

SUPERVISORS OF FAIRVIEW TOWNSHIP

7471 McCray Road
Fairview, PA 16415

Regular Meeting
November 5, 2015
9:00 A.M.

The regular meeting of the Supervisors of Fairview Township was called to order at 9:00 A.M. on November 5, 2015 by Chairman Mark Gennuso, followed with the Pledge of Allegiance.

Present: Supervisors Ralph Heidler, Peter Kraus and Mark Gennuso; Secretary-Treasurer Michelle Barnes, Assistant Secretary Julie Lindvay; Zoning Administrator James Cardman; Assistant Zoning Officer Amanda Bair and Solicitor Paul Burroughs

Visitors: Tony Mitcho, 8400 Beckman Road; Dr. Rosanne Palermo, 6510 Heidler Road and Maryann Mook, WCNJ

MINUTES:

The minutes of the October 15, 2015 regular meeting were approved on motion by Mr. Kraus seconded by Mr. Heidler. Unanimous.

PAYMENT OF BILLS:

Unanimous approval was given for the payment of bills, per the list attached to the agenda, on motion by Mr. Kraus seconded by Mr. Heidler. Unanimous.

ENGINEER REPORT:

The Township received Old Ridge Culvert Replacement and Water Line Installation Payment Application No. 3 in the amount of \$3519.00. Mr. Kraus made motion to pay Chivers Construction Company, seconded by Mr. Heidler. Unanimous.

Charity Stover is working on the multimodal transportation fund grant with DCED for Fairview 98 pedestrian crossing.

The vacant barn behind Dollar General was discussed with the owner and he is working to have it torn down.

PLANNING & ZONING REPORT:

Trinity Equestrian Center Land Development Plan was tabled due to some issues with the septic site, active manure management plan, 30x12 building and driveway permit which was discussed with Dr. Palermo in detail.

SECRETARY'S REPORT:

The Supervisors unanimously approved Resolution 2015-9 on motion by Mr. Kraus, seconded by Mr. Heidler.

FAIRVIEW TOWNSHIP
ERIE COUNTY, PENNSYLVANIA

RESOLUTION 2015- 9

A RESOLUTION OF THE GOVERNING BOARD OF FAIRVIEW TOWNSHIP, ERIE COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO APPOINT A LIASON BETWEEN IT AND BERKHEIMER, THE DULY APPOINTED COLLECTOR OF ACT 511 TAXES FOR THE DISTRICT, FOR THE EXPRESS PURPOSE OF SHARING CONFIDENTIAL TAX INFORMATION WITH THE DISTRICT FOR OFFICIAL PURPOSES.

WHEREAS, Act No. 511 of the 1965 General Assembly of the Commonwealth of Pennsylvania (53 P.S. §6901 et seq.), enacted December 31, 1965, and effective January 1, 1966, authorizes certain political subdivisions, including **Fairview Township**, to provide for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees as may be deemed necessary for the assessment and collection of taxes imposed under the authority of that Act; and

WHEREAS, **FAIRVIEW TOWNSHIP, ERIE COUNTY**, has entered into contractual agreement with **BERKHEIMER** of Bangor, Pennsylvania, whereby and whereunder **CLIENT** appointed Berkheimer to collect **CERTAIN LOCAL TAXES**; and

WHEREAS, said Act 511 specifically mandates that any information gained by the appointed tax officer, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the taxing municipality's ordinance or resolution, be kept confidential, except for official purposes; and

WHEREAS, any person who divulges any information which is confidential under the provisions of any ordinance or resolution, upon conviction may be subject to fines and/or imprisonment, upon conviction, and dismissal from office or discharge from employment; and

WHEREAS, Berkheimer requires passage of a resolution by the governing body of **Fairview Township** specifying that said confidential information is needed for official purposes and absolving Berkheimer from any liability in connection with the release of said confidential information;

NOW, THEREFORE, BE IT RESOLVED that:

1. **Fairview Township** hereby appoints **Michelle Barnes / Secretary** as one of its authorized representative to make requests upon and receive any and all tax information and records from **Berkheimer**, relative to the collection of taxes for **CLIENT**, as desired and deemed necessary by **CLIENT**, to be used for official purposes only; and

2. Berkheimer is hereby directed to provide and/or transmit any and all tax information and records, or any portion thereof, relating to the collection of taxes for the **CLIENT**, upon request, to **Michelle Barnes / Secretary** as an authorized contact representative for it.

3. **Fairview Township** hereby saves harmless, indemnifies and/or absolves Berkheimer from and against any and all liability in connection with the release of said confidential information.

RESOLVED, ENACTED AND ADOPTED at a meeting held on the 5th day of November, 2015.

BY: _____

ATTEST: _____

Contact E-Mail Address :supervisors@fairviewtownship.com

Mrs. Barnes presented a thank you letter from Fairview Parks and Recreation Authority for the Township's assistance with the Pumpkin Launch on October 18, 2015.

