

HATFIELD BOROUGH COUNCIL  
REGULAR MEETING  
October 20, 2021

MINUTES

THIS MEETING WAS HELD IN-PERSON  
BOROUGH HALL 401 S. MAIN STREET, HATFIELD  
THIS MEETING WAS RECORDED

CALL TO ORDER AND ROLL CALL:

- (X) John H. Weierman, President
  - (X) John Kroesser, Vice President
  - ( ) Salvatore DiLisio Jr.
  - (X) Jason Ferguson
  - (X) Lawrence G. Stevens
- (X) Mayor, Robert L. Kaler III

The record shows that four members of the Council were present at roll call, as well as, Solicitor Catherine M. "Kate" Harper; Timoney Knox LLP, Borough Manager Michael J. DeFinis, Assistant Manager Jaime E. Snyder and Assistant to the Manger; Kathryn Vlahos.

1. APPROVAL OF MEETING AGENDA:

Motion: A motion was made by Councilmember Ferguson to Approve the Regular Meeting Agenda of October 20, 2021. The motion was seconded by Councilmember Kroesser and unanimously approved with a vote of 4-0.

2. APPROVAL OF THE MINUTES:

Motion to Approve the Minutes of the September 15, 2021, Workshop Regular Meeting

Motion: A motion was made by Councilmember Kroesser to Approve the Minutes of September 15, 2021, Workshop Regular Meeting. The motion was seconded by Councilmember Ferguson and unanimously approved with a vote of 4-0.

3. PUBLIC HEARING:

Regarding Act 50 Regulations of Small Wireless Facilities Ordinance No. 541 Chapter 17. Councilman Weierman suspended the Regular Scheduled Public Meeting and opened

for the Scheduled Public Hearing. A Court Reporter was present and the Public Hearing closed at 7:46 PM.

4. PUBLIC INPUT: President Weierman asked if there was any Public Input. No Media Present.

Owen Wilcox, 32 School Lane, addressed The Council with three items that he wanted to discuss. Item one was that there was a committee meeting before the meeting that was closed to the public which he feels that all committee meetings should be open to the public. The second item that he wanted to discuss was the disabled cars that have been parked on Chestnut Street for a while. The third item was a suggestion to Borough Council if a schedule could be created on when the street sweeper would be coming by on the roads so that residents could move their cars.

Solicitor Harper responded to Mr. Wilcox on the topic of the committee meetings stating that the sunshine law exempts meetings without a quorum from being open to the public, in addition, it also exempts deliberations. The committees report back to the full boards in which the full board can only actually take action under the law. In regards to the ordinance on the street sweeper, it is blank because Council has not decided on a set schedule.

Councilman Kroesser responded to Mr. Wilcox's comments in regards to the cars that are parked on Chestnut Street. He stated that due to the storm in September, many cars were flooded out and needed to be towed. This is a temporary situation due to the influx of cars that were damaged, and long waitlists to get them picked up by an authorized company to take the cars.

Richard Girard, 202 Jade Drive, addressed Council and stated that he is currently running for office in the Borough and wanted to find out the possibility of receiving permission to put political signs on Borough property and according to Borough Code 27-11-05 permission is needed from Council. Mr. Girard also asked about the AMP Website for the Borough that has been down now for about a week and a half.

Manager DeFinis replied to Mr. Girard and said that he needs to reregister for the AMP website since something happened to the site and they had to take it down. Manager DeFinis asked Mr. Girard to give him a call tomorrow and he will walk him through the process. He will also make sure that the information for Centravu is updated so that all residents will know how to access it again.

Councilman Ferguson asked if he could address Council on the topic of Political Signs on Borough Property and for the record, he is speaking as a citizen of the Borough and not as a Council Member since he is also running for Political Office. Mr. Ferguson stated that since the right of ways is Borough property, he is asking Borough Council to wave enforcement of Borough Code and allow political signs in the right of ways.

Solicitor Harper reviewed with the Council the sections in the Borough Ordinances which discuss Political Signs. Solicitor Harper also reviewed the new regulations with the Sunshine Law which stated that the agenda has to announce 24 hours in advance of the public meetings. The agenda was announced and it did not include this subject if Council would take action tonight to allow the signs in the right of way, public parks, or the municipal building its questionable that it meets with the Sunshine Laws requirements.

After a lengthy discussion Council decided that they were not going to give an exception to prevent the enforcement of allowing political signs in the public right of way.

Justin Long, 151 East Vine Street, addressed Council and stated that Hatfield Township reached out to him after they went to inspect the property that is disposing of trash into the creek which is causing damage to Mr. Long's property. From that inspection, the township decided that the parcel that Mr. Long is referring to is actually in Hatfield Borough.

