

**WARREN CITY COUNCIL
PUBLIC HEARING AND REGULAR MEETING
MARCH 18, 2019 – 7:00 PM**

PUBLIC HEARING: PROPOSED ZONING ORDINANCE AMENDMENT

Mayor Cashman opened the Public Hearing regarding a proposed amendment to the Zoning Ordinance as it pertains to small wireless communication facilities.

Mr. Hildebrand stated that the Federal Communications Commission (FCC) adopted a Declaratory Ruling and Third Report and Order (Order) to reduce the local and state regulatory burdens on deployment of wireless facilities, including small cell networks. The Order sets limits on local and state review of small cell applications, establishes presumptively reasonable limits for small cell applications and related fees, and holds that excessive or unreasonable local and state fees and charges associated with small cell wireless facility deployment are preempted by Federal law. In accordance with the Order it is necessary to amend Section 470-49.1 of the Code the City of Warren as it pertains to small wireless communications facilities.

There being no citizens present who wished to provide comment, Mayor Cashman adjourned the Public Hearing.

OPENING OF MEETING

Mayor Cashman presided over the March 18, 2019 regular meeting of Warren City Council in Council Chambers of the Municipal Building and opened the meeting with the Pledge of Allegiance.

ROLL CALL

Members present and responding to roll call were: Mayor Maurice Cashman, Gregory Fraser, Paul Giannini, Philip Gilbert, Richard Kolcharno, John Lewis, James A. Zavinski, Sr., and Junior Council Member Lily Striker. Members of City Staff present were Nancy Freenock, City Manager; Brandon Deppen, Chief of Police; David Hildebrand, Planner/Development Administrator; Michael Holtz, DPW Director; Teena Leary, Assistant City Clerk; Sam Pascuzzi, Fire Chief; Donna Risinger, Finance Officer; Terry Williams, Director of Codes, Permits, and Recreation Services; Chad Yuriscic, City Engineer; and Andrea Stapleford, City Solicitor.

EXECUTIVE SESSION ANNOUNCEMENT

Mayor Cashman announced that Council met in Executive Session on the following dates and for the stated purposes:

1. February 18: Discussion of litigation pertaining to Superior Tire and Rubber Company and real property matters concerning riverfront properties.
2. Immediately prior to this meeting: Discussion of litigation pertaining to Superior Tire and Rubber Company, matters concerning City-owned real property, and personnel matters regarding the new hires pension plan and the I.A.F.F. Arbitration Award.

APPROVAL OF MINUTES

Mr. Zavinski made the motion to approve the minutes of the February 18, 2019 Regular Meeting and the motion was seconded by Mr. Fraser.

Mr. Lewis asked that an addition be made to the minutes which reflects statements attributed to Mayor Cashman in regard to the Pennsylvania Avenue and Market Street roundabout. Following discussion, Mr. Zavinski's motion to approve the minutes was approved with six votes in the affirmative and one nay vote cast by Mr. Lewis.

RECOGNITION OF VISITORS

Mayor Cashman welcomed all visitors. Present were:

- Pauline Steinmeyer: Roundabout Maintenance Agreement vote
- Pam Lewis: Roundabout Maintenance Agreement vote
- Rocco DelPrince: Observing
- Steven Blume: Zoning Hearing Board appointment
- Doug Hearn: Observing
- Bryan Zeybel: Observing
- Cody Brown: Observing
- Josh Cotton: Times Observer Reporter

Pauline Steinmeyer addressed Council and expressed her concerns regarding a letter to the editor of the Times Observer which was authored by Councilman Phil Gilbert in regard to his vote on the PennDOT Roundabout Maintenance Agreement. Mrs. Steinmeyer suggested that there was a conflict of interest and that Mr. Gilbert should have abstained from the vote. She asked that Council stop progress on the roundabout as she believes that the Maintenance Agreement is not valid.

Pam Lewis addressed Council regarding the referenced letter to the editor and stated that she was “dismayed” that an individual’s personal experience was factored in the reasoning for their vote. She stated that she attended recent Council meetings and heard public comments from those opposed to the roundabout and further stated that she does not believe that Council’s actions in regard to the roundabout are reflective of the wishes of the public.

