

TYRONE TOWNSHIP PLANNING COMMISSION

APPROVED MEETING MINUTES

May 26, 2009

PRESENT: Gary Butler, Joe Fumich, Dave Hanoute, Steve Hasbrouck, Ed Kempisty, Mark Meisel, Laurie Radcliffe

ABSENT:

CALL TO ORDER: 7:00 p.m. by Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

- 1) Township residents Marc McCaffery, Gary Penn, Tom Peterson, Pat Suckley, Wade Smith, Dennis Wheaton, and Sandy Bright asked for time to address the Planning Commission following discussion of the request.

APPROVAL OF THE AGENDA:

Moved by Radcliffe, seconded by Butler to approve the May 26, 2009 Agenda as presented. Motion carried by unanimous voice vote.

APPROVAL OF THE MINUTES:

- 1) May 12, 2009 Meeting Minutes

Moved by Butler, seconded by Kempisty, to approve the May 12 2009 Meeting Minutes as corrected:

Page 1, Line 33: ~~Mr. Dietrich said record his enforcement issues and give them to Mr. Van Hecke so he could follow through. Mr. said that...~~

Page 3, Line 24: (...would have to **be** enforced...)

Page 4, Line 3: (...in a front **yard** or ...)

CORRESPONDENCE:

SUBCOMMITTEE REPORT:

OLD BUSINESS:

- 1) Request of Rick Rockman, representing Tri-County Wireless, for construction of a wireless communication tower in the Fenton Gravel Pit with access from Denton Hill Road, R-2 Parcel 04-300-021

Joe Wizynajty of Delta Engineering noted that the proposed wireless tower location was in the Fenton Gravel Pit. The tower will be located approximately 300 feet north of the entrance drive on Denton Hill Road and approximately 40

feet below the level of Denton Hill Road. The tower parcel will be approximately one acre in size and the intended height of the tower is 250 feet. A fall zone has been set aside and the owner of the land within the fall zone radius has provided written consent for location of the tower within the fall zone. The owner has no health and safety concerns in regard to the tower location.

The Township's topography and tree cover form a challenge when trying to serve the community with wireless service that relies on line of sight signals. Even small trees or leaves can interfere with the use. Referring to a USGS topography map as a propagation map, he noted that the map showed the location of the Tri-County home base in Fenton (Location 1), the proposed tower site (Location 2) and some of the other existing towers in the Township. The closest existing tower (Location 5) is at Peabody Orchards on Foley Road, but you can't see all of Tyrone Township from there. The gravel pit is the optimum location for a tower in Tyrone Township because there are two 250 foot ridge lines covered with mature trees within three miles of the site.

The best wireless service area in the Township is available in the northeast corner. The majority of the people living there can receive a signal with the proper equipment. The ridge line north of White Lake Road makes it difficult to see anything south of the road. There is no place where you can see all of Tyrone Township from a single tower. In looking for the best tower location based on population density and topography the gravel pit is the best site they could find. Even then they won't be able to see the entire Township, but the majority of residents could get service from the gravel pit. The Township is difficult to work in and expensive to provide with service because of topography and low population density.

Mr. Wizynajtys told Mr. Fumich that the Foley Road tower (Location 5) wasn't high enough and any tree 85 feet high or taller would interfere with their signal and they can't see any of the other towers in the Township from that location. To send a signal there from their home base they would have to relay it to one of the existing towers.

Mr. Rockman informed Mr. Hanoute that the Foley Road Tower (5) was an alternative that might meet their requirements if it wasn't 40 or 50 feet too low. Mr. Wizynajtys commented that the problem with the Township's tower locations wasn't a single tree but stands of trees. Mr. Rockman explained that they used 45 mgs of band width which can send internet and voice phone signals, which is more or less a microwave system. It isn't economically feasible to purchase another band width and set up another home base in Tyrone Township. They want to project their service into the Township and then from that site into the southern part of the area. Government money is available for broadband wireless development. Any area that has only 20% or less capacity for some kind of internet access is considered an underserved area. Tyrone is one of the townships that would qualify along with Argentine and Rose. Tri-County has an application on file, but hasn't exercised it. The call for service came from Tyrone Township itself. The residents want to know when we will get something up and the Township refers people to us. There are 60 towers in the area and most of them are regarded as part of the landscape.

Responding to Mr. Hanoute's questions, Mr. Rockman said the Peabody tower (5) would have to be raised to meet the line of sight requirement between the tower and their home base. The height of the tower is 190 feet and he thought it would take a minimum of another 70 feet. Mr. Hanoute noted it was still less than the height of the tower they were proposing. Township Planner Sally Hodges commented that a document submitted earlier actually showed that the Peabody Tower accomplished a line of sight. Mr. Wizynajtys said it depended on the tree coverage between the two towers, and the previous drawing didn't show the correct tree heights.

