenhard, Senior Planner, Lancaster City*

*From: Sharyn E. Young, Senior Community Planner, Lancaster County Planning Commission*

*August 9, 2016*

*CPF #: 33-134, Zoning Ordinance Text Amendment, City of Lancaster*

*LCPC Meeting of August 8, 2016*

*The Lancaster County Planning Commission (LCPC) has reviewed the above-referenced zoning ordinance text amendment. The proposed amendment does not have any comprehensive planning implications.*

*PROPOSAL*

*The City proposes to establish general and specific standards relating to the location, placement, construction and maintenance of telecommunications towers and telecommunications antennas, and provide for the regulation of such facilities both within and outside the public rights-of-way.*

#### **COMMENTARY**

*The wireless communication industry is employing rapidly-changing technology developed to keep pace with consumer demand. The proliferation of smart phones and their use for texting and social media has dramatically increased the need for new antennas to receive and transmit electronic data. In order to keep up with demand, the industry must install additional infrastructure, impacting communities in new ways. Recently enacted federal and state legislation prohibits municipalities from banning wireless communications facilities (WCF), but allows municipalities the power to regulate their use. This ordinance contains myriad provisions designed to safeguard the health, safety, and welfare of the community while allowing for the ordered development of the new technologies. The ordinance sets forth clear, objective standards by which to evaluate development proposals.*

*The new regulations accommodate the increasing need for new WCF, provide for the managed development of WCF, establish procedures for the design, siting, construction, installation, maintenance, and removal of WCF, address new wireless technologies, minimize the adverse visual effects, and limit the number of such facilities in the City. Certain ordinance provisions address regulations imposed by the Pennsylvania Wireless Broadband Collocation Act of 2012 (PWBCA), including mandated timeframes within which municipalities must act on applications. The regulations address telecommunications antennas and telecommunications towers, within public rights-of-way and outside of public rights-of-way on private property.*

*Telecommunications antennas are facilities that include antennas and related equipment, but do not include any support structures. These smaller, lower-power antennas operate at lower elevations, and don't require placement on traditional communications towers. Telecommunications antennas are permitted by special exception in all zoning districts subject to the conditions set forth in the ordinance. Those located within the public rights-of-way must be co-located on existing poles, such as utility or light poles, or other freestanding structures. No telecommunications antennas may be located upon any property, or on a building or structure, that is listed on either the National or Pennsylvania Registers of Historic Places, that is within the City's Local Historic District, or that is deemed by the City to be an Historically Significant Structure. Telecommunications antennas are required to employ stealth technology, the application of which must be approved by the City. All telecommunications antennas that are located in the Heritage Conservation District must be reviewed and approved by the city of Lancaster Historic Preservation Specialist.*

*Telecommunications towers are structures used for the purpose of supporting one or more antennas; generally they are the tall structures that have become familiar fixtures on the landscape. Considerable regulations are imposed by the ordinance upon telecommunications towers, including many land use provisions and technical standards; special exception approval is required. The ordinance is thorough and generally sets forth clear, objective criteria by which the City is to render decisions on telecommunications tower applications. NO telecommunications towers may be located upon any property, or on a building or structure, that is listed on either the National or Pennsylvania Registers of Historic Places, that is within the City's Local Historic District, or that is*

*deemed by the City to be an Historically Significant Structure. Telecommunications towers are required to employ stealth technology, the application of which must be approved by the City. All telecommunications towers that are located in the Heritage Conservation District must be reviewed and approved by the city of Lancaster Historic Preservation Specialist. Telecommunications towers located outside the public rights-of-way are permitted in the C3 Regional, CM Manufacturing, and SM Suburban Manufacturing zoning districts only. Telecommunications towers located inside the public rights-of-way are permitted along certain roads only, a list of which is adopted by City Council and kept in the City Zoning Office.*

#### **CONSISTENCY WITH COMPREHENSIVE PLANS**

*Lancaster County Comprehensive Plan: The proposed Ordinance provides zoning regulations the County Comprehensive Plan does not address.*

*Regional Comprehensive Plan: As with the County Comprehensive Plan, Growing Together: A Comprehensive Plan for Central Lancaster County, does not address zoning regulations for this type of utility.*

Responding to a question from Ms. Wilson, Ms. Katzenmoyer said the proposed zoning amendment is unrelated to the City's fiber optic broadband network.

