



**REGULAR MEETING
OF THE
BRYN ATHYN BOROUGH COUNCIL**

COUNCIL CHAMBER
November 1, 2021

The meeting was called to order by President Jeffrey Elsing at 7:00p.m. The following were present:

MEMBERS OF COUNCIL

Glenn Gurney
Ric Asplundh
Jeffrey Elsing
Duane D. Hyatt

Brent McCurdy
Mark Pennink
Aurelle Genzlinger

ALSO: Victoria S. Trost, Bradley E. Cranch, Mayor Ken Schauder, Solicitor R. Rex Herder.

EXECUTIVE SESSION

President Jeff Elsing announced that Borough Council will hold an Executive Session immediately following this meeting to discuss a personnel matter.

MINUTES

On a motion by Brent McCurdy, seconded by Jeffrey Elsing, Council voted unanimous approval of the October minutes.

TREASURER’S REPORT

General Fund Revenue for October was \$22,463.63. General Fund Expenses were \$179,246.54. Net Income was -\$156,782.91.

Sewer Fund Revenue for October was \$159.69. Sewer Fund Expenses were \$14,566.07. Net Income was -\$14,406.38.

Today PLGIT paid .01%. PLGIT PRIME paid .04%.

Included in the General Fund cash receipts were:

\$	4,756.96	in Real Estate Tax receipts
\$	7,979.75	in Earned Income Tax receipts
\$	1,183.99	in Local Services Tax receipts
\$	1,406.81	in Fines
\$	200.00	in Zoning Permits
\$	1,379.05	in PURTA Tax receipts
\$	2,640.00	in Road Opening Permit Fees
\$	1,081.03	in Building Permit Fees
\$	25.00	in Grading Permit Fees
\$	15.00	in Police Report Fees
\$	1,769.04	in Insurance Dividends

Included in the Sewer Fund Cash Receipts were:

\$	25.00	in Sewer Certification
\$	3.69	Interest Income
\$	131.00	in Category 2 Usage Fees

TAX COLLECTOR - None

BILLS

General Fund Bills

21 st Century Media	\$876.10
Am-Trust North America	8,066.00
Aqua PA	38.18
Aqua PA	2,715.30
Armour & Sons Electric Inc	558.70
Bruce S Morrison DO	85.00
Building Inspection Underwriters Inc	5,476.00
Calebe Nobre	1,429.92
Cranch Landscapers LLC	475.00

Davidheiser's Inc	93.71
DeLage Landen-Office Copier	261.45
DeLage Landen-Police Copier	175.00
Eastburn & Gray PC	3,577.50
Independence Blue Cross	5,795.46
Jane Ann Saile Treasurer	5.00
Joseph Bresnan Esq	45.00
Kimberly Kleinguenther	1,200.00
Lower Moreland Township	43,584.06
Montgomery County Law Library	25.00
NAPA/Weldon Auto Parts	52.03
Peco Energy Company-Street Lights	970.39
Peco Energy Company-Traffic signals	93.10
Pennypack Ecological Restoration Trust	2,500.00
Petty Cash - Steve Gray	246.96
Petty Cash - Victoria Trost	94.63
ProTract Engineering Inc	2,380.00
PSAB	440.00
Quick Lot LLC	6,295.00
Staples	52.27
TGI Office Automation	19.30
The Vanguard Group	1,233.75
TruGreen Processing Center	914.00
USA Payroll	260.02
Verizon Wireless	158.06
Victoria Trost	250.00
Wawa – Wright Express	<u>840.72</u>
TOTAL	<u>\$91,272.61</u>

Sewer Fund Bills

Am-Trust North America	\$1,371.71
Aqua PA	96.00
Home Depot	108.95
Independence Blue Cross	551.32
Kimberly Kleinguenther	75.00
Lower Moreland Township	179.54
MJ Reider Associates Inc	506.00
Mac Medical Gases Inc	3.50
McGovern Environmental LLC	360.00
PA Rural Water Association	335.00
Peco Energy	222.77
SCP Distributors LLC	1,905.20
USA Blue Book	136.58
USA Payroll	126.20
Verizon	80.19
Verizon Internet	84.00

Verizon Wireless	42.24
Wawa – Wright Express	211.00
Wind River Environmental LLC	<u>3,300.50</u>
TOTAL	<u>\$9,695.50</u>