Solicitor Harper recommended that the Borough's Engineer looks at the property to see if there is any jurisdiction over the creek or if it would DEP who would regulate the debris in the creek.

Mr. Long would like the Borough to contact the property owner that the debris is coming from and ask them to clean up the debris.

5. ANNOUNCEMENTS: Manager DeFinis made the following announcements:

- HERC is Scheduled to Meet Wednesday, October 27th @ 8:00 AM via ZOOM Registration is Required
- ZHB is Scheduled to Meet Wednesday, October 27th @ 7:00 PM in Council Chambers
- HERC Halloween Walk Through Friday, October 29th from 5:00 PM-7:00 PM
- Planning Commission is Scheduled to Meet Monday, November 1st @7:00PM in Council Chambers
- Next Council Meetings November 3rd Workshop and November 17th Regular Meeting @ 7:30 PM in Council Chambers
- HMHS Meeting November 23rd @ 7:00 PM via FACEBOOK Live
- The Borough Office will be Closed Thursday, November 11th in Observance of Veterans Day

6. NEW BUSINESS/DISCUSSION ITEMS:

A. HVAC Hatfield Volunteer Fire Company Flasher Installation Award Consideration Recommendation from McMahan & Associates

Council Ferguson asked if the Borough went out to bid for this project would the cost of construction be a lot lower due to the higher costs of materials and labor this year? Manager DeFinis stated that he can ask the engineer if there would be a difference due to the elevations of costs this year. Assistant Manager Jaime Snyder stated that these project

costs are being shared with Hatfield Township as well as a grant that they received for this project.

#### B. AJ. Jurich Lincoln Avenue Bridge Project Extension Request

Manager DeFinis explained to Council that there are letters in their packet from AJ. Jurich and their Engineer explaining why AJ Jurich is requesting an extension to the project.

#### C. Delaware Valley Workers Comp Recognition

Manager DeFinis stated that the Borough is recognized for being a municipality whose Workmans Comps Claims are low.

#### D. APPA Legislative Rally Announcement

#### E. October 27th Zoning Hearing Notice

Solicitor Harper commented to the Council has the right to support or oppose a Zoning Hearing Application, and asked if they would like her to attend. The applicant had a building permit that was denied and they are requesting a variance. Manager DeFinis commented that part of the complications with this property is when the previous owner built the addition it was built outside of the property lines. The applicant would like to put a permanent roof on the existing patio that is there. The applicant has a preexisting non-conforming patio and is looking for a variance to cover the patio.

### 7. OLD BUSINESS:

#### A. Reports and Correspondence: Cash Report

### 8. ACTION ITEMS:

#### A. Motion to Consider Ordinance No. 541 Regarding Act 50 Regulations of Small Wireless Facilities

Motion: A motion was made by Councilmember Ferguson to Approve Ordinance No, 541 Regarding Act 50 Regulations of Small Wireless Facilities. The motion was seconded by Councilmember Kroesser.

President Weierman asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 4-0.

1. Motion to Consider Awarding the Hatfield Volunteer Fire Company Flasher Installation to Charles A. Higgins & Sons of Aston PA in the Amount of \$61,051.40 (sixty-one thousand fifty-one dollars and forty cents)

Motion: A motion was made by Councilmember Ferguson to table for action at the next meeting the motion to award the Hatfield Volunteer Fire Company Flasher Installation to Charles A. Higgins & Sons of Aston PA in the amount of \$61,051.40 (sixty-one thousand fifty-one dollars and forty cents) The motion was seconded by Councilmember Stevens.

President Weierman asked if there were any comments or questions.

Councilman Ferguson commented that he would like to know the following before awarding the bids for the project, how long the bids are good for, how long is the grant good for, how does this relate to the increasing costs for this kind of work.

#### 9. MOTION TO APPROVE PAYMENT OF THE BILLS:

President Weierman and Manager DeFinis reviewed and answered questions regarding the bill list.

Motion: A motion was made by Councilmember Kroesser to Approve payment of the bills. The motion was seconded by Councilmember Ferguson.

President Weierman asked if there were any comments or questions. There were no comments or questions.

The motion was approved unanimously with a vote of 4-0.

#### 12. MOTION TO ADJOURN:

Motion: A motion was made by Councilmember Ferguson to adjourn the Regular Meeting of October 20, 2021. The motion was seconded by Councilmember Kroesser and unanimously approved with a vote of 4-0. The meeting was adjourned at 9:11 PM.