Mr. Hanoute reminded Mr. Rockman that he would have to create a separate parcel within the gravel pit which would meet the R-2 parcel requirements and include open space in connection with the parcel. Mr. Rockman replied that he planned to use all of the gravel pit area as open space. Ms. Hodges explained that there is still a concern about the use of the remainder of the gravel pit when the time for reclamation and reuse occurs and the amount of open space associated with the tower itself.

Responding to Ms. Hodges review letters (Site Plan and Special Use, May 7, 2009), Mr. Rockman said the new tower will be a taxable entity and towers are permitted as a Special Land Use if they meet the standards of the Ordinance particularly Article 21.32.F. There will be no long term adverse effects for the owner of the pit and the community. We disagree about what constitutes the need for a line of sight back to Fenway Boulevard (Location 1) and we have documented that there is no tower within the Township which will provide a line of sight other than the gravel pit location because of the band width. They don't feel that alternate designs are necessary because there are few in the field. None of the 60 towers within a 25 mile radius of the home office use an alternate design. Their tower priorities are based on safety for their climbers and delivery of economical service to their customers. The gravel pit is the optimum location for line of sight linkage to their base tower because of the dense foliage and rolling terrain.

The tower at the intersection of White Lake Road and Hickory Ridge Road is not available for collocation because it is a Public Safety installation. Our proposed tower will allow collocation. The gravel pit owners are aware of the Township's Master Plan intentions and they believe that erection of a self supporting tower would be consistent with, but not interfere with, single family detached residential objectives. A single tower will be located within a 64 acre parcel. The wireless tower is consistent with a single family dwelling accessory use tower to deliver cost effective high-speed internet and voice phone to their home. There would be neighborhood compatibility because their field projections indicate that only the top 40 to 60 feet of the 250 foot tower would be exposed above the surrounding tree lines in any direction. There will be no negative impact to the environment from the tower or the equipment houses to the neighboring residents or the traffic on Denton Hill Road. The owners of the pit have declared that the tower location will not be a deterrent to the future development of the gravel pit. The tower will be secured by a foundation. It will be a lattice tripod made of galvanized steel with lights and possibly guy wires.

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Mr. Meisel commented that the Township prefers one single tower to multiple smaller towers. He asked Mr. Rockman if he had looked at some of the smaller towers which could be made taller in the vicinity of White Lake Road and US 23, or the TRW water tower. Mr. Rockman replied that based on the national proposed broad band wireless program, their intent is to locate a significant tower (200-250 ft) in every county or township. Smaller towers will be built by private owners. He told Mr. Meisel he had contacted the TRW plant manager about collocation, but hasn't ever gotten a return call. The city of Linden isn't interested in water tower collocation either.

Mr. Hanoute asked if the Peabody tower (5) would meet their needs if it were of sufficient height. Mr. Rockman said that it might, but the location isn't ideal for signals going east or south. Mr. Hanoute noted that the Peabody tower is located on the Kandahar ridge south of White Lake Road and asked if it could be raised or rebuilt as several other towers in the Township have been. Mr. Rockman replied that it would be too expensive to build a new tower. At that location it would have to be 350 feet tall. That site isn't close to meeting the requirements, but might be able to in combination with other towers. He doesn't own the Peabody property and the owner is comfortable with the tower lease he has now. He also owns part of the gravel pit. Mr. Fumich asked if Mr. Rockman had considered relocating his home base.

Mr. Rockman told the Planning Commission that Vaughn Smith, the gravel pit owner, pledged approximately 37 acres of the gravel pit to Tyrone Township as part of a gravel pit consent agreement. The agreement states the property must be turned into a park. It is his personal feeling that the pit property will not revert to the Township because Mr. Smith has other plans for development and wants to keep it himself. Mr. Smith has until 2010 to complete reclamation. Mr. Hasbrouck asked Mr. Rockman why he thought the Township wouldn't uphold its end of the agreement. The Board can site towers on municipal property, but the gravel pit still doesn't meet the standard if there are other properties available. Mr. Rockman said he didn't consider locating the tower in the part of the property the Township was supposed to receive because he doesn't own that part of the gravel pit.