Debt Service Bills

Wilmington Trust Company	<u>\$113,630.00</u>
TOTAL	<u>\$113,600.00</u>

BMO MASTERCARD

General Fund

Adobe AcroPro	\$14.99
Uniform Construction Code PADLI	94.50
Wawa	19.69
USPS	58.00
Giant Food	<u>50.59</u>
TOTAL	<u>\$237.77</u>

Sewer Fund

Ebay	\$2,862.00
Amazon.com	53.98
Marvel Refrigeration	163.38
Polylok Inc	<u>78.95</u>
TOTAL	<u>\$3,169.55</u>

On a motion by Duane Hyatt, seconded by Brent McCurdy, Council unanimously voted to authorize payment of the bills as shown on the attached list, which is made a part of these minutes.

PRESIDENT’S REPORT

PUBLIC HEARING ORDINANCE NO. 699 SMALL WIRELESS FACILITIES

President Jeff Elsing opened the public hearing to discuss proposed Ordinance No. 699 to allow for and regulate small wireless facilities within the public rights-of-way in the Borough.

Hearing no comments from members of Borough Council, the Public Comment portion of the hearing was opened to comments from those present. Hearing no comments or questions, the Public Comment period was closed and the discussion brought back to the Council table.

Solicitor Rex Herder commented that as he explained at the last meeting, the proposed Ordinance No. 699 was written in response to Act 50 adopted by the Pennsylvania Legislature to permit the installation of small wireless facilities on public utility poles

located in the public rights-of-way. Mr. Herder noted that the Borough may receive many applications for small wireless facilities or may receive none. Act 50 allows municipalities to charge fees for and require documentation for installation of small wireless facilities. In response to Mr. Pennink’s question regarding possible complaints by residents, Mr. Herder reiterated that the Borough must permit installation of the small wireless facilities in the public rights-of-way.

On a motion duly seconded, Council voted unanimously in favor, by show of hands, to adopt Ordinance No. 699 allowing for and regulating small wireless facilities within the public rights-of-way in the Borough of Bryn Athyn.

**BOROUGH OF BRYN ATHYN
MONTGOMERY COUNTY, PENNSYLVANIA
ORDINANCE NO. 699**

AN ORDINANCE OF THE BOROUGH OF BRYN ATHYN TO ALLOW FOR AND REGULATE SMALL WIRELESS FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY IN THE BOROUGH.

WHEREAS, the Borough of Bryn Athyn is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, Act 50 of 2021 (“Act 50”) provides for deployment of Small Wireless Facilities in the Commonwealth of Pennsylvania and allows for local regulation of certain design and district placement, and fees for the use of the public right-of-way; and

WHEREAS, Act 50 provides that municipalities may adopt ordinances that comply with its provisions, and Pennsylvania law generally grants to municipalities the legal power and authority to adopt ordinances in order to further the public health, safety and welfare; and

WHEREAS, the Borough Council, has determined that it is in the public interest to provide for design standards and fees for use of the public right-of-way in accordance with the Act, and that it is legally authorized so to do.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Bryn Athyn as follows:

SECTION 1. PURPOSE AND INTENT.

(A) The purpose of this Ordinance is to establish procedures and standards, consistent with Act 50 of 2021 and all applicable federal and state, laws, for the permitting, siting, construction, installation, collocation, modification, operation, and removal of Small Wireless Facilities (“SWF”) in the public right-of-way of streets and roads.

(B) The intent of this Ordinance is to: (1) Establish criteria for applications to install and/or collocate SWF in public rights-of-way; (2) Ensure that SWF are appropriately designed, constructed, modified, maintained, and removed when no longer in use in conformance with all applicable health and safety regulations; (3) Preserve the character of the Borough by minimizing the potentially adverse visual impact of SWF through careful design, siting, landscaping and camouflaging techniques to blend these

facilities into their environment to the maximum extent practicable; (4) Provide a process for the review of applications and for the payment of fees and charges by permit applicants; and (5) Limit interference with the use of streets, sidewalks, alleys, parkways, public utilities, public views, certain city corridors, and other public ways and places.

SECTION 2. APPLICABILITY. *The provisions of this Ordinance shall only apply to activities of a wireless provider within the right-of-way to deploy small wireless facilities and associated new utility poles with small wireless facilities attached.*

SECTION 3. DEFINITIONS. *The following words and phrases when used in this Chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:*

“Antenna.” Telecommunications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.