NEW BUSINESS:

Mr. Kraus made motion to adopt Resolution 2015-10, seconded by Mr. Heidler. Unanimous.

FAIRVIEW TOWNSHIP

RESOLUTION NO. ~~2015~~2015-10

A RESOLUTION TO SELL 1992 NUWAY UTILITY TRAILER

WHEREAS, Fairview Township owns ~~has deemed as surplus property~~ a 1992 NuWay Utility Trailer and ~~has deemed as surplus property as it is in such a condition~~ that it is no longer being utilized; and

WHEREAS, ~~Initial~~ attempts to sell the Trailer at a public auction were unsuccessful because the VIN is not visible on the Trailer, affecting the ability to market and title the Trailer; and

~~WHEREAS,~~ the manufacturer of the Trailer is no longer in business so a replacement plate or sticker cannot be obtained and, ~~Instead~~ of recycling the Trailer as scrap metal, an offer was received to purchase it for \$50.00, resulting in more revenue than anticipated from scrap value.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ENACTED by the Board of Supervisors of Fairview Township, Erie County, Pennsylvania, that the 1992 NuWay Utility Trailer be sold for \$50.00 to Josh Kennedy as is, where is. Mr. Kennedy has agreeds to pay all associated taxes and title transfer fees.

RESOLVED and ENACTED this ~~5th~~ day of ~~November~~, 2015, by the Board of Supervisors of Fairview Township, Erie County, Pennsylvania.

FAIRVIEW TOWNSHIP

Attest:

By _____

By _____

By _____

Mr. Heidler made motion to adopt Resolution 2015-11, seconded by Mr. Kraus. Unanimous.

RESOLUTION NO. 2015-11

CONSENT TO CHANGE OF CONTROL OF

FAIRVIEW TOWNSHIP'S CABLE TELEVISION FRANCHISE

WHEREAS, Time Warner Cable Northeast LLC ("Franchisee") is the duly authorized holder of a franchise, as amended to date (the "Franchise"), authorizing Franchisee to operate and maintain a cable system to serve the Fairview Township, PA (the "Franchise Authority"); and

WHEREAS, on May 23, 2015, Charter Communications, Inc. ("Charter Communications") along with its subsidiary CCH I, LLC ("New Charter") entered into agreements with Time Warner Cable Inc. ("TWC") (the ultimate parent company of Franchisee), Advance/Newhouse Partnership ("A/N"), and Liberty Broadband Corporation ("Liberty") in order to merge with TWC, the ultimate parent of the Franchisee (the "Transaction"); and

WHEREAS, TWC will merge into a subsidiary of New Charter; and

WHEREAS, Charter Communications will merge with a subsidiary of New Charter, and New Charter will assume the name Charter Communications, Inc. ("Charter"); and

WHEREAS, the ultimate control of Franchisee will transfer to Charter; and

WHEREAS, the Franchise Authority and Charter do not agree whether approval of the Transaction by the Franchise Authority is required; and

WHEREAS, Charter has filed an informational FCC Form 394 with the Franchise Authority (the "Application") requesting approval of the transfer of control; and

WHEREAS, the Franchise Authority has considered the Application and approves of the Transaction.

NOW, THEREFORE, BE IT RESOLVED BY THE FRANCHISE AUTHORITY AS FOLLOWS:

The foregoing recitals are approved and incorporated herein by reference.

1. The Franchise Authority consents to the Transaction and to the corporate reorganization described in the Application.

2. The Franchise Authority confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise. Subject to compliance with the terms of this Resolution, all action necessary to approve the change of control of the Franchisee to Charter has been duly and validly taken.

3. Charter or Franchisee may (a) assign, transfer, or transfer control of its assets, including the Franchise, provided that such assignment, transfer, or transfer of control is to an entity directly or indirectly controlling, controlled by or under common control with Charter; (b) restructure debt or change the ownership interests among existing equity participants in Charter; (c) pledge or grant a security interest to any lender(s) of Charter's assets, including, but not limited to, the Franchise, or of interest in Charter, for purposes of securing any indebtedness; and (d) sell equity interests in Charter or any of Charter's affiliates.

4. After the closing date of the Transaction (the "Closing Date"), Franchisee shall remain bound by the lawful terms, conditions, responsibilities, obligations, liabilities, and rights contained in the Franchise, including any and all pre-closing non-compliance issues identified after the Closing Date, until the Franchise is either renewed, not renewed or terminated by the Franchise Authority pursuant to federal law and regulations.

5. This Resolution shall be deemed effective upon adoption.

6. This Resolution shall have the force of a continuing agreement with Franchisee, and the Franchise Authority shall not amend or otherwise alter this Resolution without the consent of Franchisee and

Charter.

7. Charter agrees that the Franchise shall be deemed amended to incorporate the following provision:

Beginning ninety (90) days after the Closing Date, Franchisee will calculate franchise fees in accordance with the definition of Gross Revenues set forth in Exhibit A attached hereto. This requirement shall be prospective only and contingent upon closing of the Transaction.