CORRESPONDENCE

There was no correspondence to come before Council.

ORDINANCE NO. 1914: ZONING ORDINANCE AMENDMENT RE WIRELESS FACILITIES

(See Public Hearing above)

Mr. Hildebrand stated that prior to enactment of any ordinance which would amend the Zoning Ordinance, it is required that the City of Warren Planning Commission and the Warren County Planning and Zoning Commission review the proposed regulations and provide any recommendations they may have. At its regular meeting, City Planning Commission members present voted unanimously to recommend approval of the proposed amendment. The Warren County Planning and Zoning Commission also reviewed and recommended approval of the proposed amendment.

Upon motion by Mr. Lewis and second by Mr. Fraser, Council members voted unanimously to approve the ordinance amending the Zoning Ordinance as it pertains to small wireless communication facilities.

ZONING MAP AMENDMENT PUBLIC HEARING DATE ESTABLISHED

Mr. Hildebrand stated that David Brook and Verlynn Kleppe, owners of 206 East Fifth Avenue, filed an application for a Zoning Map Amendment which would change the Zoning Designation of the following parcels from R-2, Residential Medium Density to R-3, Residential High Density.

<u>Tax Map/Parcel No.</u>	<u>Address</u>
WN-581-7783	206 East Fifth Avenue
WN-581-7785	204 East Fifth Avenue

The purpose of the proposed amendment is to facilitate expansion of Whole Health Chiropractic which is located on the 206 East Fifth Avenue property. Drs. Brook and Kleppe wish to purchase and expand on to the adjacent 204 East Fifth Avenue property.

The Zoning Ordinance provides that prior to enactment of amendments, Council is required to hold a public hearing.

Upon motion by Mr. Fraser and second by Mr. Lewis, Council members voted unanimously to establish April 15, 2019, at 7:00 PM as the date and time for a public hearing regarding the proposed Zoning Map Amendment for 204 and 206 East Fifth Avenue and referring the proposed amendment to the Planning Commission for its review, comment, and recommendation.

ORDINANCE NO. 1915: BUILDING CODES - MINIMUM FOUNDATION DEPTH & SNOW LOAD TOLERANCES

Mrs. Williams stated that this region of Pennsylvania is subject to frost lines and anticipated snow loads which vary significantly from area to area. Therefore, new construction requirements for the minimum foundation footing depth and snow load tolerances are not specified in standardized codes which have been adopted by the City and the establishment of such are subject to case study and local jurisdiction.

Chad Yurisc, City Engineer, conducted research and provided his professional recommendation as to the minimum foundation footing depths and snow load tolerances appropriate for construction within the City. Mrs. Williams requested that the proposed ordinance which incorporates the Engineer's recommendations be adopted so as to provide standard criteria and to aid in new construction plan reviews.

Upon motion by Mr. Lewis and second by Mr. Fraser, Council members voted unanimously to approve the ordinance establishing minimum foundation footing depths and snow load tolerances.

ORDINANCE NO. 1916: NEW HIRES PENSION PLAN

Mrs. Freenock stated that in May of 2018, City Council adopted Ordinance No. 1907 which amended the Municipal Employee Pension Plan by adding a New Hires Pension Plan which was drafted by Special Pension Counsel. Following adoption, it was realized that certain language within the ordinance should be clarified; additionally, the Plan's actuary recommended wording changes. Mrs. Freenock indicated that the proposed changes will not affect negotiated benefits.

Upon motion by Mr. Kolcharno and second by Mr. Lewis, Council members voted unanimously to approve the ordinance repealing Ordinance No. 1907 and restating the Municipal Employees New Hires Pension Plan in its entirety.

RESOLUTION NO. 3039: AUTHORIZING APPLICATION FOR COUNTY LIQUID FUELS FUNDS

Mr. Holtz stated that it is necessary for Council, by resolution, to annually apply for the County Liquid Fuels Tax Allocation. The City's allocation for 2019 has been established at \$12,892.00. Mr. Holtz indicated that these monies are used to reimburse the General Fund for the salt purchased for snow and ice control.