“Applicable codes.” Any of the following:

(1) Uniform building, fire, electrical, plumbing or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

(2) Borough of Bryn Athyn zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances that comply with Act 50.

“Applicant.” A communications service provider that submits an application.

“Application.” A request submitted by an applicant to the Borough

(1) for a permit to collocate small wireless facilities; or

(2) to approve the installation, modification or replacement of a utility pole with small wireless facilities attached.

“Borough.” The Borough of Bryn Athyn, Montgomery County, Pennsylvania.

“Cable facility.” Buildings, other structures and equipment used by the owner or operator of a cable television system to provide service. As used in this definition, the term “cable system” shall have the meaning given to it in section 602(6) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(7)).

“Collocation” or “collocate.” To install, mount, maintain, modify or replace small wireless facilities on an existing utility pole or other wireless support structure.

“Communications facility.” A set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide a communications service.

“Communications service provider.” Any of the following:

(1) A cable operator as defined in section 602(4) of the Cable Communications Policy Act of 1984 (Public Law 98-549, 47 U.S.C. § 522(5)).

(2) A provider of information service as defined in section 3(20) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 153(24)).

(3) A telecommunications carrier as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. § 153(51)).

(4) A wireless provider.

“Decorative pole.” A municipal pole that is specially designed and placed for aesthetic purposes.

“FCC.” The Federal Communications Commission.

“Historic district or building.” A building that is or a group of buildings, properties or sites that are:

(1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register.

(2) Determined to be eligible for listing by the Keeper of the National Register of Historic Places who has been delegated the authority by a Federal agency to list properties and determine their eligibility for the National Register of Historic Places in accordance with section VI.D.1.a.i-v of the Nationwide Programmatic Agreement for Review Regarding the Section 106 National Historic Preservation Act Review Process as specified under 47 CFR Pt. 1, App. C (relating to Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process).

(3) Marked as a historical site by the Pennsylvania Historical and Museum Commission pursuant to 37 Pa.C.S. (relating to historical and museums).

(4) Within a historic district created pursuant to the act of June 13, 1961 (P.L.282, No.167), entitled “An act authorizing counties, cities, boroughs, incorporated towns and Boroughs to create historic districts within their geographic boundaries; providing for the appointment of Boards of Historical Architectural Review; empowering governing bodies of political subdivisions to protect the distinctive historical character of these districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts.”

“Micro wireless facility.” A small wireless facility that:

(1) does not exceed two cubic feet in volume; and

(2) has an exterior antenna no longer than 11 inches.

“Modification” or “modify.” The improvement, upgrade or replacement of a small wireless facility or an existing utility pole that does not substantially change, as defined in 47 CFR § 1.6100(b)(7) (relating to wireless facility modifications), the physical dimension of the small wireless facility or utility pole.

“Municipality.” Borough of Bryn Athyn.

“Municipal pole.” A utility pole owned, managed or operated by or on behalf of the Borough of Bryn Athyn.

“Right-of-way.” The area on, below or above a public roadway, highway, street, sidewalk, alley, utility easement or similar property. The term does not include a Federal interstate highway.

“Small wireless facility.” The equipment and network components, including antennas, transmitters and receivers, used by a wireless provider that meet the following qualifications:

(1) Each antenna associated with the deployment is no more than three cubic feet in volume.

(2) The volume of all other equipment associated with the wireless facility, whether ground-mounted or pole-mounted, is cumulatively no more than 28 cubic feet. Any equipment used solely for the concealment of the small

wireless facility shall not be included in the calculation of equipment volume under this paragraph.

“Technically feasible.” By virtue of engineering or spectrum usage, the proposed placement for a small wireless facility or its design or site location can be implemented without a material reduction in the functionality of the small wireless facility.

“Utility facility.” Buildings, other structures and equipment owned or operated by a public utility, as defined in 66 Pa.C.S. § 102 (relating to definitions), to provide service.

“Utility pole.” A pole or similar structure that is or may be used, in whole or in part, by or for telecommunications, electric distribution, lighting, traffic control, signage or a similar function or for collocation. The term includes the vertical support structure for traffic lights but does not include wireless support structures or horizontal structures to which signal lights or other traffic control devices are attached.

“Wireless facility.” As follows:

(1) Equipment at a fixed location that enables wireless service between user equipment and a communications network, including any of the following:

(i) Equipment associated with wireless services.