Joseph Divis, AT&T executive director of external affairs, Mid-Atlantic, based in Norristown, Pennsylvania, stated that he learned about the City's proposed zoning amendment the day before this meeting. He said that he had provided the Mayor's Office with a model ordinance which had been drafted in conjunction with the Cumberland County Planners and the Pennsylvania Association of Township Supervisors and others. He said they are reviewing the City's proposed ordinance and hope to provide comments soon. He said those comments will be shared with the City solicitor and Mayor and that they hope to work collaboratively on the proposal.

Mr. Divis acknowledged that there has been much change in the telecommunications industry. He said the industry is moving to 5G service, which has shorter propagation. He said they have seen an explosion in wireless data use. His company, between 2007 and 2015, saw a 150,000 percent increase in mobile data traffic. Industry professionals and the Federal Communications Commission predict that mobile data will increase 10-fold by 2020.

He said they look forward to working with the City administration, solicitor and Council in reviewing the proposed ordinance. He anticipated having constructive comments and recommendations on the ordinance, so that when it comes back before Council in two weeks that it will be a great product. He said they understand that there has to be a balance in what the City needs to regulate and the industry's investment in the infrastructure.

Mr. Divis noted that he was joined by Jamie Strong, who was representing Verizon Wireless.

Ms. Katzenmoyer responded that the City solicitor recommended that Lancaster amend its zoning ordinance, rather than have a separate fee-standing ordinance for wireless telecommunications facilities.

Tony Dastra, 113 North Plum Street, asked about the referenced 5G service and how the monopole towers which the City is seeking to regulate would interact with that service.

Ms. Katzenmoyer responded the regulations which the City is seeking to enact will not cover changes or expansions of existing service. She deferred to Mr. Divis to address how 5G service would be effected.

He responded that 5G represents an elevation of the technology and the transfer of data through the air interface. As the technology is enhanced, engineers attempt to increase the amount of data that can pass through the limited spectrum allotted by the federal government. The 5G technology has a shorter propagation. More infrastructure needs to be installed to ensure the passage of data and enhancement of service. That can be done with macro-sites – the large free-standing antennas seen on buildings and towers – or on much smaller structures, such as lampposts or telephone poles.

President Graupera then closed the public hearing.

## REPORTS OF COUNCIL COMMITTEES

PUBLIC SAFETY COMMITTEE – No report.

PUBLIC WORKS COMMITTEE – Mr. Roschel said his committee met on August 1. A friendly-taking resolution for a Stevens Avenue property was slated for discussion but was removed from the agenda by the administration. The City now plans to acquire that property through a regular purchase agreement. Doing so will not restrict the later use of the property. The mayor said that nothing has been decided about the long-term use of the property. The City has received a grant with which the administration plans to provide for a playground on the site. Those improvements can be moved later, after a decision has been made about future use of the property.

Further, Mr. Roschel reported on the Public Works Committee meeting which occurred earlier in the evening. At that meeting, administration officials and representatives of MAW Communications announced the debut of LanCity Connect, the City fiber optic cable broadband network. LanCity will provide Internet service to residents and businesses in addition to serving the City's traffic signals, remote water meter reading and Public Safety Coalition cameras.

Pre-registration for the residential service began today. City residents who sign-up before December 31 will not have to pay an installation fee. Monthly fees will range from \$35 to \$90, based on the speed in which the data is delivered. Speeds will be from 50 megabytes to one gigabyte. Phase I of the project is now complete. Phase II is expected to be completed by the spring of 2017.

ECONOMIC DEVELOPMENT & NEIGHBORHOOD REVITALIZATION COMMITTEE – Mr. Reichenbach said his committee met on August 1 and discussed the proposed Land Bank ordinance, which is on the agenda for a first reading this evening. Also discussed was a redevelopment proposal for a pocket park in the first block of West Lemon Street.

