

**MINUTES OF THE BRIDGEWATER TOWNSHIP COUNCIL
AUGUST 9, 2023 COUNCIL CHAMBERS**

The Township Council of the Township of Bridgewater, County of Somerset, State of New Jersey, convened in a special session meeting on Wednesday, August 9, 2023 at 7:30 p.m. in Council Chambers in the Municipal Complex, Bridgewater, New Jersey 08807 & via Live Online Broadcast.

Council President Kirsh read the following announcement:

Notice of Meeting

IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT OF NEW JERSEY, ADEQUATE NOTICE OF THIS SPECIAL MEETING WAS PROVIDED ON AUGUST 4, 2023, WITH NOTICE AND ELECTRONIC NOTICE PROVIDED TO THE COURIER NEWS AND THE BREEZE POSTING ON THE WEBSITE AND THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND FILING WITH THE TOWNSHIP CLERK.

On call of the roll, the following Council members were present:

Councilman Allen Kurdyla
Councilman Howard V. Norgalis
Councilman Filipe Pedroso
Councilman Timothy Ring
Council President Michael Kirsh

Also Present: Michael Pappas, Township Administrator
Christopher Corsini, Township Attorney
Alex Fisher, Deputy Township Attorney
Wells Winegar, Deputy Township Administrator
William Burr, Township Engineer
Grace Njuguna, Deputy Township Clerk

Councilman Norgalis led the audience in the Pledge of Allegiance.

Presentation

VERIZON WIRELESS

Edward Purcell, Esq. attorney for the applicant and Engineer Anthony Rekosik were present on behalf of Verizon Wireless.

Attorney Purcell discussed Verizon's proposal noting that Verizon is requesting an amendment to an agreement that the township entered into with Verizon in 2017 that permitted a small wireless facility on Mount Horeb Road. Verizon is proposing to place one new utility pole in the municipal right of way at 600 Garretson Road and one replacement utility pole in the municipal right of way at 100 Commons Way. The purpose of the proposed small cell antennas is to provide additional wireless capacity. This is different than a macro cell because

it is not meant to provide a large coverage area but rather a more limited area of capacity. It has been deemed by Verizon's RF that there is a need for that, particularly near the high school.

Attorney Purcell stated the 2018 FCC order was clear when it came to how municipalities are to review and regulate small cell facilities. The FCC said that towns should treat these similarly to other utility infrastructure that is placed within the right of way because they look somewhat like a utility pole. That's not to say that municipalities have no regulatory ability but those regulations have to be reasonable. Municipalities can require that small cell facilities not block site triangles and that the public be able to pass and repass. In addition, municipalities cannot unreasonably discriminate. They can't provide access to one carrier but not another.

With respect to fees, New Jersey law provides that no fees can be imposed for telecommunications uses within the rights of way. The FCC has a presumptively reasonable fee that the FCC permits, and that is \$270 per year. Attorney Purcell stated Verizon has agreed, out of its own volition, to pay that amount per poll, per site.

Attorney Purcell further explained the FCC has addressed what a right of way is and the municipality's control over a right of way. When a municipality manages a right of way, it manages it in a regulatory capacity because a right of way is an easement that is used for the benefit of the public. This means that an easement is not a municipal lot and not municipal property. The placement of these facilities is akin to other types of communications like cable companies, other broadband providers and other telecommunications uses that would be within the right of way.

With respect to health and safety, Attorney Purcell stated that Verizon is licensed by the FCC and as part of its licensure, its mission has to comply with the FCC missions' requirements. When these facilities are developed and after they're put into service, an RF emissions report is provided and it ensures that facilities are compliant with FCC requirements.

Anthony Rekosik, Engineer discussed what the actual build will contain. The first site is located at 600 Garretson Road, also known as Bridgewater-Raritan Regional High School. This is a new pole that will be placed within the right-of-way on the sidewalk. It will be a Class II pole that will be 45- feet in height. Once set in the ground, the overall height of the pole will be 38.6-feet, the top of the antenna will be about 43-feet. On the pole, there will be the 4G antenna, a proposed secondary service for electric, a riser for the electric to travel down, the fiber line coming in, a shroud that will house remote radio head units, an

electric panel, and a meter. There will be no disturbance to the street in that area, no impact on site triangles or the public's ability to pass and re-pass. The installation is similar to the cell on Mount Horne Road.

With regard to the second proposed installation at 100 Commons Way also known as Bridgewater Municipal Complex, Engineer Rekosik stated it will be located near the soccer field, within the right of way. The installation is going to replace an existing utility pole with very similar equipment. There will be no disturbance to the street in that area, no impact on site triangles or the public's ability to pass and re-pass.

Following the presentation, Attorney Purcell & Engineer Rekosik fielded questions from the Council and Township Engineer Burr.

**Public
Comment**

Members of the public wishing to address the Council on any matter will be allowed two minutes to speak unless there are unusual circumstances.

On motion of Councilman Norgalis, seconded by Councilman Ring, the meeting was opened to the public for comment.

Cathy Franco, 766 Weemac Road, Bridgewater, NJ 08807

Ms. Franco inquired when Verizon's plans were received by the Township. Deputy Administrator Winegar will provide this information the next business day. Ms. Franco expressed concern over proper communication when matters such as this may impact property owners and offered the High school should be informed there will be utility work being performed on their right of way.

On motion of Councilman Norgalis, seconded by Councilman Ring, the public comment portion was closed

Resolution

APPROVING A RIGHT OF WAY AGREEMENT BETWEEN THE TOWNSHIP OF BRIDGEWATER AND NEW YORK SMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS FOR USE, INSTALLATION, AND REPLACEMENT OF UTILITY POLES LOCATED AT 600 GARRETSON ROAD AND 100 COMMONS WAY

Following an extensive discussion, Verizon agreed to the following additional conditions with respect to the Right of Way Agreement, same will be included in the resolution:

1. Verizon shall pay \$270 per year as a right-of-way fee for each proposed utility pole.

2. Verizon shall submit an RF emissions report prepared by a qualified RF engineer for each proposed utility pole showing compliance with all federal and state regulations.
3. Verizon shall provide a survey to confirm that each proposed installation will be within the public right-of-way.
4. Verizon shall notify the Bridgewater Township School District and the Police Department to ensure a mutually acceptable time for construction of the proposed utility pole nearest to 600 Garretson Road.
5. Verizon shall revise the plans to confirm that the color of each antenna and shroud are changed to federal brown so that each facility matches the color of the utility poles.
6. Verizon shall coordinate the installation of the proposed utility pole at 100 Commons Way with the Administration and Police Department.
7. Hanlon Drive shall remain open during installation of the proposed utility poles.
8. Verizon shall remit \$2,000.00 to the Township of Bridgewater to offset professional costs related to the review of the subject application.

On motion of Councilman Kurdyla, seconded by Councilman Norgalis, the foregoing resolution was proposed as amended. The vote was as follows:

Councilman Kirsh	Aye
Councilman Kurdyla	Aye
Councilman Norgalis	Aye
Councilman Ring	Nay
Council President Pedroso	Aye

THE RESOLUTION WAS ADOPTED.

A copy of resolution [#23-08-09-239](#) is appended to the official minutes

Adjournment

On the motion of Councilman Norgalis, seconded by Councilman Ring, the meeting adjourned at approximately 9:30 p.m.

Respectfully Submitted,

Grace Njuguna, RMC

Deputy Township Clerk

Michael Kirsh
Council President