(ii) Radio transceivers, antennas, coaxial or fiber optic cables, regular and backup power supplies or comparable equipment, regardless of technological configuration.

(2) The term includes a small wireless facility.

(3) The term does not include any of the following:

(i) The structure or improvements on, under or within which the equipment is collocated.

(ii) The coaxial or fiber optic cables that are not immediately adjacent to or directly associated with a particular antenna.

“Wireless infrastructure provider.” A person authorized by the Pennsylvania Public Utility Commission to provide telecommunications service in this Commonwealth that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures but is not a wireless services provider.

“Wireless provider.” A wireless infrastructure provider or a wireless services provider. “Wireless services.” Services, whether at a fixed location or mobile, using a licensed or unlicensed spectrum, provided to the public using wireless facilities.

“Wireless services provider.” A person or entity who provides wireless services.

“Wireless support structure.” The term shall have the same meaning given to it in the act of October 24, 2012 (P.L.1501, No.191), known as the Wireless Broadband Collocation Act.

SECTION 4. RIGHT-OF-WAY RATES AND FEES. *Wireless providers shall be required to pay an annual fee for the use of the right-of-way. The annual right-of-way fee shall initially be \$270 per small wireless facility or \$270 per new utility pole with a small wireless facility. The Borough may amend the fee from time to time by resolution of Borough Council to a rate not to exceed the maximum rate which is found to be permitted by the Federal Communications Commission and/or Small Wireless Facilities Deployment Act.*

SECTION 5. RIGHT OF ACCESS.

(A) In accordance with the Small Wireless Facilities Deployment Act, and with the permission of the owner of the structure, a wireless provider shall have the right to perform the following within the public right-of-way:

- (i) Collocate a small wireless facility.*
- (ii) Replace an existing utility pole or install a new utility pole with attached small wireless facilities.*

Applications to collocate a small wireless facility or install or modify an associated utility pole in the rights-of-way shall be treated as a permitted use as required by Act 50 of 2021, and shall be exempt from local zoning where required by the Act. Any other wireless facilities not meeting the definition of a small wireless facility shall remain subject to applicable zoning requirements.

(B) Collocation - In accordance with the Act 50 of 2021, collocation poles owned by the Borough may be permitted unless the small wireless facility would cause structural or safety deficiencies to the municipal pole, in which case the Borough and applicant shall work together for any make-ready work or modifications or replacements that are needed to accommodate the small wireless facility.

(C) All structures and facilities shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the Borough and utilities.

SECTION 6. PERMITTED USE; APPLICATION AND FEES

(A) Permit Required. No person shall place a small wireless facility or associated utility pole in the ROW, without first filing an application and obtaining a permit therefore, except as otherwise provided in this Ordinance.

(B) Application. All applications for permits filed pursuant to this Chapter shall be on a form, paper or electronic, provided by the Borough Manager.

(C) Application Requirements. An application shall be made by the wireless provider or its duly authorized representative, and shall contain the following:

- (1) The wireless provider's name, address, telephone number, and email address;*
- (2) The applicant's name, address, telephone number, and e-mail address, if different than the wireless provider, and its interest in the work;*
- (3) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application.*
- (4) A general description of the proposed work and the purposes and intent of the small wireless facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.*
- (5) A site plan, with sufficient detail to show the proposed location of items the applicant seeks to install in the right-of-way, including any manholes or poles, the size, type, and depth of any conduit or enclosure.*
- (6) A certification that the filing and approval of the application is required by the wireless provider to provide additional capacity or coverage for*

wireless services. Nothing in this subsection shall be construed to permit the Borough to require an applicant to submit information about an applicant's business decisions with respect to its service, customer demand for service or quality of service.

(7) An attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the Borough and the applicant agree to extend this period.

(8) An attestation that, to the best of the applicant's knowledge, the information contained in the application is true.

(9) Whether each SWF is proposed to be installed on an existing pole or structure or a new pole or structure

(10) The name of the owner of the pole or structure on which the SWF is proposed to be installed and the address, phone number, email address of the owner's contact person.

(11) If a SWF is proposed to be installed on a pole or structure owned by a party other than the applicant, the application shall be accompanied by a written confirmation of the owner's agreement to allow the applicant to locate each SWF on such owner's pole or structure.

