

BOARD OF COMMISSIONERS

REVISED AGENDA

Monday, December 18, 2017 - 6:30 PM

Pledge of Allegiance

Notice of Executive Session preceding the Board of Commissioners meeting of December 18, 2017

1. Presentation of Freedom Medal by Marty Costello

2. Consent Agenda

- a) Acceptance of Department Monthly Reports
- b) ~~Resolution #2017-139 - SALDO Application #2017 S-08-1 Meadowood Drive - Final - Minor Final Subdivision~~
- c) Resolution #2017-130 - In Opposition to House Bill 1620, Entitled The "Wireless Infrastructure Deployment Bill"
- d) Resolution #2017-134 - Authorizing the Township to enter into agreement with David Broida for Seasonal Tennis Programming
- e) Resolution #2017-135 - Authorizing the Township to enter into agreement with Jump Start Sports, LLC for Seasonal Sports Programming
- f) Resolution #2017-136 - Authorizing the Township to enter into agreement with Shining Knights, LTD for Seasonal Chess Programming
- g) Resolution #2017-137 - Authorizing the Township to enter into agreement with Soccer Shots, LLC for Seasonal Soccer Programming
- h) Resolution #2017-138 - Authorizing the Township to enter into agreement with World Cup Sports Academy for Seasonal Programming

3. Recognition of Outgoing Treasurer and Commissioners

4. Public Participation

5. Committee Reports

PERSONNEL & ADMINISTRATION

PARKS & RECREATION

FINANCE & AUDIT

COMMUNITY DEVELOPMENT

PUBLIC WORKS & ENGINEERING

PUBLIC SAFETY

LIBRARY

PUBLIC HEALTH

Old Business

New Business

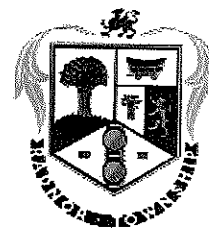
Public Participation

Adjournment

Presentation of Freedom
Medal by Marty Costello

Interoffice Memorandum

TO: BOARD OF COMMISSIONERS
FROM: KEVIN KOCHANSKI, DIRECTOR
DEPARTMENT OF COMMUNITY DEVELOPMENT
SUBJECT: NOVEMBER MONTHLY REPORT
DATE: DECEMBER 5, 2017
CC: ROBERT A. ZIENKOWSKI, TOWNSHIP MANAGER



**Community Development
Department**

Attached for your review is the Community Development Monthly Report for the month of November 2017. Please note the following highlights:

- Building Permit Fee Revenue totaled \$76,506.50 with 78 permits issued
 - Electric Permit Fee Revenue totaled \$17,311.50 with 52 permits issued
 - Mechanical Permit Fee Revenue totaled \$4,820.00 with 35 permits issued
 - Plumbing Permit Fee Revenue totaled \$5,381.50 with 35 permits issued
 - Zoning Permit Fee Revenue totaled \$750.00 with 11 permits issued
 - Banner Permit Fee Revenue totaled \$50.00 with 1 permit issued
 - Design Review Board Application Fee Revenue totaled \$700.00 with 5 applications received
 - Historic and Architectural Review Board Revenue totaled \$50.00 with 1 application received
 - Zoning Hearing Board Application Fee Revenue totaled \$2,200.00 with 4 applications received
-
- Permit and application revenue for November 2017: \$ 107,769.00
 - Permit and application revenue year to date: \$3,256,769.00
-
- Permits and applications for November 2017: 222
 - Permits and applications year to date: 2,411
-
- Inspections conducted for November 2017: 537
 - Inspections conducted year to date: 6,813



RECREATION & COMMUNITY PROGRAMMING DEPARTMENT NOVEMBER 2017 REPORT

Programs/Excursions/Community Events

Programs/Excursions

- Men's Pickup Basketball (18 participants)
- Junior/Adult Tennis with David Broida at Radnor Racquet Club (23 participants)
- Radnor Steps Community Walking Program along the Trail – (participation varies each week)
- NEW - Fall Little Hoops Stars with Jump Start Sports at Radnor Activity Center (38 participants)
- Teeball with Jump Start Sports at Clem Macrone Park (21 participants)
- Soccer with Soccer Shots at Clem Macrone Park (167 participants/3 sessions per week)
- Junior Soccer with World Cup Sports Academy at Warren Filipone Park (42 participants/2 sessions per week)
- Radnor Champions Basketball at Radnor Activity Center (15 participants)
- After School Chess Club at Ithan Elementary School (32 participants)
- After School Science Club at Ithan Elementary School (21 participants)

PRPS Discount Ticket Program

- Regal Movie Discount Ticket Program (214 sold to date 2017)
- PRPS Amusement Park Tickets (230 sold to date 2017)

Community Events:

- Inaugural Mother Daughter Tea Party at The Saturday Club on Sunday, November 12th (SOLD OUT with 106 participants)

Additional Programming Activity:

- Prepared season-end financial reporting and evaluation of programming, discount ticket program, community events, and projects.
- Met with winter/spring/summer programming and event vendors/instructors, developed program details, contractual agreements, coordinated facility schedules, program logistics, participant communications, and emergency/safety procedures.
- Met with representatives from the Radnor Youth Basketball League to discuss 2018 program logistics, facility coordination, and marketing.
- Began comprehensive planning for Radnor Day Camp and summer camps.
- Attended webinar on child abuse awareness delivered by Township Risk Management Services.
- Continued development of Winter & Spring 2018 Recreation Activities Brochure (will be available in mid-December); developed information for new Township Magazine, Radnor Life & Style.
- Developed 2018 community event promotional magnet for the first half of 2018.
- Continued working with our professional organization, the PA Recreation and Parks Society (PRPS), regarding the child care licensing requirements for preschool-age programming participants under the Pennsylvania Department of Human Services; a structured, operating protocol was developed and submitted to the DHS under which public recreation providers would operate – consideration and waiver request by the DHS has been denied; the PRPS group has continued to lobby for legislative support on this topic.
- Coordinated with Recreation/Public Works/Police/Fire Departments to prepare and plan for November/December events including the Inaugural Mother Daughter Princess Tea Party at The Saturday Club and Santa's Delivery; discussed logistics and set up, activities and entertainment, staffing, registration, promotions, and supplies relative to each event.
- Met with representatives from the Saturday Club, Taste of Britain, and the Radnor Girls Scouts to plan logistics for Princess Tea Party.
- Met with resident representative of the Wiffleball Classic event to discuss and plan for 2018.
- Continued sponsorship development by working with local businesses and organizations for current events and programs; conducted meetings with potential and current sponsors; continued soliciting sponsorship proceeds for 2017 for remaining events and programs.

- Continued event and programming collaboration development with various businesses and organizations within the community.

Administrative

- Processed daily phone and email communications in order to provide information on community sports, recreational activities, and events; coordinated registrations for programs; prepared purchase orders/invoices, deposited income; prepared program financial reports that include participation reconciliation, instructor payments, and performance analyses; distributed program evaluations to participants; coordinated locations and logistics for programming, scheduled facility reservations/submitted applications, maintained Outlook event calendars, met with instructors and vendors to develop program agreements and process background checks; continued utilization of PEN (Programmer's Exchange Network) listserv to obtain and share information to evaluate operations; updated all Department areas of the Township website and social media page and distributed seasonal e-newsletters; filmed monthly segment for the *Radnor 411* television show and prepared slides for the Radnor Cable Channel; coordinated marketing efforts; managed inventories and distributed supplies to programs; worked with Township solicitor on various Department items.
- Monitored Department budgetary line items and developed year-to-date performance analyses for program and service areas.
- Continued to work with Program Supervisor and Program Coordinator on daily planning, programming, events, operations, and Department projects for 2017.
- Continued working at the direction of the Finance Department on the implementation of Tyler Munis Enterprise Resource Planning Project – worked through scheduling for upcoming implementation for the online registration modules for recreation programming.
- Attended Township Manager/Finance Director budget meetings and met internally with Department staff to discuss and plan budget goals and objectives and data assessments.
- Attended weekly staff meetings with the Township Manager and Department Heads.
- Attended monthly Board of Commissioners Meetings; attended and prepared reports for monthly Parks Board Meeting.
- Met with Commissioner-elects.
- Attended monthly Wayne Business Association Meeting.
- Attended monthly Wayne Senior Center Board Meeting.
- Attended monthly Staff Safety Committee Meeting.
- Attended monthly Radnor Committee for Special Education Meeting.
- Attended monthly Sports Legends of Delaware County Museum Board Meeting.
- Met with new leadership representatives of Radnor Wayne Little League.
- Met with representative DCNR (Department of Conservation & Natural Resources) to discuss application submittal for Green Park Award (for Clem Macrone Park).

Parks & Facilities Usage

- **Athletic Fields:** Coordinated field scheduling and light schedules for remainder of fall 2017 with the community sports organizations, local schools, and programs - primary users are Radnor Soccer Club, Radnor High School Ultimate Frisbee; Radnor Middle School Soccer; Agnes Irwin School, St. Katharine of Siena School, Radnor Wayne Little League for baseball and softball, Philadelphia Sports League; and various private rentals.
- **Park Areas/Picnic Rentals:** Reservation activity for the 2017 season is as follows:
 - Bo Connor Park (1 rental)
 - Clem Macrone Park (8 rentals)
 - Cowan Park (2 rentals)
 - Fenimore Woods (37 rentals)
 - Willows Park (22 rentals)

- **Radnor Activity Center:** 13 rentals took place in November – most were for multiple days; included fall seasonal programming including Men’s Basketball and Soccer, Champions Basketball; Pickleball; and Radnor Middle School Basketball; worked with Township Engineer to provide bid specifications for building custodial services; coordinated roof repairs and evaluation due to ongoing leaks.

