

# Vergennes Township

## Regular Meeting of the Township Board

February 20, 2017

The meeting was called to order by Tim Wittenbach at 7:00 pm

Roll Call - Gillett, Rasch, J. Hoffman, H. Hoffman, Wittenbach, were all present.

A motion to accept the agenda was presented by H. Hoffman, supported by Gillett. **Motion carried.** The January minutes were accepted as presented. The treasurer's report was given. J. Hoffman motioned to approve the invoices listed with the exception of the split fees. Gillett supported. **Motion carried.**

### **Guest: Lisa Plank of the Lowell Area Historical Museum**

Lisa gave an annual report for 2016. She presented the board with information about the many programs that the museum offers and new programs that have recently been introduced to the public. She thanked the township for their support over the years.

### **UNFINISHED BUSINESS:**

**1. Verizon Cell Tower Application** - Wittenbach reviewed the application process to date. He noted that the Board is obliged to determine if the Verizon application meets the standards set by the Zoning Ordinance, and that the application must be approved if it does. He asked the Verizon representatives in attendance to review and respond to the various letters and information that had been submitted to the Zoning Administrator since the January meeting.

- Ralph Weingarden from Faulk & Foster discussed a study performed by Ken Patterson, a specialist in cell tower construction. The study concluded that the proposed 199' tower would not exceed any FAA obstruction standard and should be approved by the FAA, and that there would be no adverse impact on aeronautical operations at the Lowell City airport. It was also noted that markings and or lighting should not be required. The Verizon representative wanted to insure the public that they are happy to share information, but they have not received approval from the FAA yet, which is why they hired Ken Patterson to give his professional opinion.
- Weingarden discussed two letters from professional engineers that were submitted regarding the fall-zone radius of the structure. Both concluded a maximum 120' fall radius for the monopole design.
- Weingarden stated that Verizon had investigated alternative tower sites per our ordinance. Looking within a two mile radius of the proposed site, it was determined that there was one other tower, located on Heim Street. Two maps were supplied showing the coverage area by co-locating on the Heim Street tower in comparison to building at the proposed location.
- Also addressed by the Verizon representatives was a letter submitted by township residents on February 20<sup>th</sup>, 2017, with an attachment that appeared to be a denial letter to Verizon from the Michigan Department of Transportation Aeronautics Commission entitled "Denied Michigan Tall Structure Permit". Verizon's representatives explained when the FAA receives an application, it advises the Aeronautics Commission. Since there was not a completed Michigan Tall Structure application and paid fee on file, this letter was automatically generated. It appears the letter is not a denial because of the

height or location of the structure, but a denial due to an incomplete application or lack of application. The township legal representative agreed.

- Verizon representative Crane added that Verizon will not construct any equipment that does not comply with FAA regulations.

Wittenbach then asked the township planner and attorney to give an overview of Verizon's application and findings. It was noted that the township has had longstanding association with both firms, and has a high level of trust in them.

- The Williams & Works Township Planner advised the Board that if Verizon meets all of the requirements of the application and complies with the township's Zoning Ordinance then, by law, the application must be approved. In order to deny an application, the Board must have a legal reason to deny. He went over much of Verizon's application and how it met our ordinance requirements. It was concluded that their application adhered to the Township Zoning Ordinance and there is no legal reason to deny the application. The Foster Swift Township Attorney representative reminded the Board that in order to deny the request, there would need to be substantial evidence that the application does not comply with the regulations.
- H. Hoffman asked if it is normal practice for Verizon to not have FAA approval or The Michigan Tall Structure permit approval before submitting an application to a Township. Verizon representative replied that it is a little like putting the cart before the horse - they need to have township approval to know if an application can be submitted.
- The Township Planner stated to the Board that if the FAA denies the location, the tower will not be built.
- The Faulk and Foster representative, Weingarden was asked by the Board why he had stated at the December Public Hearing that the FAA and Michigan Tall Structure Permit applications had been submitted, when in fact they were not. The FAA application was submitted at the end of January. Weingarden replied that there are many hands and locations involved in the application process and he had believed that the applications were already submitted.
- The township planner noted that there are many documents that have been submitted showing that this tower will not have lights on it: on the application, in the studies submitted by Verizon and in the resolution. It was also noted that both of the Verizon representatives verbally stated this structure will not have lights.
- The Board asked if there was a way to insure that this tower would not be a lit structure. The planner said that the Board could add a line to the resolution that if the FAA requires the structure to have lights, it would be considered a Major Amendment to the application and would start the application process over and a new public hearing would take place.
- Verizon representative, Crane said that a chain-link fence is normally constructed for safety reasons to allow direct sight into the structure, but they would build a solid wood fence if it was allowed by the sheriff and requested by the Board.
- The Board asked that a fence and landscape design be submitted to the planner for approval prior to erecting the structure. Verizon representatives agreed to this request.