(12) Documentation in form of both narrative and drawings indicating the size of each proposed SWF, the height of the pole or structure on which each is proposed to be installed, and the cubic volume of each SWF.

(D) When Application Not Required. An application shall not be required for:

(1) routine maintenance;

(2) the replacement of a small wireless facility with another small wireless facility that is substantially similar or smaller in size, weight, and height;
or

(3) for the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code. A permit may be required to perform work within the right-of-way for the activities under paragraph (D), for work that involves excavation, closure of a sidewalk or closure of a vehicular lane.

(E) Application Fees. All applications for permits shall be accompanied by a fee of \$500 for a single application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five; and \$1,000 in non-recurring fees for each new associated utility pole.

(F) Consolidated Applications. An applicant may submit a consolidated Application for up to 20 Small Wireless Facilities

(1) A single Applicant shall not exceed application for 20 small wireless facilities in a 30-day period.

(2) The denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application. 9

(3) A single permit may be issued for siting and collocating multiple Small Wireless Facilities spaced to provide wireless coverage in a contiguous area.

(4) If multiple applicants submit applications cumulatively exceeding 20 applications within in a 30-day period, the extensions to deadlines provided for in the Small Wireless Facilities Act shall apply.

SECTION 7. ACTION ON PERMIT APPLICATIONS.

(A) Review of Small Wireless Facility and Utility Pole Applications.

(1) Within ten days of receiving an initial application, the Borough will determine and notify the applicant whether the application is materially complete. If an application is materially incomplete, the Borough will specifically identify the missing documents or information, and the specific rule or regulation creating the obligation to submit such documents or information. The time required for approval or denial of an application forth in subsection (2) shall begin to run anew from the date on which the applicant submits all the documents and information identified by the Borough to make the application complete. If the applicant's supplemental submission fails to make the application complete, and the Borough notifies the applicant within 10 days of the supplemental submission and clearly and specifically identifies the missing documents or information, the applicable time limitations set forth in subsection (2) shall be tolled until the applicant provides the missing documents and information. The time limitation shall resume (the date calculation does not restart) to run on the date when the applicant submits all the documents and information identified by the Borough to render the application complete.

(2) All applications shall be processed on a nondiscriminatory basis, and the Borough shall approve or deny an application for: (i) collocation of Small Wireless Facility on an existing structure within 60 days of receipt of the application, or (ii) within 90 days for applications to deploy a Small Wireless Facility using a new structure.

(3) An applicant and the Borough may enter into a written agreement to toll the time periods set forth in Subsection (2).

(4) If the Borough fails to issue a decision on an application for a Small Wireless Facility within the required time periods set forth in Section 4(A)(2), it shall constitute a deemed approved.

(5) The Borough may deny a proposed collocation of a small wireless facility or installation or modification of a utility pole only if:

(i) The proposed small wireless facility materially interferes with the safe operation of traffic control equipment, sight lines or clear zones for transportation or 10 pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement.

(ii) The proposed small wireless facility fails to comply with applicable codes.

(iii) The proposed small wireless facility fails to comply with the requirements specified under the Small Wireless Facilities Deployment Act.

(iv) *The applicant fails to submit a report by a qualified engineering expert which shows that the small wireless facility will comply with applicable FCC regulations.*

(6) *The Borough must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the Borough denies an application.*

(7) *The applicant may cure the deficiencies identified by the Borough and resubmit the application within 30 days of receiving the written basis for the denial without being required to pay an additional application fee. The Borough shall approve or deny the revised application within 30 days of the application being resubmitted for review or the resubmitted application shall be deemed approved 30 days after resubmission. Any subsequent review shall be limited to the deficiencies cited in the denial. If the resubmitted application addresses or changes other sections of the application that were not previously denied, the Borough shall be given an additional 15 days to review the resubmitted application and may charge an additional fee for the review.*

(B) *Permit Scope and Effect. Installation, modification, or collocation for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the Borough and the applicant agree to extend this period. Approval of an application authorizes the applicant to:*

(1) *Collocate on an existing utility pole, modify or replace a utility pole or install a new utility pole with small wireless facilities attached as identified in the initial application.*

(2) *Subject to the permit requirements and the applicant's right to terminate at any time, operate and maintain small wireless facilities and any associated equipment on a utility pole covered by the permit for a period five years, which shall be renewed for two additional five-year periods if the applicant is in compliance with the criteria set forth in the Small Wireless Facilities Deployment Act and applicable codes, and the applicant has obtained all necessary consent from the utility pole owner.*

(C) *Authority Granted; No Property Right or Other Interest Created. A permit from the Borough authorizes an applicant to undertake only certain activities in accordance with this Chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the ROW.*

SECTION 8. DESIGN CRITERIA AND PERMIT REVIEW.