The City Redevelopment Authority has proposed demolishing 31, 33 and 35 West Lemon Street and creating a passive park of about 0.7-acres. The City Planning Commission met July 20 and reviewed the redevelopment plan. On a vote of 2-3, the commission members voted not to support the proposal.

There will be a public hearing on September 13 to discuss the redevelopment plan in detail. The Historical Commission will also weigh the proposal at its upcoming meeting.

FINANCE COMMITTEE – Mr. Roschel, reporting for the absent Ms. Sorace, said the committee met on August 1 and discussed Resolution No. 36-2016, which is on the agenda this evening and will be discussed later.

The committee also heard presentations from Lancaster EMS and the Lancaster Public Library. Bob May, Lancaster EMS executive director, presented information on the number of emergency calls to which his group responds in the City, the amount of donations received, and the loss incurred each time they respond to a call for a Medicare or Medicaid patient. He asked that the City increase its annual contribution from \$60,000 to \$300,000. He would like to see that amount increased to \$500,000 in coming years.

Heather Sharpe, Lancaster Library executive director, reported on the library usage by City residents and the amount contributed by the City. Lancaster City provides about \$1.10 per capita in funding for the library. That funding level is far below the \$5 per capita amount recommended by the state. Providing \$5 per capita would equate to about \$300,000 in annual funding for the library, or a \$265,000 funding increase from current funding levels.

COMMUNITY DEVELOPMENT & PLANNING COMMITTEE – No report

PERSONNEL COMMITTEE – Ms. Wilson said her committee met on August 1 and again this evening prior to the regular meeting. The mayor has recommended the following individuals for appointment to boards, commissions and authorities: Carrie C. McCullough to the Human Relations Commission Board of Directors, for a term from July 12, 2016 to September 30, 2019; Ruth Ayn Hocker to the Suburban Lancaster Sewer Authority, for a term from July 26, 2016 to July 26, 2021; and Robert Shenk and John McGrann to the Public Arts Advisory Board, for a term from July 31, 2016 to July 31, 2018.

Ms. Wilson made a motion to approve the nominations. Mr. Soto seconded the motion.

Council approved the motion by a unanimous roll-call vote.

#### LEGISLATIVE AGENDA

#### ORDINANCES FOR FINAL PASSAGE

Administration Bill No. 8-2016, (the title) was read by the City Clerk as follows:

**An ordinance of the City of Lancaster, Lancaster County, Pennsylvania; providing for the amendment of the Zoning Ordinance of the City of Lancaster, providing for purposes and findings of fact related to the adoption of the amendment, providing for definitions; establishing certain general and specific standards relating to the location, placement, construction and maintenance of telecommunications towers and telecommunications antennas; providing further for the regulation of such facilities within the public rights-of-way and outside the public rights-of-way; amending the table of permitted uses to allow telecommunications antennas by special exception; providing for the enforcement of said regulations; and providing for an effective date.**

President Graupera made a motion to table the bill until the September 13, 2016 meeting, at which time there will be a second reading and vote whether to approve the proposed ordinance. He said there are still discussions about the proposal. Also, Council will receive a list of streets on which wireless antennas will be permitted. That will be a resolution which will come to Council for approval.

Mr. Soto seconded the motion. The motion was unanimously approved by a roll-call vote and the bill was tabled.