Parks & Facilities Meetings/Projects

- **Eagle Scout Projects:**
 - Kiosk replacement at the Willows picnic area and at the Skunk Hollow Garden entrance – projects continued.
 - Bike repair station along the Radnor Trail – discussed prospective project.
 - Radnor Trail overpass median painting – discussed prospective project.
- **Park Mapping/Site Survey:** Began to evaluate a project to identify park boundaries.
- **Park Signage Replacement:**
 - Saw Mill Park sign has been put on hold as we evaluate the park traffic flow and logistics.
 - Clem Macrone Park, Fenimore Woods, Ithan Valley Park sign development is underway.
 - Radnor Skatepark informational signage development is underway.
- **Park and Trail Improvements** – a bond ordinance was voted at the October 26, 2015 Board of Commissioners Meeting for the following parks and trails (\$5.75M - \$4.3M Parks/\$1.45M Trails); met with staff and continued working towards completion of the various park projects outlined –

Bo Connor Park
Cappelli Golf Range
Clem Macrone Park
Emlen Tunnel Park
Encke Park
Fenimore Woods
Ithan Valley Park
Petrie Park
Radnor Trail
Skunk Hollow
Warren Filipone Park
Ardrossan Trail
West Wayne Segment (8A-E, 1C, 1D)
Marth Brown Segment
Villanova – Chew Segment (16A, 9C, ½) - omitted
Radnor Station to Harford Park (9F)

- **Bo Connor Park Improvements:** Coordinated engineering site survey and scope of work development for site improvements/continued working with Gannett Fleming to finalize bid documentation.
- **Clem Macrone Park Master Planning/Renovation Project:** Attended project meeting; met with DCNR representative to discuss potential submission for DCNR Green Park Award.
- **Cowan Park Improvements:** Worked with Gannett Fleming to finalize bid documentation basketball court reconstruction/equipment replacement.
- **Emlen Tunnell Park:** Worked on comfort station design options (discussed with RWLL) and coordinated site layout with Gannett Fleming to prepare bid documentation.
- **Encke Park Playground:** Coordinated repairs to surfacing seams and equipment.
- **Fenimore Woods Rehabilitation Project:** Comprehensive park renovation project planning underway; park outbound site and topographical surveys have been prepared; preliminary/ conceptual park improvement plan #2 was reviewed with the Parks Board in March, preliminary review of this plan occurred with Township traffic engineer; working to further identify the improvement details and corresponding project budget; coordinated pond study; worked on comfort station and pavilion design options with various vendors.

- **Odorisio Park Bench Replacement:** Coordinated resident bench recognition/memorial plaque.
- **Petrie Park Improvements:** Coordinated park improvements that include park seating, trash receptacle, and playground equipment replacement, see-saws were replaced in November.
- **Radnor Skatepark Improvements:** 2015 improvements to the skatepark entailed replacement and upgrades to structures along with resurfacing by utilizing funds received as part of the Township Building cell tower contract renegotiation. Due to a lack of adherence of the top color coating to the surface, the asphalt was milled and redone – this process was completed and the skatepark reopened in mid-June 2016 - subsequent to the recent process, surface delamination has occurred once again and the park was closed due to safety concerns in early August; after park structure modification and movement, the park reopened in mid-August; staff and council are pursuing a bond claim for the deficiencies that have occurred with a goal to repair the park commensurate to the expectations of the original scope of work.
- **Radnor Trail - Brookside Parking Lot Restroom:** worked on restroom design options with various vendors; coordinated site layout with Gannett Fleming to prepare bid documentation.
- **Veterans Park Planning:** (formerly St. Davids Community Park) – a planning project is underway to honor Veterans, educate visitors, and improve various features of the site with the conceptual plan prepared by Simone Collins Landscape Architecture; fundraising is underway by the Township Manager for the project.
- **Warren Filipone Park Improvement:** Coordinated engineering site survey and scope of work development for site improvements/continued working with Gannett Fleming to finalize bid documentation.
- **The Willows:** There is continued evaluation by the Board of Commissioners to find a viable use for the Mansion that will allow for its continued public use, public usage of the park with minimal impacts, building improvements to ensure code compliance consistent with intended use, and building updates – the BOC has budgeted for the building renovations that have been presented by the Willows Park Preserve/Barton Partners; there is continued evaluation of the operability of the Mansion/corresponding MOU with the Willows Park Preserve.

Respectfully Submitted,



Tammy S. Cohen
Director of Recreation & Community Programming

RESOLUTION #2017-130

RADNOR TOWNSHIP, DELAWARE COUNTY, IN OPPOSITION TO HOUSE BILL 1620, ENTITLED THE “WIRELESS INFRASTRUCTURE DEPLOYMENT BILL”

WHEREAS, broadband service is a critical catalyst for economic development, student achievement, quality healthcare, and the efficiency of local governments. As such, Radnor Township supports the deployment of broadband services—both wired and wireless—in our community and throughout the Commonwealth; and

WHEREAS, a relatively new wireless technology, known as distributed antenna systems or DAS, includes the placement of wireless towers and antennae in the public rights-of-way; and

WHEREAS, Pennsylvania municipalities are charged by state law with the management of the public rights-of-way, including not only vehicular and pedestrian traffic, but also the numerous facilities installed by public utilities and related companies. Municipalities must manage these facilities to maintain public safety and preserve the character of our communities; and

WHEREAS, pursuant to federal law, municipalities have the right to regulate the “placement, construction, and modification” of wireless facilities through their local zoning authority so that the deployment of these facilities is achieved in an orderly fashion. The FCC has also issued multiple orders stating in detail how municipalities may regulate these facilities; and

WHEREAS, House Bill 1620, entitled the “Wireless Infrastructure Deployment” bill, would strip municipalities of their legal authority to regulate wireless facilities in the public rights-of-way and would therefore undermine public safety and the protection of the rights-of-way; and

WHEREAS, specifically HB 1620 would abolish municipal zoning authority over wireless antennae in the rights-of-way and nearly abolish their authority over wireless towers in the rights-of-way, thereby placing public safety at risk and excluding the public from the approval process for towers and antennae; and

WHEREAS, HB 1620 would prohibit municipalities from requiring standard legal protections from companies with wireless facilities in the public rights-of-way, including full indemnification, bonding, and insurance coverage; and

WHEREAS, HB 1620 would severely limit the assessment of fees for wireless facilities in the rights-of-way such that municipalities could only charge minimal fees that are less than actual municipal costs; and

WHEREAS, HB 1620 would allow wireless contractors to submit up to 50 permit requests in one application and would curtail the time frame for initial review of wireless applications from 30 days to 10 days such that municipalities would be unable to perform these reviews in time; and

WHEREAS, HB 1620 would allow wireless companies to reverse a denial of a wireless application simply by resubmitting a revised application without having to obtain zoning approval.

WHEREAS, HB 1620 would expose outside municipal Solicitors and other municipal law firms to financial liability of up to \$10,000 per occurrence simply for drafting a wireless ordinance that is deemed to be in violation of HB 1620.

WHEREAS, if the Pennsylvania General Assembly is permitted to abolish municipal right-of-way authority over wireless facilities today, then it could abolish all municipal authority over the public rights-of-way tomorrow.

NOW THEREFORE BE IT RESOLVED,

1. That the Board of Commissioners of Radnor Township does hereby express its opposition to HB 1620 because it is not in the best interests of Pennsylvania.
2. That this Resolution shall be sent to our State Representative(s), State Senator, Governor, and all Members of the House Consumer Affairs Committee, which is the Committee to which HB 1620 has been assigned.

Elaine P. Schaefer, Vice-President

Robert A. Zienkowski, Secretary

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1620 Session of
2017

INTRODUCED BY MICCARELLI, FARRY, D. COSTA, SNYDER, DIGIROLAMO
AND MURT, JUNE 26, 2017

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 26, 2017

AN ACT

1 Amending the act of October 24, 2012 (P.L.1501, No.191),
2 entitled "An act providing for streamlined procedures for
3 reviewing applications for the modification or collocation of
4 wireless communications facilities and wireless support
5 structures," further providing for short title, for
6 definitions, for regulation of wireless support structures,
7 for processing of applications, for enforcement and for
8 preservation of local governing authority and providing for
9 use of public rights-of-way, for access to municipal poles,
10 for indemnification and for prohibitions.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Sections 1, 2, 3, 4, 5 and 6 of the act of
14 October 24, 2012 (P.L.1501, No.191), known as the Wireless
15 Broadband Collocation Act, are amended to read:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Wireless
18 Broadband Infrastructure Deployment and Collocation Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

1 "Accessory equipment." Any equipment serving or being used
2 in conjunction with a wireless [telecommunications] facility or
3 wireless support structure. The term includes utility or
4 transmission equipment, power supplies, generators, batteries,
5 cables, equipment buildings, cabinets and storage sheds,
6 shelters or similar structures.

7 "Antenna." Telecommunications equipment that transmits and
8 receives electromagnetic radio signals used in the provision of
9 all types of wireless [telecommunications] services.

10 "Applicable codes." Uniform building, fire, electrical,
11 plumbing or mechanical codes adopted by a recognized national
12 code organization or local amendments to those codes enacted
13 solely to address imminent threats of destruction of property or
14 injury to persons to the extent not inconsistent with the terms
15 of this act.

16 "Applicant." Any person who submits an application and is a
17 wireless provider.

18 "Application." A formal request submitted to the
19 municipality to collocate, replace, modify or install a wireless
20 support structure, equipment compound or a wireless
21 [telecommunications] facility.

22 "Base station." A station at a specified site authorized to
23 communicate with mobile stations, generally consisting of radio
24 transceivers, antennas, coaxial cables, power supplies and other
25 associated electronics.

26 "Collocation." [The placement or installation of new
27 wireless telecommunications facilities on previously approved
28 and constructed wireless support structures, including self-
29 supporting or guyed monopoles and towers, electrical
30 transmission towers, water towers or any other structure not

1 classified as a wireless support structure that can support the
2 placement or installation of wireless telecommunications
3 facilities if approved by the municipality. The term includes
4 the placement, replacement or modification of accessory
5 equipment within a previously approved equipment compound.] To
6 install, mount, maintain, modify, operate or replace wireless
7 facilities on or adjacent to a wireless support structure or
8 utility pole.

9 "Communications service provider." As follows:

10 (1) a cable operator, as defined in 47 U.S.C. § 522(5)
11 (relating to definitions);

12 (2) a provider of information service, as defined in 47
13 U.S.C. § 153(24) (relating to definitions);

14 (3) a telecommunications carrier, as defined in 47
15 U.S.C. § 153(51); or

16 (4) a wireless provider.