(A) *Upon receipt of a completed application for a SWF Permit and all required fees, the Borough Manager and/or the Borough Engineer or his or her respective designee shall review the application to determine whether the proposed SWF and support structure or pole comply with the following design criteria:*

(i) *The structure on which antenna facilities are mounted:*

(a) *is an existing utility pole, provided the installation does not extend more than 5 feet above the height of the existing pole; or*

(b) is a new or replacement pole not taller than 50 feet.

Any height in excess of these limits shall require application to the Zoning Hearing Board for a variance.

(ii) Each antenna associated with the deployment (excluding the associated equipment) may be no more than three cubic feet in volume; and

(iii) All other equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume.

GENERAL DESIGN REQUIREMENTS

(A) The Borough may adopt by resolution Small Wireless Facility Design Guidelines with objective, technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area.

(B) The Small Wireless Facility Design Guidelines may include examples of SWF preferences including visual depictions (if readily available and identified by the Borough).

(C) The provisions in this Chapter shall not limit or prohibit the Borough's discretion to promulgate and make publicly available other information, materials or requirements in addition to, and separate from, Small Wireless Facility Design Guidelines so long as the information, materials, or requirements do not conflict with state or federal law.

(D) All Small Wireless Facilities and associated equipment located within the Public Right-of-Way shall be located such that they meet ADA requirements and do not hinder, obstruct or impede usual pedestrian and vehicular travel.

(E) The Borough shall have authority to update or supplement the Small Wireless Facility Design Guidelines to address relevant changes in law, technology, or administrative processes.

(F) Wireless Support Structure Design Standards

(1) General Guidance

(a) SWF equipment must be indistinguishable from the support pole or structure to the greatest degree possible using matching colors, textures, and materials. The antennas and related equipment shall be in a color that will provide the most camouflage.

(b) All wires, antennas, and other small wireless facility equipment shall be enclosed and not visible.

(c) Screening and equipment enclosures shall blend with or enhance the surrounding context in terms of scale, form, texture, materials, and color. Equipment shall be concealed as much as possible by blending into the natural and/or physical environment.

(d) Casing to enclose all wires, antennas, and other small wireless facility equipment may be mounted on top of existing and new poles in a cylinder shape to look like an extension of the pole.

(e) Brand logos and other signage are prohibited on all SWF except contact information to be used by workers on or near the SWF and as otherwise required by federal or state law. Signage will be no larger than required to be legible from street level.

(f) As a condition for approval of new Small Wireless Facilities or new Wireless Support Structure in a Historic District, the Applicant shall comply, to the greatest extent possible, with the design and aesthetic standards of the Historic District, or historic preservation standards in place, to minimize the negative impact to the aesthetics in these districts or areas.

SECTION 9. REMOVAL OF EQUIPMENT.

(A) Within 60 days of suspension or revocation of a permit due to noncompliance with applicable codes, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole, after receiving adequate notice and an opportunity to cure any noncompliance.

(B) Within 90 days of the end of a permit term or an extension of the permit term, the applicant shall remove the small wireless facility and any associated equipment, including the utility pole and any support structures if the applicant's wireless facilities and associated equipment are the only facilities on the utility pole.

SECTION 10. RESTORATION OF RIGHT OF WAY. *Applicants are required to repair all damage directly caused by the activities of the applicant and return the right-of-way in as good of condition as it existed prior to any work being done. If the applicant fails to make the repairs required by the Borough within 30 days after written notice, the Borough may perform those repairs and charge the provider the reasonable, documented cost of the repairs plus a penalty not to exceed \$500. The Borough may suspend the ability of an applicant to receive a new permit from the Borough until the applicant has paid the amount assessed for the repair costs and the assessed penalty.*

SECTION 11. OTHER ORDINANCES. *Nothing in this Ordinance shall be interpreted to relieve any individual from compliance with all other ordinances, resolutions, laws and regulations of the Borough, of the County of Montgomery, the Commonwealth of Pennsylvania or the United States.*

SECTION 12. REPEALER. *All ordinances, resolutions and parts of ordinances and resolutions inconsistent herewith, are hereby repealed.*

SECTION 13. SEVERABILITY. *The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or parts of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional sections, sentence, clause, part, or provision had not been included therein.*

SECTION 14. EFFECTIVE DATE. *This ordinance shall be effective as of the date of enactment.*

ENACTED AND ORDAINED this firsts day of November, 2021.