Upon motion by Mr. Fraser and second by Mr. Kolcharno, Council members voted unanimously to approve the resolution authorizing the City's application for the 2019 County Liquid Fuels Funds allocation.

BID AWARD: CONTRACTED STREET OPENING RESTORATION

Mr. Holtz stated that on March 1, 2019, the City opened sealed bids for Contracted Street Opening Restorations. The sole bid received for the contract was from Huber Blacktop Company, LLC.

Mr. Holtz indicated that the City has worked with Huber Blacktop Company in the past and recommended that Council award the contract to Huber.

Upon motion by Mr. Fraser and second by Mr. Lewis, Council members voted unanimously to award the Contracted Street Opening Restoration Contract to Huber Blacktop Company, LLC.

AGREEMENT: FREEPOINT ENERGY SOLUTIONS FOR ELECTRIC PROCUREMENT

Mr. Holtz stated that the current third party contract with Constellation NewEnergy, Inc. for electricity procurement will expire on December 31, 2019. He further stated that experience has shown that the best time to lock in the most advantageous rates is during the early part of the year. Therefore, Staff researched several companies and it was determined that Constellation NewEnergy, Inc. and APPI Energy provide the most favorable rates. Due to the nature of the market, the companies submitted their most up-to-date rate tables and savings earlier this date. Mr. Holtz stated that Freepoint Energy Solutions (via APPI Energy) provided the lowest rate.

Upon motion by Mr. Lewis and second by Mr. Fraser, Council members voted unanimously to approve an electric procurement contract with Freepoint Energy Solutions for the period January 1, 2020 through and including December 31, 2022.

RESOLUTION NO. 3091: ESTABLISHING FEES

Mrs. Williams stated that the following changes to the City Fee Schedule are recommended by City Staff:

1. A fee for “Temporary Structures” (e.g. a large event canopy/tent) is included under the “Special Events” caption. However, it is possible that a group may wish to erect such a structure in a park in conjunction with a pavilion rental that is not deemed to be a special event. Therefore, it was recommended that “Temporary Structure” also be included under the Parks & Recreation caption.
2. Street Opening Permit Fees are charged to offset restoration costs following utility work performed within City streets. The sole Contracted Street Opening Restoration bid received for 2019 was higher than in years past. Therefore, it was suggested that the Street Opening Permit Fees be increased accordingly.
3. In accord with the Federal Communications Commission (FCC) Declaratory Ruling and Third Report and Order, there are new regulations pertaining to fees which may be charged by a municipality. Therefore, the City’s Fee Schedule must be adjusted accordingly.

Upon motion by Mr. Fraser and second by Mr. Giannini, Council members voted unanimously to approve the resolution establishing fees.

RESOLUTION NO. 3092: AUTHORIZING BEATY PARK IMPROVEMENT GRANT APPLICATION AGREEMENT

Mr. Hildebrand stated that Beaty Playground is the City’s most-used park. The existing playground equipment includes outdated pieces constructed of treated lumber that were relocated from the former Market Street School to the Playground about 14 years ago. It is proposed that a grant application be submitted to the Pennsylvania Department of Conservation and Natural Resources (DCNR) to aid the City in funding restoration of the playground area of Beaty Park by installing a new playground module along with two single pieces. The application will be for fifty (50) percent of the \$150,000 estimated project cost. He noted that, as part of the application process, it is required that the City submit a resolution authorizing and approving an agreement with the Commonwealth.

Upon motion by Mr. Fraser and second by Mr. Giannini, Council members voted unanimously to approve the resolution authorizing and approving an agreement with the Commonwealth of Pennsylvania for the Beaty Park Improvement Project grant application.

Mr. Gilbert inquired as to whether any improvement projects are planned for Mulberry Playground. It was indicated that City staff has consulted with DCNR regarding available funding and the type of projects that would meet current DCNR grant criteria.