The Board further discussed the fence and landscaping design, and structure lighting. It was decided to make two additions to requirements listed in Resolution 2017-1; 1.) A fence and landscape design will be submitted by applicant to the planner for approval prior to construction; and, 2.) If the FAA approval requires lighting on the structure, this would be considered a Major Amendment to the application starting the application process over and requiring a public hearing. Gillett motioned to approve the application as outlined in Resolution 2017-1 including

the two additions noted above, and J. Hoffman supported. A Roll Call vote was taken: Gillette, Yes; Rasch, Yes, J. Hoffman, Yes; H. Hoffman, Yes; Wittenbach, Yes. **Motion carried.**

**2. Updates to 2017-2018 Budget** - A special meeting for updates to the 2017-2018 Budget was set for February 27th at 10 am.

**3. Set Public Hearing to establish an Industrial Development District** - Gillett motioned to hold a Public Hearing regarding the establishment of an IDD covering the entire Vergennes Township Industrial District at the March Board meeting. J. Hoffman supported, **Motion carried.**

## **NEW BUSINESS:**

**1. Public Hearing - Resolution to allocate CDGB funds to North Kent Transit** - The public hearing was opened. There were no comments. The public hearing was closed. Gillett motioned to adopt Resolution 2017-2, H. Hoffman supported. **Motion carried.**

**2. Resolution to approve 1 year lighting contract with Consumers Energy & discuss new lighting options** - It has come to light that there is a possible discrepancy as to who should pay for the light at the corner of Alden Nash and Foreman. It is not on the Vergennes Township side of the road, yet the contract shows we would be paying for it. Future board discussion is needed after H. Hoffman talks with Consumers Energy.

**3. Michigan DNR - North County Trail/Iron Belle Trail Land Acquisition Proposal** - Wittenbach motioned to support the proposal for the State to pursue the purchase of the Land, Rasch supported. **Motion carried.**

**4. Requested approval of Whistle Stop Storage building length** - Board discussion was held. Gillett motioned to approve building C at 140 feet in length, and J. Hoffman supported. **Motion carried.**

## **CITIZEN'S COMMENTS:**

Mr. Postema who works for a landscaping/lawn-care business that currently operates out of the owner's home shared that the owner would like to retire, and when he does, no longer wants the business run out of his home. Mr. Postema inquired about possible areas in Vergennes Township that would allow for this type of business to relocate. It was discussed that currently this business is considered a home-based business and that is how it has been able to have a business in the township. The Zoning Administrator Jeanne Vandersloot stated that the commercial/industrial district currently does not allow for landscaping businesses. Mr. Postema asked if the Board would ask the Planning Commission to add landscaping businesses to commercial/ industrial district which would allow this company to relocate and stay in Vergennes Township. J.Hoffman makes a motion to send this request to the planning commission, H. Hoffman supports the motion. **Motion carries.**

Sandi Miles wanted to have a better understanding of the lighting issue with the tower. She was concerned that if FAA requires lights and another public hearing is set, that it will do no good to the public. The Board clarified that Verizon would have to bring all new information, essentially starting the process over including holding another public hearing. She suggested that the zoning administrator, township attorney and planner didn't understand the law and believed the

Board had a legal reason to deny the application. She also asked that the Board review the fall-zone ordinance.

Cara Fedewa Debbaudt stated that she spent her own money to get an attorney's opinion on the Verizon tower. She said that this attorney's opinion was that the Board can legally deny the Verizon application.

Bob Seif believes the FAA is going to require lights on the tower. He is concerned about the effect the tower will have on his neighborhood. He understands that the Township Board had a hard decision to make going up against a big company like Verizon. He also wanted to know how much Verizon actually looked into alternative sites.

Noel Seif is greatly concerned about the fall zone ordinance. She asked that the Board review this ordinance, specifically to add language that protects against personal injury and land damage. Ms. Seif also said that she felt that her neighborhood was being bullied by Verizon. She told the Board that land surveys were conducted without notice to the land owners or the township. It was concerning to her that Verizon has been doing these things without informing the public.

Wittenbach thanked the public and the meeting was adjourned at 9:03 pm.  
The next regular Board meeting is set for March 20, 2017 at 7 p.m.