BOROUGH OF BRYN ATHYN

MAYOR'S REPORT - None

POLICE CHIEF'S REPORT

President Jeff Elsing read the following report for October:

Alarms	18
Assist Bryn Athyn Fire / Ambulance	08
Assist Other Police Agencies	42
Miscellaneous Activity	79
Public Service Calls / Assist Citizens	11
Special Traffic Details	22
Suspicious Circumstance Investigations	07
Traffic Citations	34
Vehicle Accidents	05
Vehicle Investigations	64

On Friday October 1st at 2:06pm, police took a delayed report of road rage. The complainant said that he was traveling Northbound on Huntingdon Pike through the posted 30mph speed limit at which time the driver behind him started to tailgate him while honking their horn and making obscene gestures at him. The actor continued following the complainant onto Buck Road. The complainant eventually turned onto Eastbound Byberry Road and the actor, who was driving a blue Kia (No tag information provided) was last seen traveling Northbound on Buck Road.

On Friday October 1st at 6:00pm, police conducted a vehicle stop in the 3000 block of Huntingdon Pike to investigate an expired registration. Upon further investigation, it was learned that the driver, a 26-year-old male resident of Philadelphia, was wanted on a warrant in Woodbury, New Jersey. At the request of the New Jersey's Prosecutor's Office, the subject was taken into custody for the warrant and subsequently transported to the Montgomery County Prison until he could be picked up by the New Jersey police agency.

On Thursday October 7th at 10:19am, police responded to the Pennypack Trail in the area of Fetters Mill Road to assist EMS with a 68-year-old female resident of Philadelphia who had fallen off of her bicycle and suffered an injury to her shoulder. Bryn Athyn Ambulance transported the patient to Holy Redeemer Hospital for treatment.

On Saturday October 9th at 1:17pm, police conducted a vehicle stop in the 3000 block of Huntingdon Pike due to the vehicle traveling 70mph in a posted 30mph zone. Further investigation led to field sobriety tests being conducted for the 53-year-old male resident of Horsham, which resulted in the driver being taken into custody for suspected DUI. The driver refused to take a blood test and has been charged while DUI.

On Wednesday October 20th at 1:23pm, police responded to the 2600 block of South Avenue to investigate a delayed report of a domestic disturbance, which was reported as being verbal only. Upon arrival, police spoke to the one party on scene while the other party had already left the home prior to police being called. All appeared to be in order at the time and police resumed patrol.

On Thursday October 21st at 12:28pm, BA Police assisted Lower Moreland PD in searching the area of Philmont Avenue and Woodland Circle for a driver who had fled on foot after crashing his vehicle. The passenger that was in the vehicle remained on scene. The driver of the vehicle was unable to be located at that time.

On Tuesday October 26th at 6:24pm, police responded to the 2900 block of Orchard Lane to take a report of an attempted theft. The complainant advised police that she received an email from a company called Geek Squad. The email sent to her claimed that she owed them \$349 for a subscription. A follow-up email from the same sender advised the complainant that the company accidentally transferred \$10,000 into her bank account and that they would need for her to go to her local Target store to purchase gift cards in the amount that she owed them and then email them the gift card numbers. The complainant was able to confirm with her bank that no such transfer of \$10,000 had occurred.

On Sunday October 31st at 12:43am, ANC Security requested assistance from police with three intoxicated subjects in the 700 block of Campus Drive, one of whom was passed out inside of a vehicle. Bryn Athyn Ambulance was dispatched to the scene to assist with the unresponsive, intoxicated subject. Bryn Athyn Ambulance transported the unresponsive intoxicated female to Holy Redeemer Hospital for treatment. Charges in this incident are pending.