RESOLUTION NO. 3093: AUTHORIZING SIGNATURE ON PENNDOT MARKET STREET OVERLAY AND IMPROVEMENT DRAWINGS

Mr. Holtz stated that during the 2019 construction season, PennDOT will conduct the Market Street Overlay and Improvement Project which will include the portion of Market Street located between Pennsylvania Avenue West and the northern City limit. The project will consist of street milling and overlay as well as upgrades at the street's intersections with Second, Third, Fourth, and Fifth Avenues including:

1. Traffic signal upgrades;
2. Installation of mast arms with lane designations; and
3. Installation of "Scramble Phase" pedestrian crossings with push buttons

Mr. Holtz indicated that PennDOT is scheduled to advertise for bids on March 21 and the Notice to Proceed is expected to be issued on June 10, 2019.

Due to the project including improvements within the City, PennDOT requires that a resolution authorizing the Mayor and City Clerk to sign off on the final drawings be submitted.

Upon motion by Mr. Fraser and second by Mr. Lewis, Council members voted unanimously to approve the resolution authorizing the Mayor and City Clerk to sign off on the final drawings for the PennDOT Market Street Overlay and Improvement Project.

APPOINTMENTS TO BOARDS AND COMMISSIONS

Upon motion by Mr. Kolcharno and second by Mr. Zavinski, Council members voted unanimously to make the following appointments to boards:

- Board of Health – Mark Woody (term expires 3/31/23)
- Board of Health – Paul Boger (term expires 3/31/24)
- Redevelopment Authority – Matthew Schlotzhauer (term expires 12/31/23)
- Zoning Hearing Board – Steven Blume (term expires 12/31/22)

Mrs. Williams indicated that one seat on the Zoning Hearing Board will become vacant in April as the current member will be moving from the City.

SUPERIOR TIRE AND RUBBER COMPANY TAX APPEAL SETTLEMENT

Ms. Stapleford stated that Council discussed a proposed settlement in regard to the Superior Tire and Rubber Company Tax Appeal and stated that, upon motion and vote by Council, the proposed settlement would move forward.

Upon motion by Mr. Lewis and second by Mr. Kolcharno, Council members voted unanimously to move the Superior Tire and Rubber Company Tax Appeal Settlement forward.

DEPARTMENT REPORTS – FEBRUARY, 2019

The following reports were presented for Council’s review:

- Police Department
- Fire Department
- Department of Public Works
- Building Codes Department

APPROVED MINUTES OF BOARDS AND COMMISSIONS

Council acknowledged receipt of the following approved minutes:

Parks and Recreation Commission	– August 7, 2018	Regular Meeting
Planning Commission	– November 7, 2018	Regular Meeting
Redevelopment Authority	– October 17, 2018	Regular Meeting
BPRC Index of Properties	– January 16, 2019	
RDA Index of Properties	– January 16, 2019	

REQUEST FOR DISCIPLINARY HEARING

Mr. Lewis requested that the agenda for the next meeting include an “11.4-408 disciplinary hearing on Councilman Gilbert.”

REQUEST FOR LEGAL OPINION

Mr. Fraser asked that the Solicitor provide a legal opinion as to whether the traffic death of a Council member’s parent would constitute an ethical violation in voting on the roundabout. Mayor Cashman asked that Ms. Stapleford provide such to Council.

RECOGNITION OF FIRE CHIEF

Mayor Cashman noted that Sam Pascuzzi was attending his final regular public meeting prior to retiring as Fire Chief. He further stated that Chief Pascuzzi had many years of service and dedication to the fire safety of the community as well as providing an exemplary ambulance service. He concluded with, “I have never seen a guy so dedicated to his job for so long and you did it so well. And with that, I would like to thank you very much.” Chief Pascuzzi stated that being Fire Chief for the City of Warren was a great job and that he had been glad to do it. He noted his appreciation for the accolades and the recognition held prior to the meeting.

ADJOURNMENT

There being no further business to come before Council, Mayor Cashman declared the meeting adjourned.