#### ORDINANCES FOR FIRST READING

Administration Bill No. 9-2016, (the title) was read by the City Clerk as follows:

**An ordinance of the Council of the City of Lancaster, Lancaster County, Pennsylvania, creating the City of Lancaster Land Bank Authority; outlining legislative findings; defining terms; authorizing and establishing the City of Lancaster Land Bank Authority; outlining powers regarding acquisition maintenance and management of real property under the City of Lancaster Land Bank Authority; outlining disposition of property by the land bank; establishing pricing, proving authorization for discharge and abatement of real estate property taxes and other municipal claims by the City of Lancaster Land Bank Authority; establishing other requirements for operations of the City of Lancaster Land Bank; outlining governance of the land bank including board of directors, officers, vacancies, meetings and powers; establishing land bank staff; providing indemnification to the land bank; proving for taxing jurisdictions to participate in the City of Lancaster Land Bank Authority pursuant to inter-governmental cooperation agreements, providing general provisions relating to the operation of the land bank including third party beneficiaries and immunity; authorizing and directing the mayor to effectuate the provisions of this ordinance; providing for the repeal of inconsistent ordinances; providing for the severability of the ordinance; and providing that the ordinance shall take effect in accordance with Pennsylvania law.**

Mr. Reichenbach said the land bank is another tool which was recently granted to municipalities to fight blight. Lancaster will attempt to use a land bank authority to address properties which are not quite blighted but tax-delinquent. Such properties can fall into a cycle where they are purchased by out-of-area real estate speculators who hold them until they can be resold at a higher price. Often, those properties are resold to another speculator. The houses remain vacant and deteriorate, having a negative effect on the surrounding neighborhood.

A land bank authority would have the power to purchase tax-delinquent properties before they go to a sheriff's sale, thereby stepping in before that cycle begins. A land bank could also gradually purchase several properties on a block and hold them until they could be assembled and sold for a development project.

Mr. Reichenbach stressed that a land bank authority would not have the power of eminent domain and would not be taking properties.

President Graupera said the second reading and vote on the proposed ordinance would be on August 23.

## RESOLUTIONS

Administration Resolution No. 36-2016, (the title) was read by the City Clerk as follows:

**A resolution of the Council of the City of Lancaster approving a certain refunding project to be undertaken and financed by the Lancaster Higher Education Authority on behalf of Franklin and Marshall College: declaring that it is desirable for the health, safety and welfare of the people in the area served by the facilities of Franklin and Marshall College to have such a project undertaken and financed by the authority.**

Mr. Roschel made a motion to approve the resolution. Mr. Reichenbach seconded the motion.

Mr. Roschel said this resolution was discussed at the Finance Committee meeting on August 1. Dan Blakinger, solicitor of the Higher Education Authority reported that this project involves the refunding of \$33 million in bonds which were issued by Franklin & Marshall College in 2008. Replacing those bonds with new bonds at lower interest rates will save Franklin & Marshall College about \$6 million.

Council passage of the resolution indicates a belief that the refinancing will benefit the people in the area. At the committee meeting, Mayor Gray noted that passage does not obligate the City in any way to be responsible for repayment of the debt, nor does it count against the City's maximum borrowing amount, Mr. Roschel said.

Mr. Blakinger, at the committee meeting, stated that approval of the resolution also does not obligate the Higher Education Authority in any way. The debt is solely the responsibility of the college, Mr. Roschel said.

Tony Dastra, 113 North Plum Street, asked what the original bonds funded.

Mr. Roschel explained that the money was used for multiple projects at the college. He did not have details. He said that Council was supporting the project through the Higher Education Authority as a means of supporting the financial health of the college, which is an institution within the City.

City Council approved Administration Resolution No. 36-2016 by a roll-call vote. Ms. Wilson, a Franklin & Marshall College employee, abstained from voting.

## PUBLIC COMMENT

Mr. Dastra asked about open hours of City parks. He was with a group at Buchanan Park recently that was told to leave by City police because the park was closed. With the popularity of the game Pokemon-Go, people are coming to parks and other public spaces at all hours of the day and night. He asked whether it was possible to accommodate more people by keeping City parks open at all times.

Ms. Katzenmoyer responded that City Parks are open between dawn and dusk. That regulation is in effect because most parks do not have lights or the lights are not adequate to ensure safety, such as illumination of tripping hazards. Secondly, police cannot determine in the dark what

is appropriate use of the park and what is inappropriate use. If the parks are closed after dark, then police can act whenever they see people in the park after dusk.