17 "Distributed antenna system." A network that distributes
18 radio frequency signals and consists of:

19 (1) remote communications or antenna nodes deployed
20 throughout a desired coverage area, including at least one
21 antenna for transmission and receptions;

22 (2) a high capacity signal transport medium that is
23 connected to a central communications hub site; and

24 (3) radio transceivers located at the hub site to
25 process or control the communications signals transmitted and
26 received through the antennas to provide wireless or mobile
27 service within a geographic area or structure.

28 "Electrical transmission tower." An electrical transmission
29 structure used to support overhead power lines consisting of 69
30 kilovolt or greater conducting lines, generally of steel

1 construction and having a height of at least 75 feet. The term
2 shall not include any utility pole having a height of less than
3 75 feet.

4 "Equipment compound." An area surrounding [or], adjacent or
5 attached to a wireless support structure within which base
6 stations, power supplies or accessory equipment are located.

7 "Judiciary Act Repealer Act." The act of April 28, 1978
8 (P.L.202, No.53), known as the Judiciary Act Repealer Act.

9 "Modification" or "modify." The improvement, upgrade or
10 expansion of existing wireless [telecommunications] facilities
11 or base stations on an existing wireless support structure or
12 the improvement, upgrade or expansion of the wireless
13 [telecommunications] facilities located within an existing
14 equipment compound, if the improvement, upgrade, expansion or
15 replacement does not substantially change the physical
16 dimensions of the wireless support structure.

17 "Municipality." Any city of the first, second, second class
18 A or third class, borough, incorporated town, township of the
19 first or second class, county of the second class through eighth
20 class, home rule municipality or any similar general purpose
21 unit of government which shall hereafter be created by the
22 General Assembly that has adopted land use or zoning
23 regulations.

24 "Municipal pole."

25 (1) The term shall include:

26 (i) A utility pole owned or operated in the ROW by a
27 municipality or a public utility district that is
28 designed, or used in whole or in part, for the purpose of
29 carrying electric distribution lines or cables or wires
30 for telecommunications, cable or electric service,

1 including a utility pole that provides lighting or
2 traffic control functions, including light poles, traffic
3 signals and structures for signage.

4 (ii) A pole or similar structure owned or operated
5 by a municipality in the ROW that supports only wireless
6 facilities.

7 (2) The term shall not include a utility pole owned or
8 operated in the ROW by an electric membership corporation or
9 a rural electric cooperative.

10 "Pennsylvania Municipalities Planning Code." The act of July
11 31, 1968 (P.L.805, No.247), known as the Pennsylvania
12 Municipalities Planning Code.

13 "Permit." A written authorization required by a municipality
14 to perform an action or initiate, continue or complete a
15 project.

16 "Person." An individual, corporation, limited liability
17 company, partnership, association, trust or other entity or
18 organization, including a municipality.

19 "Replacement." The replacement of existing wireless
20 [telecommunications] facilities on an existing wireless support
21 structure or within an existing equipment compound due to
22 maintenance, repair or technological advancement with equipment
23 composed of the same wind loading and structural loading that is
24 substantially similar in size, weight and height as the wireless
25 [telecommunications] facilities initially installed and that
26 does not substantially change the physical dimensions of the
27 existing wireless support structure.

28 "Rights-of-way" or "ROW." The area on, below or above a
29 public roadway, highway, street, sidewalk, alley, utility
30 easement, or similar property, but not including a Federal

1 interstate highway.

2 "Small wireless facility." A wireless facility where each
3 antenna is located inside an enclosure of no more than six cubic
4 feet in volume or, in the case of an antenna that has exposed
5 elements, the antenna and all of its exposed elements fit within
6 an imaginary enclosure of no more than six cubic feet and all
7 other wireless equipment associated with the facility is
8 cumulatively no more than 28 cubic feet in volume. Electric
9 meters, concealment elements, telecommunications demarcation
10 boxes, ground-based enclosures, grounding equipment, power
11 transfer switches, cut-off switches and vertical cable runs for
12 the connection of power and other services shall not be included
13 in the calculation of equipment volume.

14 "Substantial change" or "substantially change."

15 (1) Any increase in the height of the wireless support
16 structure by more than 10%, or by the height of one
17 additional antenna array with separation from the nearest
18 existing antenna not to exceed 20 feet, whichever is greater,
19 except that the mounting of the proposed wireless
20 telecommunications facility may exceed the size limits set
21 forth in this paragraph if necessary to avoid interference
22 with existing antennas.

23 (2) Any further increase in the height of a wireless
24 support structure which has already been extended by more
25 than 10% of its originally approved height or by the height
26 of one additional antenna array in accordance with the
27 provisions of this act shall not occur without municipal
28 approval.

29 "Utility pole."

30 (1) A pole or similar structure that is used in whole or

1 in part by a communications service provider or for electric
2 distribution, lighting, traffic control, signage or a similar
3 function.

4 (2) The term shall not include:

5 (i) A structure supporting only wireless facilities.

6 (ii) A pole or similar structure described under
7 paragraph (1) that is owned or operated by an electric
8 membership corporation or a rural electric cooperative.

9 "Water tower." A standpipe or an elevated tank situated on a
10 support structure, both of which shall be constructed of steel,
11 have a height of at least 75 feet and be used as a reservoir or
12 facility to deliver water.

13 "Wireless facility." Equipment at a fixed location that
14 enables wireless communications between user equipment and a
15 communications network, including equipment associated with
16 wireless communications and radio transceivers, antennas,
17 coaxial or fiber-optic cable, regular and backup power supplies
18 and comparable equipment, regardless of technological
19 configuration, including small wireless facilities and
20 distributed antenna systems. The term shall not include the
21 structure or improvements on, under or within which the
22 equipment is collocated.

23 "Wireless infrastructure provider." Any person, including a
24 person authorized to provide telecommunications service in this
25 Commonwealth, that builds or installs wireless communication
26 transmission equipment, wireless facilities or wireless support
27 structures but that is not a wireless services provider.

28 "Wireless provider." A wireless infrastructure provider or a
29 wireless services provider.

30 "Wireless services." Any services, whether at a fixed

1 location or mobile, provided using wireless facilities.

2 "Wireless services provider." A person who provides wireless
3 services.

4 "Wireless support structure." A freestanding structure, such
5 as a guyed or self-supporting monopole or tower, electrical
6 transmission tower, water tower, a structure used for lighting,
7 traffic control, signage or a similar function, or other
8 structure not classified as a wireless support structure, that
9 could support the placement or installation of wireless
10 [telecommunications] facilities if approved by the municipality.

11 ["Wireless telecommunications facility." The set of
12 equipment and network components, including antennas,
13 transmitters, receivers, base stations, cabling and accessory
14 equipment, used to provide wireless data and telecommunications
15 services. The term shall not include the wireless support
16 structure.]

17 Section 3. Regulation of wireless facilities and wireless
18 support structures.

19 (a) Limitations.--Municipalities that have adopted zoning
20 ordinances and land use regulations for the placement of
21 wireless facilities and wireless support structures may not
22 require any additional requirements on the applicant for the
23 collocation of wireless facilities on a wireless support
24 structure or the modification of a wireless [telecommunications]
25 facility or the installation of a new wireless facility that has
26 the force or effect of:

27 (1) Regulating the installation of new wireless
28 facilities or a collocation, replacement or modification of
29 antennas, accessory equipment or wireless
30 [telecommunications] facilities upon an existing wireless

1 support structure or within an existing equipment compound.

2 (2) Imposing additional costs, except the appropriate
3 and reasonable permit fees, or operating restrictions on an
4 applicant for the installation of a new wireless facility or
5 for the replacement, collocation or modification of wireless
6 [telecommunications] facilities upon existing wireless
7 support structures or within existing equipment compounds.

8 (3) [Requiring] With regard to wireless facilities and
9 wireless support structures other than small wireless
10 facilities, requiring payment of a zoning permit fee to
11 accompany any application, the amount of which fee is in
12 excess of the municipality's actual, reasonable costs to
13 review and process the application, or \$1,000, whichever is
14 less.

15 (3.1) With regard to small wireless facilities,
16 requiring payment of a zoning permit fee to accompany any
17 application, the amount of which fee is in excess of the
18 municipality's actual, reasonable costs to review and process
19 the application, or \$100, whichever is less.

20 (4) Requiring an applicant to provide justification for
21 the installation, collocation or modification of wireless
22 facilities, including the radio frequency need, or requiring
23 more information from a wireless provider than what is
24 required from a communications service provider.

25 (5) Acting to prohibit or have the effect of prohibiting
26 the provision of mobile service as provided in 47 U.S.C. §
27 332 (c) (7) (B) (i) (relating to mobile services).

28 (6) Requiring an applicant to justify the need for or
29 the technical, business or service characteristics of the
30 proposed wireless [telecommunications] facilities.

1 (b) (Reserved).

2 Section 4. Processing of applications.

3 (a) General rule.--Notwithstanding the Pennsylvania
4 Municipalities Planning Code or other land use or zoning
5 ordinances or regulations, an application for replacement,
6 collocation or modification of a wireless [telecommunications]
7 facility or wireless support structure entitled to processing
8 under this section shall be reviewed for conformance with the
9 municipality's applicable [building permit requirements] codes,
10 including requirements applicable to the added structural
11 loading of the proposed antennas and accessory equipment, but
12 shall not be subject to the issuance of new zoning or land use
13 approvals or review beyond the initial zoning or land use
14 approvals issued for the previously approved wireless support
15 structure or wireless [telecommunications] facility. Replacement
16 of wireless [telecommunications] facilities on existing wireless
17 support structures or within existing equipment compounds may be
18 performed by the applicant without obtaining building or zoning
19 permits from the municipality.