Respectfully Submitted,  
Kathryn Vlahos  
Assistant to the Manager



HATFIELD BOROUGH

COUNCIL MEETING

- - -

IN RE: PUBLIC HEARING REGARDING ACT 50, REGULATIONS  
OF SMALL WIRELESS FACILITIES, ORDINANCE NO. 541,  
CHAPTER 17

- -

WEDNESDAY, OCTOBER 20, 2021

- - -

Hearing held in the  
above-captioned matter at 401 South Main  
Street, Hatfield, PA at 7:35 p.m., there being  
present:

JOHN WEIERMAN, PRESIDENT  
JOHN KROESSER, VICE PRESIDENT  
LAWRENCE G. STEVENS, MEMBER  
JASON FERGUSON, MEMBER

- - -

ROBERT L. KALER, III, MAYOR

MICHAEL J. DeFINIS, BOROUGH MANAGER

JAIME E. SNYDER, ASSISTANT MANAGER,  
ASSISTANT SECRETARY, HUMAN RESOURCE  
MANAGER

CATHERINE M. HARPER, ESQUIRE,  
SOLICITOR

- - -

I N D E XE X H I B I T SHATFIELD BOROUGH'S

<u>Number</u>		<u>Marked</u>
B-1	Legal Notice	3
B-2	Legal Notice	3
B-3	Copy of Ordinance No. 541	3

- - -



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2                   **PRESIDENT WEIERMAN:** Continuing with  
3 item three, public hearing scheduled for this  
4 evening, regarding Act 50, Regulations of Small  
5 Wireless Facilities, and that's our Ordinance  
6 Number 541 Chapter 17. And I'll turn it over to  
7 our solicitor.

8                   **MS. HARPER:** Thank you very much. We  
9 have a court reporter here tonight and we're  
10 going to handle this, as we handle all of our  
11 hearings, in a very orderly way.

12                   So the first thing I'd like to do is  
13 to mark as exhibits, B-1, which is one of the  
14 legal ads, the long one; and B-2, which is the  
15 second legal ad; and B-3 -- for Borough -- is  
16 a copy of the Ordinance 541.

17                   - - -

18                   (Legal Advertisement marked as  
19 Borough Exhibit B-1 for identification.)

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21                   (Legal Advertisement marked as  
22 Borough Exhibit B-2 for identification.)

23                   - - -

24                   (Copy of Ordinance 541 marked as  
25 Borough Exhibit B-3 for identification.)

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Now, Borough Council will remember we discussed this ordinance at the workshop and it's a result of a change in the state law that basically says that local governments have to allow small wireless facilities everywhere in the Borough, regardless of zoning.

So previously, if they were limited to places that weren't residential or whatever, you're no longer allowed to do that, by state law. And if you want to have any control at all over these small wireless facilities, you need to pass an ordinance before October 30th to regulate them.

The regulation that is in this ordinance, which is in your packets, basically says they can be allowed anywhere, but you have to get a permit for them and that we can charge for the use of our rights of way.

Previously, we could charge if they wanted to put a small wireless facility on a pole that we own, and, of course, we own a bunch of electric poles.

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2 But in the Borough there are also  
3 other things that these small wireless  
4 facilities could be attached to that we don't  
5 own. For example, AT&T or Verizon owns  
6 telephone poles here and they can charge or  
7 cut a deal with a big wireless provider where  
8 their poles get to be used for a certain price  
9 and that would not affect us.

10 But because we own the rights of way  
11 where the poles are located -- for the most  
12 part the poles are in the rights of way --  
13 then we can regulate and be paid a fee for the  
14 use of our right of way for these small  
15 wireless devices.

16 So the ordinance that you have in  
17 front of you is basically what Cohen Law Firm,  
18 which represented the local governments in  
19 lobbying on these bills in Harrisburg, wrote  
20 as a draft ordinance with certain exceptions.

21 I made small minor changes to the  
22 ordinance to give you more control. I believe  
23 these changes are consistent with the state  
24 law and that we can get away with it.

25 For example, the model ordinance that

1 Cohen had produced, allowed -- I don't know --  
2 up to 10 or 25 small wireless applications  
3 without getting a permit. I changed that.  
4 The Borough is so small that, for heaven's  
5 sake, 10 or 20 might be all we get, and we  
6 would want to know where they are.  
7

8 In another Township that I  
9 represented, we did have an issue where they  
10 actually erected a pole to put one of these on  
11 right in the front of somebody's picture  
12 window. You know, so we want to have some  
13 control over that. And so that's all -- I  
14 changed the model ordinance to give us some  
15 control.

16 In addition, the model ordinance  
17 provides that you can have certain standards  
18 so that we encourage these facilities in some  
19 places and discourage them in others. Does  
20 that make sense?