Joe Blauberg, 63 W. Chestnut Street, expressed concern about the cost of downtown rents. Rents have climbed as the economic health and popularity of the City has risen. He asked what the Council planned to do about affordable housing.

President Graupera directed Mr. Blauberg to give his contact information to the City Clerk following the meeting. Someone from the Administration or Council will contact him to discuss the City's affordable housing efforts.

## REPORT OF THE MAYOR

Mayor Gray read the following prepared statement:

*PPL is set to begin work on a major project in the City that will continue through November. Beginning next Monday, August 15th, contractors will be working in the area of Old Dorwart Street, and portions of New Dorwart, North Pine and West Grant streets.*

*PPL's contractor, I.B. Abel, will upgrade the existing roadside power line with larger and stronger wires that are needed to help prevent power outages for customers in the area. Crews will also be replacing old poles, and installing two smart grid devices that will help to shorten the duration of power outages, should they occur.*

*In order to allow crews to safely complete this work, customers in this area may experience one to two power outages while work is underway. Outages may last anywhere from one to eight hours, and most customers will experience one outage. Door hangers will be used to notify all affected customers 24 to 48 hours in advance of these outages.*

*Residents will also experience parking restrictions from 8 am to 4 pm. on street blocks where crews are working. Blocks will be posted in advance with signs notifying residents of any restrictions, and a detailed description of PPL's planned work path with updates can be found on the City's website.*

*As you know, for nearly three years, the City has been working with Lancaster Township to allow construction of a new Operations Facility on City-owned land located in Lancaster Township that would house Public Works services.*

*Meanwhile, conditions at our Streets Building continue to deteriorate. A torrential downpour last month brought flooding to the Fairview Avenue Streets Building and to our Wastewater Treatment Plant on New Danville Pike. Losses in excess of our \$10 thousand dollar deductible were covered by the City's insurance carrier.*

*On-going incidences of flooding, combined with multiple roof leaks have led to mold contamination that has made portions of the Streets Building unusable. The building also has structural problems, as evidenced by a dump truck falling into a sink hole when the floor under the truck collapsed last year. With plans in place to construct a new Operations Center, we have not invested in any major repairs to the Streets Building, in spite of these worsening conditions.*

*However, delays continue to frustrate those plans. The most recent review by Lancaster Township led to a 17-page report of required revisions to our design plan. We anticipate that this will delay the start of the project by another six months. In a best case scenario, we hope to begin construction in Spring 2017, with an additional 18-24 months for project completion.*

*These delays, combined with the continuing deterioration of our existing Streets Building compelled our decision to look for a temporary location to house some of our operations. The Farmers Supply building on North Franklin Street has been identified as just such a location. With just under 30,000 square feet of space, this location provides enough space to house Streets and Traffic Staff, vehicles, and equipment. The cost of leasing for the last quarter of this year, will be covered by savings from staff vacancies. Next year, we will budget for a full year of lease payments at \$5.40 per square foot. We expect that this facility will be much more energy efficient than the current Streets Building. Most importantly, a relocation to this site will provide a much safer and usable workplace.*

#### COUNCIL COMMENTS

Ms. Wilson questioned the mayor about the PPL work. She asked why the work is being done in August, which is one of the hottest times of the year and people will be without air conditioning when the power is out. Further, she asked about those who require the use oxygen or other medical devices.

The mayor responded that the administration had only recently learned of PPL's plans. He said they are also concerned about businesses in the neighborhood in addition to residents.

Ms. Katzenmoyer said PPL will notify people by using door-hanger notices. The administration also has reviewed a press release that will be issued by PPL on Wednesday. They have included a contact person to call with questions. The power outages will occur in the later phases of the project. PPL will install new poles adjacent to existing utility poles. Outages will occur when the wires are switched to the new poles. That will likely occur in September or October. PPL will also work with businesses to limit outages to nighttime work. The utility is also asking people with special medical conditions to contact them to ensure their power is not cut.

President Graupera adjourned the meeting at 8:43 p.m.

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John E. Graupera, President

Attest:

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Bernard W. Harris Jr., City Clerk