20 (b) Applications.--An application shall be deemed complete
21 when all documents, information and fees specifically enumerated
22 in the municipality's regulations, ordinances and forms
23 pertaining to the location, modification or operation of
24 wireless [telecommunications] facilities are submitted by the
25 applicant to the municipality. The following shall apply:

26 (1) Within 10 calendar days of the filing date of an
27 application for the installation, modification, collocation
28 or replacement of a small wireless facility or within 30
29 calendar days of the [date] filing date of an application for
30 the installation, modification [or], collocation [is filed

1 with the municipality] or replacement of another wireless
2 facility, wireless support structure or a substantial
3 modification to an existing wireless support structure, the
4 municipality shall notify the applicant in writing of any
5 information required to complete the application. If
6 additional information is required to complete the
7 application, the time required by the applicant to provide
8 the information shall not be counted toward the [90-calendar-
9 day] calendar-day review period under paragraph (2).

10 (2) Within [90 calendar days of the date an application
11 for modification or collocation of a wireless
12 telecommunications facility is filed with the municipality]
13 60 calendar days of the filing date of an application for the
14 installation, modification, collocation or replacement of a
15 small wireless facility, within 90 calendar days of the
16 filing date of an application for the modification,
17 collocation or replacement of any other wireless facility or
18 a nonsubstantial modification to an existing wireless support
19 structure, or within 150 calendar days for the installation
20 of a new wireless support structure or a substantial
21 modification to an existing wireless support structure,
22 unless another date is specified in a written agreement
23 between the municipality and the applicant, the municipality
24 shall do all of the following:

25 (i) Make its final decision to approve the
26 application.

27 (ii) Advise the applicant in writing of its final
28 decision.

29 (3) If the municipality fails to act [upon an
30 application for the modification or collocation of wireless

1 telecommunications facilities] on the application within 60,
2 90 or 150 calendar days as provided under paragraph (2), the
3 application shall be deemed approved. If a municipality has
4 advised the applicant in writing that additional information
5 is required to complete the application pursuant to paragraph
6 (1), the time required by the applicant to provide the
7 information shall not be counted toward the [90-day]
8 calendar-day period within which the municipality's failure
9 to act shall result in a deemed approval.

10 (4) If a municipality denies an application, the
11 municipality shall document the basis for the denial in
12 writing and provide the applicant with the specific code
13 provision, regulation or standard on which the denial was
14 based within the periods specified in this section. Within 30
15 days of a municipality's denial of an application, an
16 applicant may cure any deficiency identified by the
17 municipality and resubmit the application to the municipality
18 without paying an additional processing fee. The municipality
19 shall process and approve or deny a revised application
20 within 30 calendar days.

21 (c) Requirements.--[The process under this section shall
22 apply to all applications for] Applications for the
23 modification, replacement and collocation [that] of wireless
24 facilities shall meet all of the following requirements:

25 (1) The proposed collocation, modification or
26 replacement may not substantially change the physical
27 dimensions of the wireless support structure to which the
28 wireless telecommunications facilities are to be attached.

29 (2) The proposed collocation, modification or
30 replacement may not further increase the height of a wireless

1 support structure which had already been extended by more
2 than 10% of its originally approved height or by the height
3 of one additional antenna array, provided, however, that
4 nothing herein shall preclude an applicant from further
5 increasing the height of a wireless support structure which
6 had already been extended by more than 10% of its originally
7 approved height or by the height of one additional antenna
8 array if permitted and approved by the municipality.

9 (3) The proposed collocation, modification or
10 replacement may not increase the dimensions of the equipment
11 compound approved by the municipality.

12 (4) The proposed collocation, modification or
13 replacement complies with applicable conditions of approval
14 applied to the initial wireless [telecommunications]
15 facilities, equipment compound and wireless support
16 structure.

17 (5) The proposed collocation, modification or
18 replacement may not exceed the applicable wind loading and
19 structural loading requirements for the wireless support
20 structure.

21 (d) Setbacks, fall zones and aesthetics requirement.--
22 Setback, fall zone or aesthetic requirements must be
23 substantially similar to requirements imposed on other types of
24 commercial structures of a similar height.

25 (e) Prohibition.--A municipality may not institute, either
26 expressly or de facto, a moratorium on filing, receiving or
27 processing applications.

28 (f) Small cell facilities.--In addition to the limitations
29 and requirements in this section, the following requirements and
30 limitations apply to an application for the installation,

1 replacement, collocation or modification of small wireless
2 facilities:

3 (1) A municipality may not require the placement of
4 small wireless facilities on a specific utility pole or
5 category of poles or require multiple antenna systems on a
6 single utility pole.

7 (2) A municipality may not limit the placement of small
8 wireless facilities by minimum separation distances or a
9 maximum height limitation; however, a municipality may limit
10 the height of a small wireless facility under subsection (c)
11 (2) and section 6.1(e).

12 (3) An application seeking to replace, modify, collocate
13 or install small wireless facilities within the jurisdiction
14 of a single municipality may, at the applicant's discretion,
15 file a consolidated application and receive a single permit
16 for the collocation of multiple small wireless facilities.
17 The applicant shall be permitted to submit up to 50 permit
18 requests for small wireless facilities on a single
19 application.

20 (4) No municipality shall have or exercise jurisdiction
21 or authority over the design, engineering, construction,
22 installation or operation of any small wireless facility
23 located in an interior structure or upon the site of any
24 campus, stadium or athletic facility not otherwise owned or
25 controlled by the municipality, other than to comply with
26 applicable codes.

27 (5) Permits or agreements for small wireless facilities
28 issued on or after the effective date of this subsection
29 shall be for an initial term of at least 10 years, with at
30 least three options for renewal for terms of five years,

1 subject to terms providing for earlier termination for cause
2 or by mutual agreement.

3 Section 5. Enforcement.

4 (a) Appeal.--Any person adversely affected by any final
5 action or failure to act by a municipality that is inconsistent
6 with the provisions of this act may, within 30 days after the
7 action or failure to act, commence an action or an appeal in the
8 court of common pleas of the county where the wireless support
9 structure and wireless [telecommunications] facility is located.

10 (b) Hearing.--The court shall hear and decide the action on
11 an expedited basis and in accordance with the procedures
12 established by the Pennsylvania Municipalities Planning Code, 2
13 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
14 Commonwealth agencies) and 7 Subch. A (relating to judicial
15 review of Commonwealth agency action) or the Judiciary Act
16 Repealer Act, as the case may be, for the disposition of land
17 use appeals.

18 Section 6. Preservation of local governing authority.

19 (a) Construction.--Notwithstanding any other law, nothing in
20 this act shall be construed to:

21 (1) Limit or preempt the scope of a municipality's
22 review of zoning, land use or permit applications for the
23 siting of wireless support structures.

24 (2) Prevent a municipality from exercising its zoning
25 power, as provided for under the Pennsylvania Municipalities
26 Planning Code, municipal charter, municipal enabling act or
27 other zoning or land use ordinance or regulation.

28 (3) Prevent a municipality from regulating any
29 modification or collocation that substantially changes an
30 existing wireless support structure that is inconsistent with

1 this act.

2 (b) Scope.--Nothing in this act authorizes the
3 Commonwealth or any political subdivision, including a
4 municipality, to require wireless facility deployment or to
5 regulate wireless services.

6 Section 2. The act is amended by adding sections to read:

7 Section 6.1. Use of public rights-of-way.

8 (a) Applicability.--The provisions of this section shall
9 apply to activities of a wireless provider within the ROW.

10 (b) Exclusive use prohibited.--A municipality may not enter
11 into an exclusive arrangement with any person for use of the ROW
12 for the construction, operation, marketing or maintenance of
13 wireless facilities or wireless support structures or the
14 collocation of small wireless facilities.

15 (c) ROW rates and fees.--The following apply:

16 (1) A municipality may charge a wireless provider the
17 same rate or fee it charges communications service providers
18 or publicly, cooperatively or municipally owned utilities for
19 the use of the ROW for the construction, installation,
20 collocation, mounting, maintenance, modification, operation
21 or replacement of a wireless facility or wireless support
22 structure. Any rate or fee charged must be limited to the
23 direct and actual cost of managing the ROW and competitively
24 neutral with regard to other occupants of the ROW. Rates or
25 fees may not:

26 (i) Result in a double recovery where existing
27 rates, fees or taxes already recover the direct and
28 actual costs of managing the rights-of-way.

29 (ii) Be in the form of a franchise or other fee
30 based on revenue or customer counts.

1 (iii) Be unreasonable or discriminatory.

2 (iv) Violate any applicable law.

3 (v) Exceed an annual amount equal to \$20 times the
4 number of utility poles or wireless support structures in
5 the municipality's geographic jurisdiction on which the
6 wireless provider has collocated a small wireless
7 facility antenna.

8 (2) A rate or fee schedule inconsistent with paragraph
9 (1) shall be reset to comply with the requirements of
10 paragraph (1) within 180 days of the effective date of this
11 section.

12 (d) Additional requirements and limitations.--The following
13 requirements and limitations apply to fees for installation,
14 replacement, collocation or modification of wireless facilities:

15 (1) A municipality may not require approval or require
16 fees or other charges for routine maintenance of small
17 wireless facilities or replacement of existing small wireless
18 facilities with wireless facilities that are substantially
19 similar, the same size or smaller.

20 (2) Notwithstanding any other provision of this act,
21 application fees for the installation, replacement,
22 collocation or modification of wireless facilities in the ROW
23 shall be as follows:

24 (i) For wireless facilities and wireless support
25 structures other than small wireless facilities, the
26 application fee shall not be in excess of the actual
27 reasonable costs to review and process the application,
28 or \$1,000, whichever is less.

29 (ii) For small wireless facilities, the application
30 fee shall not be in excess of the actual, reasonable

1 costs to review and process the application, or \$100,
2 whichever is less.

3 (3) A municipality is permitted, on a nondiscriminatory
4 basis, to not charge a rate or fee for the use of the ROW for
5 the installation, replacement, collocation or modification of
6 a wireless facility or wireless support structure.

7 (e) Right-of-access.--

8 (1) Wireless providers shall have the right as a
9 permitted use not subject to zoning review or approval to
10 collocate wireless facilities and construct, modify, maintain
11 and operate utility poles, wireless support structures,
12 conduits, cables and related appurtenances and facilities:

13 (i) along, across, upon and under the ROW;

14 (ii) in the ROW in any zone; or

15 (iii) outside the ROW in property not zoned
16 exclusively for single-family residential use.