21 So the ordinance provides that we can  
22 have those kinds of standards. And my  
23 suggestion is that we take the model that was  
24 offered by the Cohen Law Firm and that we give  
25 it to our planning commission and ask the

1  
2 planning commission to look over the model and  
3 see if they would like you to adopt that after  
4 you adopt this ordinance.

5 **MR. DEFINIS:** And that can be set by  
6 resolution, correct?

7 **MS. HARPER:** Yes.

8 **MR. DEFINIS:** Those design standards can  
9 be set by resolution?

10 **MS. HARPER:** Right. And at the  
11 moment -- and I'll ask the borough manager this  
12 question. I'm going to formally swear you in,  
13 Mike, but you are under oath. Have we received  
14 any applications for small wireless facilities?

15 **MR. DEFINIS:** We have not at this time.

16 **MS. HARPER:** We don't. So other than  
17 the fact that state law says if you don't pass  
18 this local ordinance within 60 days of the state  
19 law, you can't pass any ordinance. Okay. We can  
20 change this. But we got to get it done.

21 So that's why we're doing it and I  
22 think we have time to have the planning  
23 commission, you know, give us some advice on  
24 certain other standards that we can require.  
25 And that's the reason for requiring a permit

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2 for every installation, so that we can look at  
3 it and see where is it going to be. What we  
4 want to do is make sure this is in the  
5 ordinance, that it's not so low that it  
6 interferes with people walking along the  
7 street or, you know, that it's so high that it  
8 interferes with our electrical utilities or  
9 something like that. We want to make sure  
10 that it's in the best place possible.

11 If we have to have them, we want to  
12 make sure it's in the best place possible. So  
13 that's basically the ordinance.

14 First, I think, Mr. Chairman, we  
15 should see if the Borough Council has any  
16 questions, and if not, we can open it to the  
17 public.

18 I should say for the public, if you  
19 plan to speak, wait until you're recognized by  
20 Council President Weierman, state your name  
21 and address ,and then you can say or ask  
22 whatever you want. But I think we start with  
23 Borough Council for that.

24 **PRESIDENT WEIERMAN:** That's correct.

25 Thank you. Council, Mayor, any questions?

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2           **MR. FERGUSON:** So I just have a  
3 question, Madam Solicitor, Kate. When we come up  
4 with the design proposals through the planning  
5 commission, does that mean that we would ratify  
6 this or would there be a whole separate  
7 resolution?

8           **MS. HARPER:** That would be a separate  
9 resolution. You would pass this ordinance  
10 tonight, so that we have one in place. And then  
11 we would pass the resolution, which is called for  
12 in the ordinance, to have some additional  
13 standards beyond what is basic in the ordinance.

14           **MR. FERGUSON:** Okay.

15           **MS. HARPER:** It's sort of like having a  
16 comprehensive plan after you adopt a zoning  
17 ordinance. You know, they go together, but one  
18 requires official action at a hearing and the  
19 other would just require a resolution.

20           **MR. FERGUSON:** Okay.

21           **PRESIDENT WEIERMAN:** Any other  
22 questions?

23           **MR. KROESSER:** I do not.

24           **MR. FERGUSON:** One last question. Sorry.  
25 And is there any time period for that? Do we

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have to get it within a certain period of time?

**MS. HARPER:** There's no time period, but I would suggest we do it within the next 60 days, because we surely want to have it in place before anybody comes in with an application.

**MR. FERGUSON:** Okay.

**MS. HARPER:** And then our code officer will get applications and be able to apply the standards and say, yes, this one is fine and that one's not, or whatever.

**MR. FERGUSON:** Okay. Makes sense.

Thank you.

**PRESIDENT WEIERMAN:** I'd just like to point out that the fee for an applicant would be \$270 per new utility pole to be used with a small wireless facility. So that would be the minimum amount that we're currently suggesting.

**MS. HARPER:** Right. And that's the maximum under the law. That may change, but right now that's as much as we could ask for.

**PRESIDENT WEIERMAN:** Thank you. No further questions from Council?

**MR. DEFINIS:** Some clarifications. So I did already -- I did speak to the utility



1  
2 engineer, Norm Barron, about the design, his  
3 input on the design resolution. He's going to  
4 work with us with the planning commission on  
5 that. We want our electrical engineer to be  
6 involved in that process, as well.

7 Also, the Borough can capture any  
8 electrical usage for those units, so rather  
9 than remunerate each unit, he'll just do the  
10 calculation of what the daily usage is and  
11 we'll bill them monthly for that. So that's  
12 another capture in the ordinance.