Ms. Hodges commented that there was a lengthy list of requirements referenced in her reviews. Based on the requirements in Ordinance Section 21.32.F, the section of the Ordinance which refers to uses which are not suitable for every location in the subject Zoning District, three basic requirements apply. The first is the demonstration of need which cannot be reasonably met at another location. From the information provided, it is still not clear that all other sites have been fully examined. The second requires an alternate tower design (steeple, bell tower, etc.) compatible with the existing character of the neighborhood and general area. The third requirement concerns alternate sites (municipal sites, religious sites, parks or other large open space areas, school sites, etc.) or existing facilities. The applicant needs to prove why the alternate sites won't work or can't be made to work. The proposal does not meet the standards of 21.32.F. Relative to the requirements of 21.32.D, Ms. Hodges said she had requested line of sight drawings to indicate the view of the facility from surrounding residential areas and those weren't provided. In this case, the

environmental impact will be visual, but there is a concern about future development or use when a tower is located in such a prominent position. There is no description of the future use or a future use layout for the property. In addition, the fall zone easement has not been described, there should be a note on the plan stating that no structures would be located within the fall zone easement, and a grading and landscape plan should be provided for the tower parcel.

Based on the Ordinance requirements, she felt that significant changes were needed to the application, particularly in regard to Section 21.32.F. and that all alternative locations and designs weren't fully investigated. In addition a complete site plan is required and her report lists the missing site plan items based on the Ordinance. The most significant information missing is the line of sight in regard to the view of the tower from the surrounding homes in selected locations, the evaluation of other permitted locations that could be used to satisfy the need, the elevation details and tower appearance, the number of antennas to be attached to the new tower and the future number that could be attached, the appearance of the array, details of the equipment sheds, soil borings, certification from the engineer about the tower fall, and other items referenced in her May 7, 2009 letter.

Mr. Wizynajtys brought forward an aerial view taken from Virtual Earth of the Southwyck homes closest to the tower site which might be impacted by a view of the tower. The view was established for a height of six feet and any tree 60 feet high along the line of sight would obscure the top of the tower. One of the houses will be screened by a hill and significant trees. Even though the house won't be able to see the tower, Mr. Rockman said their equipment is able to signal through light foliage for a distance of up to 2 miles. Ms. Radcliffe asked how the tower would look when the trees didn't have leaves on them.

Mr. Wizynajtys said the tower wouldn't be visible going north on Denton Hill Road, but it would be visible going south where there wasn't enough vegetation to hide it. Mr. Fumich asked if the tower would be visible from White Lake Road. Mr. Wizynajtys said White Lake Road is in a valley between the ridges so there would be visibility from White Lake Road. People north of the proposed tower would be well served and going west there would be a good view as far as Runyan Lake. Federal Aviation regulations allow a maximum tower height of 1,299 feet. Tower 5 is already at 1,295 feet.

The south ridge is the limiting factor in tower development. It has an elevation of about 1,150 feet. The Lake Shannon area has an elevation of about 950 to 900 feet, so there would probably be some interference from the ridge with a signal from their proposed tower. Their service proposal would probably provide service for 70% to 78% of the Township. The Peabody tower would come into play for residents in the south and southwest corner of the Township.

Ms. Radcliffe asked about the specific benefit to the residents of Southwyck from the new tower and what they would get that they don't already have. Mr.

Rockman said they would have access to the internet and land lines. Because of the proximity to Fenton they probably have that now, but Tri-County service would be cheaper and faster.

Gary Penn, 11200 Denton Hill Road, said he lives on the east side of Denton Hill Road across from the proposed tower site. He will have a direct view of the tower and the lights from his house. He hasn't heard anything at this meeting that demonstrates a need for their wireless service, particularly for the people between this ridge and the Kandahar ridge. He currently has service from Charter Communications and AT&T DSL. He asked if a survey of potential users had been conducted along White Lake Road. Mr. Rockman said they didn't conduct a survey and he didn't know what percentage of the White Lake Road valley was without service, but Charter Communications was in bankruptcy. Charter specializes in service to dense residential pockets, but he estimated that 30% of the Township residents who didn't live in subdivisions were without Charter service. Mr. Penn said his concern wasn't with the part of the Township where there were only a few people, but the residential areas where service was already available.

Mr. Meisel commented that DSL service was very spotty in the White Lake Road area, based on his personal experience. Mr. Hanoute said he lived in the White Lake Road valley and had service from Charter. He reminded the residents in attendance that there were provisions in the Ordinance for the use of residential property as a tower site and that is what is being discussed.