17 (2) The structures and facilities shall be constructed
18 and maintained as not to obstruct or hinder the usual travel
19 or public safety on the ROW or obstruct the legal use of the
20 ROW by other occupants. Notwithstanding subsection (f), each
21 new or modified utility pole and wireless support structure
22 installed in the ROW shall not:

23 (i) Exceed the greater of 10 feet in height above
24 the tallest existing utility pole in place as of the
25 effective date of this section in a location within 500
26 feet of the new pole in the same ROW or 50 feet above
27 ground level.

28 (ii) Extend more than 10 feet above an existing
29 utility pole or wireless support structure in place as of
30 the effective date of this section or above the height

1 permitted for a new utility pole or wireless support
2 structure under this section.

3 (f) Expansion subject to zoning approval.--Wireless
4 providers shall have the right to construct, modify and maintain
5 a utility pole, wireless support structure or wireless facility
6 that exceeds these size limits along, across, upon and under the
7 ROW, subject to applicable zoning regulations and this act.

8 (g) Undergrounding requirements.--Applicants shall comply
9 with nondiscriminatory undergrounding requirements that are in
10 effect by June 1, 2017, to prohibit communications service
11 providers from installing structures in the ROW without prior
12 zoning approval in areas zoned for single-family residential
13 use, except that the requirements shall not prohibit the
14 replacement of existing structures.

15 (h) Discrimination.--The municipality, in the exercise of
16 its administration and regulation related to the management of
17 the ROW, must be competitively neutral to other users of the
18 ROW. Terms may not be unreasonable or discriminatory and may not
19 violate any applicable law.

20 (i) Damage and repair.--A municipality may require a
21 wireless provider to repair all damage to the ROW directly
22 caused by the activities of the wireless provider while
23 occupying, installing, repairing or maintaining a wireless
24 facility, wireless support structures or utility poles in the
25 ROW and to return the ROW to its functional equivalence. If the
26 wireless provider fails to make the repairs required by the
27 municipality within a reasonable time and after written notice,
28 the municipality may effect those repairs and charge the
29 wireless provider the documented cost of the repairs.

30 Section 6.2. Access to municipal poles.

1 (a) Exclusive use prohibited.--A person owning or
2 controlling a municipal pole may not enter into an exclusive
3 arrangement with a person for the right to attach to utility
4 poles for the installation, replacement, collocation or
5 modification of wireless facilities.

6 (b) Rates for access to municipal poles.--The following
7 apply:

8 (1) Rates and fees shall be nondiscriminatory regardless
9 of the services provided by the wireless provider.

10 (2) Rates and fees shall recover the actual, direct and
11 reasonable costs related to the applicant's application for
12 and use of space on the municipal pole. The total annual rate
13 shall not exceed the lesser of actual, direct and reasonable
14 costs related to the collocation on the pole or \$20 per year
15 per municipal pole. Municipal pole owners shall have the
16 burden of proving that the rates are reasonably related to
17 the actual, direct and reasonable costs incurred for use of
18 space on the pole.

19 (3) Utility pole owners with existing pole attachment
20 rates, fees or other terms inconsistent with this section
21 shall reform such rate, fee or term in compliance with this
22 subsection within 180 days of the effective date of this
23 section.

24 (c) Make-ready work.--The following apply:

25 (1) Owners of municipal poles shall comply with the
26 process for make-ready work under 47 U.S.C. § 224 relating to
27 pole attachments) and implementing regulations and shall make
28 a good faith estimate for any make-ready work necessary,
29 including pole replacement if necessary, within 60 days of
30 receipt of a completed application to install or collocate

1 wire facilities.

2 (2) Owners of municipal poles are prohibited from
3 requiring more make-ready work than required to meet
4 applicable codes or industry standards.

5 (3) Fees for make-ready work shall not:

6 (i) Include costs related to preexisting or prior
7 damage or noncompliance.

8 (ii) Exceed actual costs or the amount charged to
9 other communications service providers for similar work.

10 (iii) Include consultant fees or expenses.

11 (d) Collocation on wireless support structures or utility
12 poles outside the ROW.--A municipality shall authorize the
13 collocation of wireless facilities on utility poles or wireless
14 support structures owned by the municipality which are not
15 located within the ROW to the same extent the municipality
16 permits access to the same type of poles or structures for other
17 commercial projects or uses. The rates, terms and conditions for
18 agreements shall be just and reasonable, cost-based,
19 nondiscriminatory and competitively neutral and shall comply
20 with all applicable Federal and State laws as provided in an
21 agreement between the municipality and the wireless provider.

22 (e) Surety.--A locality shall not impose surety
23 requirements, including bonds, escrow deposits, letters of
24 credit or any other type of financial surety to ensure that
25 abandoned or unused facilities can be removed, unless the
26 authority imposes similar requirements on other permits for
27 other types of commercial development or land uses and the
28 instrument does not exceed a reasonable estimate of the direct
29 cost of the removal of the facility. If surety requirements are
30 imposed, the requirements must be competitively neutral,

1 nondiscriminatory, reasonable in amount and commensurate with
2 the historical record for local facilities and structures that
3 are abandoned and shall not exceed \$25,000 per surety
4 requirement.

5 Section 6.3. Indemnification.

6 A municipality may not require a wireless provider to:

7 (1) indemnify and hold the municipality and its officers
8 and employees harmless against any claims, lawsuits,
9 judgments, costs, liens, losses, expenses or fees, except
10 when a court of competent jurisdiction has found that the
11 negligence of the wireless provider while installing,
12 repairing or maintaining caused the harm that created claims,
13 lawsuits, judgments, costs, liens, losses, expenses or fees;
14 or

15 (2) require a wireless provider to obtain insurance
16 naming the municipality or its officers and employees as
17 additional insured against any of the foregoing.

18 Section 6.4. Prohibitions.

19 (a) General rule.--Municipalities are prohibited from
20 adopting new zoning ordinances or revising existing zoning
21 ordinances with provisions that have the force or effect of
22 requiring an applicant to pay rates or fees to a third-party
23 vendor contracted by the municipality to assist with the
24 application process or make-ready work for the installation,
25 collocation, replacement or modification of wireless facilities.
26 Existing municipal ordinances that contain a provision requiring
27 an applicant to pay rates or fees to a third-party vendor shall
28 be modified to remove the provision within 60 calendar days of
29 the effective date of this act.

30 (b) Third-party vendors.--Any third-party vendor contracted

1 by a municipality to assist with the drafting of a new ordinance
2 or modification of an existing ordinance enacted by the
3 municipality that violates any provision of this act or Federal
4 law shall be subject to a fine not to exceed \$10,000 per
5 violation.

6 Section 3. This act shall take effect in 60 days.



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M·E·M·O·R·A·N·D·U·M

TO: Pennsylvania Municipal League
Pennsylvania State Association of Township Supervisors
Pennsylvania State Association of Boroughs
Pennsylvania State Association of Township Commissioners

FROM: Daniel S. Cohen
Attorney, Cohen Law Group

SUBJECT: *Legal Assessment of House Bill No. 1620: Wireless Infrastructure Deployment Bill*

DATE: July 9, 2017

On or about June 26, 2017, six State Representatives¹ introduced House Bill No. 1620, entitled the Wireless Infrastructure Deployment (“WID”) Bill. The WID bill is intended to amend the Pennsylvania Wireless Broadband Collocation Act, 53 P.S. §11702.1 *et seq.*, which became law in 2012.² I have reviewed the bill and have determined that, if enacted, it would achieve the following results as applied to municipalities in Pennsylvania:

1. It would strip Pennsylvania municipalities of all of their zoning authority over wireless antennas and equipment in the public rights-of-way (“ROW”).
2. It would strip Pennsylvania municipalities of most of their zoning authority over wireless towers in the ROW.
3. It would severely limit the assessment of fees for wireless facilities in the ROW.
4. It would prohibit municipalities from requiring standard legal protections for wireless facilities in the ROW, including full indemnification, bonding, and insurance coverage.

¹ Representatives Miccarelli, Farry, D. Costa, Snyder, DiGirolama, and Murt

² The Pennsylvania Wireless Broadband Collocation Act applies to antennae and other modifications to existing wireless support structures. The WID has a broader scope by placing restrictions on the regulation of all wireless facilities, including towers in the public rights-of-way.

5. It would curtail the state-mandated time frame for initial review of wireless facility applications so that municipalities would be unable to perform such reviews in time.
6. It would allow wireless providers to reverse a denial of a wireless facility application simply by resubmitting a revised application without having to obtain zoning approval.
7. It would expose municipal Solicitors and other municipal law firms to financial liability for drafting wireless ordinances deemed to be in violation of the WID Act.

Allow me to address each of these provisions individually.³

Removal of Municipal Zoning Authority

As you know, the biggest change in the wireless facilities industry in the last several years has been the development of distributed antenna systems or “DAS.” DAS systems deploy a network of poles, antennas, equipment, and fiber in close proximity to each other to boost capacity to meet consumer demand for wireless broadband service. In addition to antennas on existing utility poles, a DAS system typically also includes installation of new fiberglass poles (i.e. towers) that are 25 feet to 125 feet in height. A critical aspect of DAS facilities from the perspective of municipalities is that they are all located in the public rights-of-way.

The term “wireless facility” is defined in Section 2 of the WID bill as antennae and other associated equipment, but it does not include the structure (tower or building) upon which the antenna is located. Section 3(a) of the bill, entitled “Regulation of Wireless Facilities and Wireless Support Structures” states the following:

Limitations. Municipalities that have adopted zoning ordinances and land use regulations for the placement of wireless facilities and wireless support structures **may not require any additional requirements** on the applicant for the collocation of wireless facilities on a support structure or the installation of a new wireless facility **that have the effect of ... regulating the installation of new wireless facilities...** (emphasis added)

In other words, if a municipality has decided to subject wireless facilities to zoning approval, it cannot regulate wireless antennae and related equipment either inside or outside the ROW. By way of examples, this means that a municipality may not require that these facilities: 1) be maintained in good condition, order, and repair; 2) not interfere with public safety communications; 3) employ stealth technology so as to be as unobtrusive as possible; 4) with respect to ground mounted equipment, not interfere with vehicular or pedestrian traffic; 5) be limited in or excluded from historic districts; 6) be designed to withstand high winds; and 7) be removed upon discontinuation of use.