8. Franchise Authority does not, as a result of the transfer of control, or by virtue of this Resolution, waive, release or otherwise limit its rights with respect to any failure by Franchisee to comply with any and all of the terms and conditions of the Franchise prior to the Closing Date.

9. Franchise Authority's consent to the transfer of control arising from the Transaction is contingent upon the parties to the Transaction obtaining all other necessary and applicable federal governmental approvals, permits, and authorizations, and is further contingent upon Charter signing a Certificate of Acceptance of this Resolution.

PASSED, ADOPTED AND APPROVED this 5th day of November, 2015.

By: _____

Name: _____

Title: _____

ATTEST:

Clerk

Exhibit A

Gross Revenues - All revenue received by the Franchisee arising from, attributable to, or in any way derived from the operation of its Cable System in the Town to provide Cable Services. Gross Revenues shall include, but are not limited to, the following:

- (1) Basic Service fees;
- (2) fees charged to Subscribers for any Cable Service tier other than Basic Service;
- (3) fees charged for premium Cable Services;
- (4) fees for all digital video tiers;
- (5) fees for video-on-demand;
- (6) fees charged to Subscribers for any optional, per-channel or per-program Cable Services;
- (7) revenue from the provision of any other Cable Services;
- (8) charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for Cable Service;
- (9) fees for changing any level of Cable Service programming;
- (10) fees for service calls on Cable Services;
- (11) inside wire maintenance fees for Cable Services;
- (12) service plan protection fees on Cable Services;
- (13) convenience fees;
- (14) early termination fees on Cable Services;
- (15) fees for leased access Channels;
- (16) charges based on the sale or lease of any portion of the Cable System for Cable Service;
- (17) rental or sales of any and all equipment, including converters and remote control devices;
- (18) any and all locally-derived advertising revenues for advertising delivered by Cable Services;
- (19) revenues or commissions from locally-derived home shopping channels;
- (20) revenue from interactive Cable Services;
- (21) broadcast retransmission fees;
- (22) late payment fees on Cable Services;
- (23) billing and collection fees on Cable Services;
- (24) NSF check charges;
- (25) FCC Regulatory Fee; and
- (26) Franchise Fees.

Gross Revenues shall not include bad debts, program launch fees, investment income, refunded deposits, or any taxes on services furnished by Franchisee and imposed directly upon any Subscriber or user by the Town, state, federal or other governmental unit. In the event of any dispute over the classification of revenue, the Town and Franchisee agree that reference should be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB").

Mr. Kraus made motion to hire Mr. Joshua Sturgeon as a part time plow driver at \$25.75/hr., pending the results of his pre-employment drug screen. Seconded by Mr. Heidler. Unanimous.

The Supervisors unanimously approved to hire Mr. Rick Petri as a part time recycling attendant at the Millfair Compost and Recycling Center at \$11.00/hr. pending his pre-employment drug screen. On motion by Mr. Kraus, seconded by Mr. Heidler. Unanimous.

Mr. Kraus made motion to purchase a GEN II Hot Patch Heater for \$12,295.00. Mr. Heidler seconded this motion. Unanimous.

The purchase of the 2016 Chevy Equinox from Dave Hallman at the Costars price of \$23,250.00 to replace the 2007 Chevy Trailblazer was unanimously approved by the Supervisors. Mr. Kraus made motion, Mr. Heidler seconded.

Fairview Township Supervisors reviewed Fairview Township Water Authority's request and are following up with Solicitor Paul Burroughs on the matter: Fairview Township Water Authority is seeking permission to use property and facilities within the Pleasant Ridge Park area. Three items presented:

1. The Authority would like permission to construct a 520,000 gallon water storage tank (location on map)
2. The authority would like to investigate the possibility of connecting the pavilion well to the public system and reconnecting it to public water.
3. Allow some type of building along west side of the entrance road. This building would be for treatment and monitoring of the water leaving the tank.

Fairview Township Supervisors awarded Struchen Flats Soil Nail Stabilization project bid to Mar-Allen Construction Company in the amount of \$114,080.00 with \$70,000.00 of that paid in 2015.

SUPERVISORS' REPORT:

Mr. Kraus reported the building at the recycling center is done and the Township plans to shut down Avonia Beach House for the winter season next week.

Mr. Heidler reported there will be a public EMTA bus route meeting coming to the area November 10th, 2015 at 5:30 P.M. at the Girard Borough Office. He would also like to remind everyone to please use clear bags for their leaves.

Mr. Gennuso reported the waste contract renewal process is underway. The opening for bids is today at 3:00 P.M.

The meeting was adjourned at 9:55 A.M. Motion by Mr. Kraus, seconded by Mr. Heidler. Unanimous.

Respectfully submitted,

Michelle A. Barnes
Secretary/Treasurer