Marc McCaffery, 12285 Ivy Lane, Secretary-Treasurer of the Southwyck Hills Homeowners Association, requested denial. There are concerns about the impact to their subdivision of the tower itself when there are other tower locations available, the limitations associated with the type of wireless service proposed, the ultimate use of the tower parcel, and the need for another type of internet service. Southwyck is on the southern boundary of the gravel pit. There are 16 kids living in the subdivision and there are 38 lots. Ninety seven percent of the residents (16) oppose the tower. The one homeowner in the subdivision that doesn't oppose the tower has an interest in the gravel pit. Jayne Hill, Jayne Valley, Denton Creek and other subdivisions adjacent to the pit are opposed to the tower.

Southwyck's position was laid out by their Attorney's letter dated February 20, 2009 recommending denial of the request. In addition, the consent agreement clearly states that the only business that can be operated at that location is extraction. The tower would be in conflict if the application is approved. The request doesn't meet the Master Plan or any of the Zoning District's requirements for site compatibility or additional development.

Property values will decline. People living in Southwyck moved there for the aesthetics not for the view of a tower. That is the reason most people move here. The Township and Board of Trustees has set out in the Future Land Use plan where these types of applications should be located. There are reports showing the impacts of wireless facilities on migratory birds and bees. There are quality of life statistics showing the negative health impacts associated with the

continuous emission of radiation, particularly leukemia in kids. There are 22 lots in Southwyck Hills that are undeveloped. The tax income would be about \$4,000 a year if and when a house gets built. Over the life of the tower that would be a loss of almost \$2,000,000 dollars.

Their type of high speed internet technology isn't new or special, but it may be cheaper. Their plan doesn't fit here and their property should have been turned over to the Township already. The new service may benefit a few, but there are many other types of service currently available in the Township. At one time there was a government plan to provide free wireless service to Livingston County, but that plan has been abandoned. The request should be denied.

Tom Peterson, 13045 Hillsbury Drive, said the proposal didn't comply with the Master Plan. He asked Mr. Rockman if customers were currently being served from the Peabody Tower. Mr. Rockman said, "Yes." The tower was in the line of sight for another township. Their new tower would serve all of Tyrone Township.

Pat Suckley, 12305 Lavender West, said they had purchased their home in Southwyck for the view and the landscape. Building a tower in that location will decrease the benefit and value of their home.

Wade Smith, 12293 Ivy Lane, said he likes his property the way it is now. He can see the Peabody tower from his home as well as the one in Rose Township. If a tower has to go up, it should belong to the Township and the Township should get the revenue. Once the tower is up, Mr. Rockman will be able to hang all kinds of equipment from it.

Dennis Wheaten said he had built his home himself and it is the one closest to the tower. He will see the tower from his home. He didn't build a home to look at a tower and he is worried about the effect of microwaves on his young children. He doesn't want to be forced to look at it.

Sandy Bright said the tower request was adding insult to injury. They already had to deal with noise and dust from the gravel trucks. The Fenton water tower is 50 feet high and the new tower will be four times higher. This is the next chapter in the never ending story of the gravel pit.

Scott Dietrich, 13505 White Lake Road, said that the Township has just been informed that the gravel pit will be in operation until 2014 and the owner is talking about developing a lake. He wondered where the tower would be located in relationship to the lake. Mr. Rockman said that he wasn't aware of Mr. Smith's plans but he was being given a three acre site in the gravel pit in lieu of money.

Another gentleman speaking from the audience commented that there were 8,000 residents in the Township, 500 houses around the site, and only a few residents attended the meeting. The Township residents need internet access.

Mrs. Hodges stated that the plans provided did not meet the Ordinance standards and requirements, particularly Section 21.32.F. in regard to the ultimate design, and a demonstration that there are no alternate sites or facility

configurations that would work. On that basis, her recommendation is that the Special Use request not be approved. The site plan is missing much of the information required by the Ordinance that is necessary to help make a determination. Based on the lack of information, the Township could ask the applicant to go back and submit all the required information or you could deny the request because of inadequate information.

Mr. Hanoute repeated Ms. Hodges opinion. The Planning Commission could ask the Applicant to submit further information as suggested by the Planner in the items she outlined in her review or they could vote to recommend or deny the request. Mr. Meisel commented that technically the vote should be to deny because we don't have a complete submission and it doesn't meet the terms of the Zoning Ordinance.

Moved by Fumich, seconded by Butler to table the Tri-County Wireless Special Land Use Permit request pending receipt of additional information as outlined by the Planner in her review of the Special Land Use Permit request and the Special Land Use Site Plan process dated May 7, 2009.