With respect to towers inside and outside the public rights-of-way, Section 6(e)(1) of the bill states the following:

³ There are many other provisions of the bill that would restrict or remove municipal authority over wireless facilities, but the provisions addressed here would be the most consequential.

Wireless providers shall have the right as a permitted use **not subject to zoning review or approval** to collocate wireless facilities and **construct...utility poles, wireless support structures...along, across, upon and under the ROW**; in the ROW of any zone; or outside the ROW in property not zoned exclusively for single-family residential use. (emphasis added)

Section 6(e)(2) further states that that the towers that would not be subject to municipal zoning authority must not exceed 50 feet or 10 feet above the tallest existing utility pole in the municipality, whichever is greater. In other words, towers that are 50 feet or shorter (or less than 10 feet above the tallest utility pole), except for those outside the rights-of-way in single-family residential districts, may not be subject to any municipal zoning regulations. A municipality would therefore have no ability to manage its ROW with respect to these towers.

Specifically and by way of examples, this prohibition would mean that a municipality would not be able to require that such towers: 1) be subject to conditional use approval; 2) be maintained in good condition; 3) comply with collocation incentives to place antennas on existing poles or buildings rather construct new towers; 4) be limited to certain zoning districts or roads provided there are ample areas available for such towers; 5) adhere to reasonable noise and light standards; 6) employ stealth technology; 7) be limited in or excluded from historic districts; and 7) be removed upon discontinuation of use.

One might infer from the above analysis that, under the WID bill, municipalities would still be able to regulate towers in the ROW that are over 50 feet in height or more than 10 feet above the tallest existing utility pole; however, other sections of the bill restrict municipal zoning authority over these towers as well. For example, Section 4(d) removes the right of municipalities to prescribe setback or aesthetic requirements on towers. This would prohibit municipalities from imposing setbacks from the cartway, stealthing requirements, etc.⁴

In addition, Section 4(f)(2) states that a municipality is prohibited from placing height limitations on antennas, which of course is the equivalent of prohibiting height limitations on the towers that support the antennas. Section 3(a)(4) of the bill prohibits municipalities from requesting information from the wireless provider regarding the “radio frequency need” for the tower (also known as gap in coverage), even though the Federal Communications Commission specifically allows local governments to request such information. All of these prohibitions on municipal regulations of towers more than 50 feet in height strip away standard methods by which municipalities currently manage their ROW’s with respect to wireless towers.

Effective Prohibition of Municipal Power to Assess Reasonable Fees

Many municipalities in Pennsylvania currently assess reasonable fees on wireless facilities in the ROW. The WID bill, if enacted, would effectively eliminate the ability of municipalities to assess fees, except for *de minimus* fees, on companies that own or manage these

⁴ Section 4(d) states that any such requirements must be “substantially similar to requirements imposed on other types of commercial structures of similar height.” The only other “commercial structures of similar height” in the ROW’s are utility poles, but they are regulated by the Public Utility Commission, not by municipalities. As such, the “substantially similar” requirement is a false standard.

facilities. The bill includes no fewer than six separate provisions relating to the assessment of fees on wireless facilities. Some of these provisions are inconsistent and even internally contradictory. In any event, they are summarized as follows:

1. A municipality may not impose “additional costs, except the appropriate and reasonable permit fees” on new antennas or equipment, including those in the ROW. (Section 3(a)(2))
2. For antennas and equipment 28 or fewer cubic feet in volume⁵, a municipality may not require payment of a permit fee of more than a one-time fee of \$100. Section 3(a)(3.1)
3. Any fee may not exceed an annual amount of \$20 times the number of utility poles in the municipality on which the wireless provider has attached antennae. In other words, if the provider currently has 5 antennae on utility poles in the municipality, then the municipality may not assess a fee of more than \$100 per year. Section 6.1(c)(1)(v)
4. For wireless facilities in the ROW, the application fee cannot exceed \$1,000. Section 6.1(d)(2)(i)
5. For wireless attachments to municipal poles, the fee may not exceed the lesser of its actual costs related to the collocation on its poles or \$20 per pole per year. Section 6.1(b)(2)
6. A municipality may only charge a wireless provider the same rate or fee that it charges communications service providers or public utilities for use of the ROW. Section 6.1(c)(1)

With respect to #6 above, while this restriction may seem reasonable on its face, in the context of current right-of-way management law in Pennsylvania, it has the effect of eliminating a municipality’s ability to charge a fee for wireless facilities in the rights-of-way. The reason is that it is not established in the law whether municipalities have the right to assess a fee on public utilities, such as telephone, gas and electric facilities.⁶ If municipalities do not have the right to charge public utilities for the use of the rights-of-way, then, under the WID bill, they cannot charge for wireless facilities either.

Aside from being confusing and inconsistent, the bottom line is that, under the WID bill, municipalities would only be able to charge *de minimus* fees that would be much less than the municipality’s actual costs of application review, permitting, inspection, and other aspects of ROW management. A final financial consequence of the bill is that it undercuts the leverage of local governments in negotiating leases for wireless facilities on municipal property. It is common in wireless ordinances for municipalities to require that wireless contractors first look at municipal property for the placement of their facilities outside the ROW before turning to possible private property locations. By removing virtually all municipal zoning authority over

⁵ 28 cubic feet is the equivalent of 209 gallons of water. (theunitconverter.com)

⁶ This issue is currently being litigated in the cases of PPL Electric Utilities Corporation v. City of Lancaster and UGI Utilities Inc. v. City of Lancaster, No. 462 MD 2013 (Pa. Commw. Ct. 2015).

wireless facilities, the WID bill also removes the opportunity for municipalities to steer wireless facilities toward municipal property and thereby obtain rental payments from wireless providers.

Removal of Legal Protections for the Rights-of-Way

In addition to stripping municipalities of most of their zoning authority over wireless antennas and towers as discussed above, the WID bill also removes or restricts the right of municipalities to require legal protections for the use of the ROW. These are standard protections that are customarily required by municipalities for facilities in the ROW. They include indemnification, insurance, and bonding requirements. Section 6.3(1) prohibits municipalities from requiring full indemnification from wireless providers,⁷ which opens municipalities to legal exposure for personal injuries or property damage due to accidents.

Section 6.3(2) prohibits municipalities from “require(ing) a wireless provider to obtain insurance naming the municipality or its officers and employees as additional insured.” Again, this is a standard legal protection for municipalities and it is unclear from the language whether municipalities may require the wireless provider to provide insurance coverage at all. Finally, Section 6.2(e) restricts the ability of municipalities to require bonding or other forms of surety for any wireless facilities—whether inside or outside the ROW. Specifically, it states that any bond must be similar to that imposed on “other types of commercial development or land uses” and may not be more than \$25,000.

Reduction of Time Frame for Initial Review of Wireless Applications

Currently, municipalities have 30 days from the time an application for a wireless facility is filed to notify the provider in writing that the application is incomplete or has been filed with the wrong department. Initial wireless applications are often incomplete because they do not include all the information required by local zoning ordinances. It is also common for wireless providers to file wireless facilities applications with the Public Works or Streets Departments rather than with the Zoning Office. This “initial review period” is an important opportunity to alert the provider that wireless facilities fall under the Zoning Code, not the Streets and Sidewalks Code. It also tolls the federal “shot clock” for consideration of applications.

Section 4(a)(1) of the WID bill reduces this time frame from 30 days to 10 days for “small wireless facilities.” A “small wireless facility” is defined in Section 2 as a facility where each antenna is no more than 6 cubic feet and all other wireless equipment associated with the facility is no more than 28 cubic feet. The definition does not specify or limit the height of the tower on which the antenna is attached. In addition, Section 4(f)(3) of the bill allows an applicant to “submit up to 50 permit requests (for such facilities) on a single application.”

Even for a single wireless facility, given all of the other responsibilities of municipal officials, it would be virtually impossible for a municipality to receive the application, refer it to the Zoning Officer and Solicitor, have them review the application, decide on a course of action,

⁷ The only form of indemnification that is permitted is one in which court finds that the wireless provider was negligent. This not only requires the municipality to take legal action against the wireless provider, but also is significantly more restrictive than standard ROW indemnifications.

and notify the applicant in writing within 10 days (which is effectively 6-8 business days). The notion that a municipality could meet this deadline for up to 50 separate wireless facilities is absurd. The clear intention is to deny municipalities the the right to perform this initial review.

Reversing a Denial by Circumventing the Zoning Process

Section 4(b)(4) of the bill also adds an unusual twist if a municipality denies an application for a wireless facility. It states the following:

Within 30 days of a municipality's denial of an application, an applicant may cure any deficiency identified by the municipality and resubmit the application to the municipality without paying an additional processing fee. The municipality shall process and approve or deny a revised application within 30 calendar days.

Putting aside the question of whether a municipality should be allowed to assess a new processing fee for a new application, this provision effectively undermines the local zoning process by limiting the time frame for consideration of the revised application to 30 days. Typically, if a zoning application is denied, the applicant may either appeal the denial to court or submit a different application for zoning approval. The zoning approval process inevitably takes more than 30 days. By allowing the provider to "cure" the source of the original denial and then making it impossible for the municipality to adequately consider the revised application, this provision has the effect of voiding the denial altogether.

Liability of Solicitors and Special Counsel

Finally, Section 6.3(b) of the bill specifically targets Solicitors and outside municipal law firms for punishment. It states the following:

Any third-party vendor contracted by a municipality to assist with the drafting of a new ordinance or modification of an existing ordinance enacted by the municipality that violates any provision of this act or Federal law shall be subject to a fine of not to exceed \$10,00 per violation.

Typically, the drafting of ordinances is performed by municipal Solicitors or outside municipal law firms that specialize in the subject matter of the ordinance. Today, if an ordinance is enacted by a municipality that violates state or federal law, then an injured party, in this case a wireless provider, may challenge the ordinance in court. The WID bill takes the highly unusual step of targeting Solicitors and special counsel with financial punishment. The goal of this provision is to create a "chilling effect" on the enactment of ordinances that allow municipalities to manage wireless facilities in the ROW's.