13 **MS. HARPER:** Thank you.

14 **PRESIDENT WEIERMAN:** We'll open up to  
15 the public, any questions or comments, please?  
16 Yes?

17 **MR. BURNS:** My name is Larry Burns, I  
18 live at 101 Jean Drive in Hatfield Borough.

19 Does this ordinance, in any way,  
20 restrict an individual or a business in the  
21 Borough if they had a location or spot that  
22 one of those companies might want to come and  
23 put it on their property or their pole or  
24 their building or whatever, so that then they  
25 could make money on that? Does this restrict

1  
2 that at all?

3 **MS. HARPER:** No. And, in fact, this is  
4 not a zoning ordinance, okay? This is an  
5 ordinance on right of ways. Okay?

6 In our zoning ordinance, we have uses  
7 that are allowed and not allowed. And I don't  
8 know that we have a specific section for small  
9 wireless facilities. I do know that we've  
10 always had satellite dishes in the Borough and  
11 I believe these are similar in size.

12 If you're going to put up a pole and  
13 put the wireless facility on the top of it,  
14 that might have a zoning implication that you  
15 would have to check to make sure that you are  
16 complying with zoning.

17 **MR. BURNS:** And that's something the  
18 planning commission can --

19 **MS. HARPER:** This ordinance is basically  
20 about rights of way.

21 **MR. BURNS:** Okay.

22 **MS. HARPER:** And my understanding is  
23 that's where the wireless people want to put  
24 these facilities. But I'm sure they also have  
25 other applications where they might rent a site

1  
2 in someone's, you know, yard or something.

3 **MR. BURNS:** I was thinking along the  
4 lines like the fire company or somebody who has,  
5 you know, a tower or something, maybe they want  
6 to come in there and pay the fire company, but  
7 this wouldn't restrict any of that, right?

8 **MS. HARPER:** Right. So this ordinance  
9 requires colocation, if possible. And our tower  
10 ordinance also requires colocation, I believe.  
11 So, I believe, yes, if the fire company had a  
12 tower or a church had a tower, that might be  
13 another possibility, but this doesn't take any of  
14 that away, although those facilities might be  
15 regulated by the zoning ordinance. I think they  
16 are.

17 **PRESIDENT WEIERMAN:** Thank you. Anyone  
18 else?

19 - - -

20 (No response.)

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22 **PRESIDENT WEIERMAN:** Hearing none, as  
23 stated, there is an action item for a motion to  
24 consider this ordinance later in tonight's  
25 meeting. We'll conclude the hearing at this

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time. Thank you.

(At 7:47 p.m., the public hearing was  
concluded.)

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C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me in the above cause and that this is a correct transcript of the same.

JOAN HILL MORK  
Official Court Reporter

- - -

MR. BURNS: [4] 11/17 12/17 12/21 13/3	allowed [5] 4/12 4/19 6/2 12/7 12/7	check [1] 12/15
MR. DEFINIS: [4] 7/5 7/8 7/15 10/24	along [2] 8/6 13/3	church [1] 13/12
MR. FERGUSON: [6] 9/2 9/14 9/20 9/24 10/7 10/12	already [1] 10/25	clarifications [1] 10/24
MR. KROESSER: [1] 9/23	also [4] 5/2 11/7 12/24 13/10	code [1] 10/8
MS. HARPER: [14] 3/8 7/7 7/10 7/16 9/8 9/15 10/3 10/8 10/19 11/13 12/3 12/19 12/22 13/8	although [1] 13/14	Cohen [3] 5/17 6/2 6/24
PRESIDENT WEIERMAN: [8] 2/13 8/24 9/21 10/14 10/22 11/14 13/17 13/22	always [1] 12/10	colocation [2] 13/9 13/10
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17 [2] 1/7 3/6	application [1] 10/6	comprehensive [1] 9/16
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action [2] 9/18 13/23	bill [1] 11/11	discourage [1] 6/19
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addition [1] 6/16	BOROUGH'S [1] 2/6	do [8] 3/12 4/12 8/4 9/23 9/25 10/4 11/9 12/9
additional [1] 9/12	building [1] 11/24	does [4] 6/19 9/5 11/19 11/25
address [1] 8/21	bunch [1] 4/25	doesn't [1] 13/13
adopt [3] 7/3 7/4 9/16	Burns [1] 11/17	doing [1] 7/21
ads [1] 3/14	business [1] 11/20	don't [5] 5/4 6/2 7/16 7/17 12/7
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advice [1] 7/23	calculation [1] 11/10	draft [1] 5/20
affect [1] 5/9	called [1] 9/11	Drive [1] 11/18
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