During discussion of the motion, Mr. Meisel asked if we were encouraging the applicant to look at alternate sites. For this, would we want him to consider other applications like a multiple antenna system, co-location on a water tower, or enlarging an existing tower. Mr. Hanoute said he would encourage the applicant to look at alternate sites. Personally, he didn't feel that the tower was compatible with the neighborhood where it was being proposed. There are other sites which haven been approved that could be redeveloped and should be explored. That is one option, but there are other issues that need to be addressed

Chairman Hanoute called for the vote to table the Tri-County application until the applicant submits alternate site possibilities and other additional information based on the Planner's review. The motion carried by unanimous voice vote.

2) Recommendation regarding classification of the Irish Hills Development pending adoption of the new PUD Text

Ms. Hodges recalled that there was a question about the Irish Hills site condominium development which was approved under the existing PUD regulations. If the new PUD language is approved by the Board, the Ordinance will become a special land use approval process rather than a Zoning District. The most direct method would be to retain the Irish Hills PUD district outline on the current Zoning Map with a footnote on the future map that it was approved under the prior Ordinance, giving the date and section of the Ordinance.

Moved by Meisel, seconded by Hasbrouck, to accept the recommendation of Planner Sally Hodges in her letter dated May 20, 2009 regarding the Zoning Map designation for Irish Hills PUD, that we take action to implement the recommendation once the new text language is adopted and effective, and to further amend the Zoning Map with addition of the recommended Irish Hills PUD reference.

3) Review of the preliminary Outdoor Recreational Vehicle Storage Ordinance text.

Ms. Hodges said that the proposal (May 20, 2009) was based on the discussion from the last meeting. She had provided new definitions for "Recreational Vehicle"

The Planning Commission considered:

- The difference between recreational vehicles and recreational equipment
- The use of general language which will reference boats, trailers, motor-cycles, airplanes, antique cars, RV's and other types of vehicles not typically used for daily transportation;
- Classification of commercial vehicles used for daily transportation;
- Using consistent terminology in referring to the types of vehicles;
- Clarifying the intent of 21.19.A.1.c. and 21.19.A.4.;
- The cost of charging ZBA review fees for front yard vehicle parking (21.19.1.c);
- The responsibility for making the side yard/front yard storage determination;
- Establishing storage regulations based on the use and/or the consideration of individual parcel limitations;
- Waterfront storage concerns versus non-waterfront storage;
- The maximum number of vehicles that can be stored in the front yard;
- Relating storage to the type of Zoning District;
- Allowing Lake Associations to establish their own storage requirements;
- Establishing licensing and registration standards, and
- Storing boats in a common storage space.

Chairman Hanoute asked Ms. Hodges to consider the comments and return with suggestions at the next meeting.

NEW BUSINESS:

- 1) Revision of the Planning Commission By-Laws, Section 2.03.G - Order of Business

Chairman Hanoute rescheduled the discussion for the next meeting

OTHER BUSINESS FROM MEMBERS:

- 1) Comments from Mr. Hasbrouck

Mr. Hasbrouck informed the Planning Commission that Fred Dillingham would be making a presentation at the June 16, 2009 Board Meeting and Planning Commission members were invited to attend.

2) Rezoning Notification

The Planning Commission scheduled finalization of the PCS rezoning notification for the first meeting in June and Ms. Hodges was asked to consider extending the commercial uses to other areas of the Township south of Irish Hills.

3) PCS and PUD Adoption

Mr. Meisel asked to include a recommendation to the Board as an Agenda item for the next meeting.

ZONING ADMINISTRATOR'S REPORT:

ZBA REPORT:

Mr. Meisel reported that the ZBA had reviewed the same set of Paintball facility site drawings as the Planning Commission prior to their gravel drive variance approval.

Mr. Hanoute asked why the Special Land Use Permit had been issued without revised documents. The Board should have enforced the conditions which were supposed to be shown on those drawings. They need to request them. Mr. Hasbrouck suggested revoking the permit if the drawings aren't brought in. Mr. Hanoute said he was concerned because the work done on the site should be based on the conditions shown on the approved drawings.

Karl Gill said the problem with the paintball facility was the same problem he has with his neighbor's greenhouse. They are working without approved plans. They were bringing in trailer loads of dirt and tearing up the road. Mr. Hanoute told Mr. Gill he would look at the Ordinance to determine what could be done on the greenhouse site without a Special Land Use Permit.

ADJOURNMENT: 9:40 p.m. by Chairman Hanoute

FUTURE AGENDA ITEMS:

NEXT MEETINGS:

June 9, 2009 - Planning Commission Meeting
June 16, 2009 - Township Board Meeting with Fred Dillingham
June 23, 2009 - Planning Commission Meeting



Barbara Burtch, Recording Secretary
Tyrone Township Planning Commission



Laurie Radcliffe, Secretary
Tyrone Township Planning Commission