This concludes the summary of the major provisions in the WID bill. As noted above, there are many other provisions in the bill, some of which would further restrict municipal rights, but the major provisions are addressed in this memorandum. I look forward to discussing it with you after you have reviewed it.



August 7, 2017

Hon. Nick Miccarelli
432 Irvis Office Bldg.
P.O. Box 202162
Harrisburg, PA 17120

Hon. Frank Farry
52B East Wing
P.O. Box 202142
Harrisburg, PA 17120

Hon. Dominic Costa
217 Irvis Office Bldg.
P.O. Box 202021
Harrisburg, PA 17120

Hon. Pam Snyder
112 Irvis Office Bldg.
P.O. Box 202050
Harrisburg, PA 17120

Hon. Gene DiGirolomo
49 East Wing
P.O. Box 202018
Harrisburg, PA 17120

Hon. Thomas Murt
410 Irvis Office Bldg.
P.O. Box 202152
Harrisburg, PA 17120

RE: Opposition to H.B. 1620 Regarding Regulation of Wireless Facilities

Dear State Representatives Miccarelli, Farry, Costa, Snyder, DiGirolomo, and Murt:

The undersigned municipal associations, which represent nearly all of the 2,600 municipalities in the Commonwealth, have been working together for some time regarding the management of wireless facilities in the public rights-of-way. We have reviewed House Bill 1620, which you have cosponsored, and have concluded that the bill is not in the best interests of Pennsylvania. In our opinion, it would undermine local management of the public rights-of-way, harm public safety, remove the public from the wireless facility approval process, strip municipalities of their basic legal protections, and violate federal wireless siting law.

As you know, Pennsylvania municipalities are charged by state law with the oversight and maintenance of the health, safety, and welfare of their residents. This includes the maintenance of perhaps the most important physical asset of every municipality, namely the public rights-of-way. Municipalities actively manage the public rights-of-way, not only with respect to vehicular and pedestrian traffic, but also with respect to the numerous types of facilities being placed there by public utilities and related companies. These include gas, electric, water, cable, telecommunications, and wireless facilities. Municipalities must manage these facilities in a manner that maintains public safety and preserves the character of their communities. As such, Pennsylvania municipalities have an immediate and direct interest in the management of towers, antennae, and related wireless equipment in the public rights-of-way.

Our members strongly support the deployment of high-speed broadband service throughout the Commonwealth. Whether achieved through wired or wireless networks (or a combination of both), broadband deployment is critical to elevating Pennsylvania in the areas of economic development, academic achievement, health care advancement, the maintenance of residential property values, and the efficiency of local governments. The rollout of wireless distributed antenna system (“DAS”) facilities, however, must be done in an orderly fashion that preserves

public safety and protects the public rights-of-way. H.B. 1620 would have the opposite result if enacted in its current form.

Federal law grants to local governments the legal right to regulate the “placement, construction, and modification” of wireless facilities through their zoning authority. At the same time, federal and state laws grant numerous protections to the wireless industry and expressly restrict municipalities from over-regulation of wireless facilities. These include, but are not limited to, the Telecommunications Act of 1996, the Federal Communications Commission’s (“FCC’s”) “Shot Clock” Ruling of 2009, the Spectrum Act of 2012, the Pennsylvania Wireless Broadband Collocation Act of 2012, and the FCC’s Wireless Report and Order of 2014. All of these statutes and rulings restrict local government regulation and promote the deployment of wireless facilities. Indeed, the wireless industry is fully protected now under federal and state law without the need for H.B. 1620.

Municipalities in Pennsylvania cannot and will not surrender their right to manage their public rights-of-way or to use their zoning authority to promote orderly development and preserve the integrity of their communities. We would appreciate the opportunity to meet with you to discuss these issues and work collaboratively to prevent the detrimental impact that would result from the enactment of H.B. 1620.

Sincerely yours,



David M. Sanko
Executive Director
Pennsylvania State Association of
Township Supervisors (PSATS)



Richard J. Schuettler,
Executive Director
Pennsylvania Municipal League (PML)



Christopher Cap
Executive Director
Pennsylvania State Association of
Boroughs (PSAB)



Richard J. Schuettler,
Executive Director
Pennsylvania State Association of
Township Commissioners (PSATC)

cc: Members, House Consumer Affairs Committee
Pennsylvania House Majority and Minority Leadership

**RESOLUTION NO. 2017-134
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA, AUTHORIZING THE TOWNSHIP TO ENTER INTO AN
AGREEMENT WITH DAVID BROIDA FOR SEASONAL TENNIS
PROGRAMMING.**

WHEREAS, the Radnor Township Parks & Recreation Department offers various programming to improve the quality of life throughout the year; and

WHEREAS, in many cases, the Township contracts with outside organizations who then run the program; and

WHEREAS, the Home Rule Charter Chapter 7.11(D) requires that any contract in excess of \$7,500 be formally approved by the Board of Commissioners; and

WHEREAS, the Township anticipates that the seasonal tennis programming in 2018 will result in a contractual payment to David Broida that will exceed the \$7,500 threshold stipulated by the Home Rule Charter and therefore will require Board approval.

NOW, THEREFORE, it is hereby **RESOLVED** that the Board of Commissioners of Radnor Township hereby authorizes the Township to enter into an agreement with David Broida for his portion of the proceeds of the seasonal tennis programming that is estimated to be \$15,000.00 in 2018.

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 18th day of December, 2017.

RADNOR TOWNSHIP

By: _____
Name: Elaine P. Schaefer
Title: Vice-President

ATTEST: _____
Name: Robert A. Zienkowski
Title: Township Manager/Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: December 13, 2017

TO: Board of Commissioners

FROM: Tammy Cohen, Director of Recreation & Community Programming

A handwritten signature in blue ink, appearing to be "TC", enclosed in a circle.

LEGISLATION: Resolution 2017-134 authorizing the Township to enter into an agreement with David Broida for his portion of the proceeds generated through the seasonal tennis programming.

LEGISLATIVE HISTORY: This is a one-time resolution that is specific to the seasonal tennis programming in 2018. Since the program enrollment is anticipated to be high enough to cause David Broida's portion to exceed \$7,500, the Charter requires that the Board formally approves the agreement.

PURPOSE AND EXPLANATION: The Recreation & Community Programming Department would like to work with David Broida to run seasonal tennis programming in 2018. It is anticipated that the enrollment for the seasonal tennis lessons will be high enough to cause David Broida's portion of the proceeds to exceed \$7,500. The purpose for the resolution is to satisfy the Charter requirement that any contract that exceeds \$7,500 must be formally approved by the Board of Commissioners.

FISCAL IMPACT: The impact of the seasonal tennis programming is that it is anticipated that the Township will generate 25% of the total programming sales (plus 100% of the non-resident fees) and that 75% of the total programming sales is contractually owed to David Broida and is estimated to be \$15,000.00 for 2018. The Township collects fee based revenue from program participants that are aligned to cover the full cost of the proposed contract included in this Resolution. The anticipated cost for the seasonal tennis lessons with David Broida has been budgeted under the *Recreation Programming – Programs* area of the Township 2018 Budget under *Contractual Services*.

RECOMMENDED ACTION: The Administration respectfully recommends that the Board adopt this resolution at the December 18th, 2017 Board of Commissioner meeting.

**RESOLUTION NO. 2017-135
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA. AUTHORIZING THE TOWNSHIP TO ENTER
INTO AN AGREEMENT WITH JUMP START SPORTS, LLC. FOR
SEASONAL PROGRAMMING.**

WHEREAS, the Recreation & Community Programming Department offers various programming to improve the quality of life throughout the year; and

WHEREAS, in many cases, the Township contracts with outside organizations who then run the program; and

WHEREAS, the Home Rule Charter Chapter 7.11(D) requires that any contract in excess of \$7,500 be formally approved by the Board of Commissioners; and

WHEREAS, the Township anticipates that the seasonal programming in 2018 will result in a contractual arrangement with Jump Start Sports, LLC. that will exceed the \$7,500 threshold stipulated by the Home Rule Charter and therefore will require Board approval; and

NOW, THEREFORE, it is hereby **RESOLVED** that the Board of Commissioners of Radnor Township hereby authorizes the Township to enter into an agreement with Jump Start Sports, LLC. for their portion of the proceeds of the seasonal programming in 2018 that is estimated to be \$50,000.00.

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 18th day of December, 2017.

RADNOR TOWNSHIP

By: _____
Name: Elaine P. Schaefer
Title: Vice-President

ATTEST: _____
Name: Robert A. Zienkowski
Title: Township Manager/Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: December 13, 17, 2017

TO: Board of Commissioners

FROM: Tammy Cohen, Director of Recreation & Community Programming

Ⓢ

LEGISLATION: Resolution 2017-135 authorizing the Township to enter into an agreement with Jump Start Sports, LLC. for their portion of the proceeds generated through seasonal programming.

LEGISLATIVE HISTORY: This is a one-time resolution that is specific to the seasonal programming in 2018. Since the program enrollment is anticipated to be high enough to cause Jump Start Sports, LLC.'s portion of the proceeds to exceed \$7,500, the Charter requires that the Board formally approve the agreement.

PURPOSE AND EXPLANATION: The Recreation & Community Programming Department would like to work with Jump Start Sports, LLC. to offer various seasonal programs in 2018. It is anticipated that the enrollment for the seasonal programming will be high enough to cause Jump Start Sports, LLC.'s portion of the proceeds to exceed \$7,500. The purpose for the resolution is to satisfy the Charter requirement that any contract that exceeds \$7,500 must be formally approved by the Board of Commissioners.

FISCAL IMPACT: The impact of the seasonal programming is that it is anticipated that the Township will generate 30% of the total programming sales (plus 100% of the non-resident fees) and that 70% of the total programming sales will be retained by Jump Start Sports, LLC. under this contractual agreement, which is estimated at \$50,000 for 2018. Jump Start Sports, LLC. will be responsible for collecting all of the proceeds generated from the seasonal programming and the Township will receive their 30% portion from Jump Start Sports, LLC. There will be no direct payment made by the Township under this contractual agreement and therefore no direct impact to the expense portion of the Township 2018 Budget.

RECOMMENDED ACTION: The Administration respectfully recommends that the Board adopt this resolution at the December 18th, 2017 Board of Commissioner's Meeting.

**RESOLUTION NO. 2017-136
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA. AUTHORIZING THE TOWNSHIP TO ENTER INTO AN
AGREEMENT WITH SHINING KNIGHTS, LTD. FOR SEASONAL CHESS
PROGRAMMING.**

WHEREAS, the Radnor Township Recreation & Community Programming Department offers various programming to improve the quality of life throughout the year; and

WHEREAS, in many cases, the Township contracts with outside organizations and individuals who then run the program; and

WHEREAS, the Home Rule Charter Chapter 7.11(D) requires that any contract in excess of \$7,500 be formally approved by the Board of Commissioners; and

WHEREAS, the Township anticipates that the seasonal chess programming in 2018 will result in a contractual payment to Shining Knights, LTD. that will exceed the \$7,500 threshold stipulated by the Home Rule Charter and therefore will require Board approval; and

WHEREAS, the Township collects fee based revenue from program participants that are aligned to cover the full cost of the proposed contract included in this Resolution.

NOW, THEREFORE, it is hereby **RESOLVED** that the Board of Commissioners of Radnor Township hereby authorizes the Township to enter into an agreement with Shining Knights, LTD. for their portion of the proceeds of the seasonal chess programming in 2018 that is estimated to be \$15,000.00.

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 18th day of December, 2017.

RADNOR TOWNSHIP

By: _____
Name: Elaine P. Schaefer
Title: Vice-President

ATTEST: _____
Name: Robert A. Zienkowski
Title: Township Manager/Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: December 13, 2017

TO: Board of Commissioners

FROM: Tammy Cohen, Director of Recreation & Community Programming

⑨

LEGISLATION: Resolution 2017-136 authorizing the Township to enter into an agreement with Shining Knights, LTD. for their portion of the proceeds generated through the seasonal chess programming.

LEGISLATIVE HISTORY: This is a one-time resolution that is specific to the seasonal chess programming in 2018. Since the program enrollment is anticipated to be high enough to cause Shining Knights, LTD.'s portion to exceed \$7,500, the Charter requires that the Board formally approve the agreement.

PURPOSE AND EXPLANATION: The Recreation & Community Programming Department would like to work with Shining Knights, LTD. to run the seasonal chess programming in 2018. It is anticipated that the enrollment for the seasonal chess programming in 2018 will be high enough to cause Shining Knight LTD.'s portion of the proceeds to exceed \$7,500. The purpose for the resolution is to satisfy the Charter requirement that any contract that exceeds \$7,500 must be formally approved by the Board of Commissioners.

FISCAL IMPACT: The impact of the seasonal chess programming is that it is anticipated that the Township will generate 30% of the total programming sales (plus 100% of the non-resident fees) and that 70% of the proceeds is contractually owed to Shining Knights, LTD., which is estimated to be \$15,000.00 for 2018. The Township collects fee based revenue from program participants that are aligned to cover the full cost of the proposed contract included in this Resolution. The anticipated cost for the seasonal chess programming with Shining Knights, LTD. has been budgeted under the *Recreation Programming – Programs* area of the Township 2018 Budget under *Contractual Services*.

RECOMMENDED ACTION: The Administration respectfully recommends that the Board adopt this resolution at the December 18th, 2017 Board of Commissioner's Meeting.

**RESOLUTION NO. 2017-137
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA. AUTHORIZING THE TOWNSHIP TO ENTER
INTO AN AGREEMENT WITH SOCCER SHOTS, LLC. FOR
SEASONAL SOCCER PROGRAMMING.**

WHEREAS, the Recreation & Community Programming Department offers various programming to improve the quality of life throughout the year; and

WHEREAS, in many cases, the Township contracts with outside organizations who then run the program; and

WHEREAS, the Home Rule Charter Chapter 7.11(D) requires that any contract in excess of \$7,500 be formally approved by the Board of Commissioners; and

WHEREAS, the Township anticipates that the seasonal programming in 2018 will result in a contractual arrangement with Soccer Shots, LLC. that will exceed the \$7,500 threshold stipulated by the Home Rule Charter and therefore will require Board approval; and

NOW, THEREFORE, it is hereby **RESOLVED** that the Board of Commissioners of Radnor Township hereby authorizes the Township to enter into an agreement with Soccer Shots, LLC. for their portion of the proceeds of the seasonal soccer programming in 2018 which is estimated to be \$25,000.00.

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 18th day of December, 2017.

RADNOR TOWNSHIP

By: _____
Name: Elaine P. Schaefer
Title: Vice-President

ATTEST: _____
Name: Robert A. Zienkowski
Title: Township Manager/Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: December 13, 2017

TO: Board of Commissioners

FROM: Tammy Cohen, Director of Recreation & Community Programming

Ⓟ

LEGISLATION: Resolution 2017-137 authorizing the Township to enter into an agreement with Soccer Shots, LLC. for their portion of the proceeds generated through seasonal soccer programming.

LEGISLATIVE HISTORY: This is a one-time resolution that is specific to the seasonal soccer programming in 2018. Since the program enrollment is anticipated to be high enough to cause Soccer Shots, LLC.'s portion of the proceeds to exceed \$7,500, the Charter requires that the Board formally approve the agreement.

PURPOSE AND EXPLANATION: The Recreation & Community Programming Department would like to work with Soccer Shots, LLC. to offer various seasonal soccer programs in 2018. It is anticipated that the enrollment for the seasonal soccer programming in 2018 will be high enough to cause Soccer Shots, LLC.'s portion of the proceeds to exceed \$7,500. The purpose for the resolution is to satisfy the Charter requirement that any contract that exceeds \$7,500 must be formally approved by the Board of Commissioners.

FISCAL IMPACT: The impact of the seasonal soccer programming is that it is anticipated that the Township will generate 25% of the total programming sales (plus 100% of the non-resident fees) and that 75% of the total programming sales will be retained by Soccer Shots, LLC. under this contractual agreement, which is estimated to be \$25,000.00. Soccer Shots, LLC. will be responsible for collecting all of the proceeds generated from the seasonal soccer programming and the Township will receive their 25% portion from Soccer Shots, LLC. There will be no direct payment made by the Township under this contractual agreement and therefore no direct impact to the expense portion of the Township 2018 Budget.

RECOMMENDED ACTION: The Administration respectfully recommends that the Board adopt this resolution at the December 18th, 2017 Board of Commissioner's Meeting.

**RESOLUTION NO. 2017-138
RADNOR TOWNSHIP**

**A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA. AUTHORIZING THE TOWNSHIP TO ENTER
INTO AN AGREEMENT WITH WORLD CUP SPORTS ACADEMY
FOR SEASONAL PROGRAMMING.**

WHEREAS, the Recreation & Community Programming Department offers various programming to improve the quality of life throughout the year; and

WHEREAS, in many cases, the Township contracts with outside organizations who then run the program; and

WHEREAS, the Home Rule Charter Chapter 7.11(D) requires that any contract in excess of \$7,500 be formally approved by the Board of Commissioners; and

WHEREAS, the Township anticipates that the seasonal programming in 2018 will result in a contractual payment to World Cup Sports Academy that will exceed the \$7,500 threshold stipulated by the Home Rule Charter and therefore will require Board approval; and

WHEREAS, the Township collects fee based revenue from program participants that are aligned to cover the full cost of the proposed contract in this Resolution.

NOW, THEREFORE, it is hereby **RESOLVED** that the Board of Commissioners of Radnor Township hereby authorizes the Township to enter into an agreement with World Cup Sports Academy for their portion of the proceeds of the seasonal programming in 2018 which is estimated to be \$90,000.00.

SO RESOLVED, at a duly convened meeting of the Board of Commissioners of Radnor Township conducted on this 18th day of December, 2017.

RADNOR TOWNSHIP

By: _____
Name: Elaine P. Schaefer
Title: Vice-President

ATTEST: _____
Name: Robert A. Zienkowski
Title: Township Manager/Secretary

Radnor Township



PROPOSED LEGISLATION

DATE: December 13, 2017

TO: Board of Commissioners

FROM: Tammy Cohen, Director of Recreation & Community Programming

Ⓟ

LEGISLATION: Resolution 2017-138 authorizing the Township to enter into an agreement with World Cup Sports Academy for their portion of the proceeds generated through seasonal programming.

LEGISLATIVE HISTORY: This is a one-time resolution that is specific to the seasonal programming in 2018. Since the program enrollment is anticipated to be high enough to cause World Cup Sports Academy's portion to exceed \$7,500, the Charter requires that the Board formally approve the agreement.

PURPOSE AND EXPLANATION: The Recreation & Community Programming Department would like to work with World Cup Sports Academy to offer various seasonal programs in 2018. It is anticipated that the enrollment for the seasonal programming in 2018 will be high enough to cause World Cup Sports Academy's portion of the proceeds to exceed \$7,500. The purpose for the resolution is to satisfy the Charter requirement that any contract that exceeds \$7,500 must be formally approved by the Board of Commissioners.

FISCAL IMPACT: The impact of the seasonal programming is that it is anticipated that the Township will generate various percentages depending on the programs offered, ranging from 15% to 30% of the total programming sales (plus 100% of the non-resident fees) and that 70% to 85% of the total programming sales is contractually owed to World Cup Sports Academy. Both Radnor Township and World Cup Sports Academy will be responsible for collecting the proceeds generated from the seasonal programming – with World Cup Sports Academy responsible for the majority. The Township's proceeds that are collected from program participants are aligned to cover the full cost of the proposed contract included in this Resolution, which is estimated to be \$90,000.00. The anticipated cost for the seasonal programming with World Cup Sports Academy has been budgeted under the *Recreation Programming – Programs* area of the Township 2018 Budget under *Contractual Services*.

RECOMMENDED ACTION: The Administration respectfully recommends that the Board adopt this resolution at the December 18th, 2017, Board of Commissioner's Meeting.

Recognition of Outgoing Treasurer and Commissioners

Public Participation