FIRE CHIEF'S REPORT

Mayor Ken Schauder reported 40 Fire Calls in October, 32 in Lower Moreland, 5 in Bryn Athyn and 3 in other municipalities; 181 EMS Calls in October, (a record number of calls) 101 in Lower Moreland, 13 in Bryn Athyn and 67 in other municipalities. There were 98 Hospital Transports, 62 in Lower Moreland, 8 in Bryn Athyn and 28 in other municipalities.

Mr. Schauder reported that there were 23 scratches for the Ambulance during October where the ambulance was unable to respond to a call because it is already in service. The ambulance staff is working around the temporary loss of two employees, while a national

shortage of EMS employees has impacted the increased number of EMS calls received. Bryn Athyn Ambulance has been covering for other squads in the area.

EMERGENCY MANAGEMENT REPORT

EM Coordinator Ken Schauder reported that Lower Moreland Township and Bryn Athyn Borough have been working to correct deficiencies experienced during the September 1, 2021 remnants of Hurricane Ida which brought flooding and winds to the area.

Mr. Schauder reported that Janice Roscoe and Doris Halterman are retiring from their County positions for Election Day. Council expressed thanks to both for their service to residents.

SOLICITOR'S REPORT - None

BOROUGH MANAGER'S REPORT

2022 Operations List

Manager Vikki Trost asked that members of Council review the 2022 Operations List noting the following updates:

- Bill Grubb did not submit nomination paperwork and will not be on the ballot tomorrow for Auditor. Peter Sheedy offered to accept the position and will be listed as a write-in candidate.
- Kirsten Cranch was appointed by Council as Auditor and she will be listed as a write-in candidate for Auditor tomorrow.
- Ingrid Herder's term on the Civil Service Commission will end on December 31, 2021.
- Russell Cooper's term on the Planning Commission will end on December 31, 2021.
- There is a vacancy on the Public Relations Committee
- Brian Horner has agreed to a position on the Municipal Facilities Committee

Vikki Trost will send letters to the people whose terms end on December 31. Council and Committee heads were asked to report any other changes that need to be made to the Operations List.

Safety Committee

Members of the Safety Committee completed annual recertification required by the PA Department of Labor and Industry. Participation in the Safety Program by employees entitles the Borough to a five percent (5%) discount on the Workers Compensation Insurance premium each year. Special thanks to Robert Genzlinger, Chair and Stephanie Doman, Vice Chair of the Safety Committee for keeping it going every month.

Code Enforcement

Chalie Pluguez officially retired last month from Building Inspection Underwriters. His replacement is Russ McLaughlin, III. We are working on a new schedule for the permit review process with Russ. We have a retirement card for Chalie for anyone who wishes to sign it.

Election Day

Tomorrow is election day. Don't forget to vote. Borough Hall is open from 7:00am until 8:00pm.

PUBLIC SAFETY COMMITTEE - None

PUBLIC WORKS COMMITTEE - None

FINANCE COMMITTEE

General Fund Budget 2022

Chairman Duane Hyatt introduced the proposed 2022 General Fund Budget noting that the budget presented is balanced with no tax increase. The total budget proposed is \$1.6 million. The real estate tax revenue may change when the Assessed Valuation is released by Montgomery County on November 15.

- ❖ Mr. Hyatt explained that per the Police Contract, salaries will increase by 2.5%, including non-police employees.
- ❖ Health Insurance costs are up 4% which is manageable. Mr. Hyatt added that the high deductible health reimbursement plan was a good move last year. The Police budget increased overall by 5.2%.
- ❖ The Fire Department budget is increased 9% due to a request for funds to cover additional fire support employees. Code Enforcement is up 18.75% due to hiring a zoning officer.
- ❖ Public Works is decreased 21%; Mr. Hyatt noted that the Public Works Reserve Fund is growing. It was also noted that the municipal building drainage project can be covered with reserve funds.
- ❖ Mr. Hyatt reported that the Finance Committee will make a recommendation on the use of the federal ARPA (American Rescue Plan Act) funds.

Mr. Hyatt asked if Borough Council would prefer a small tax increase rather than a third year with no tax increase, noting that most years have ended with a surplus.

Debt Service Budget 2022

The proposed Debt Service Budget reflects actual cost of principal and interest due for the final payment of the 2010 General Obligation Bonds, as well as the 2015 General Obligation Note (Fire Truck Loan).

Sewer Fund Budget 2022

Councilman Glenn Gurney reported that the proposed Sewer Fund Budget needs fine tuning to estimate the second-year revenue with the new usage rate calculation introduced this year. It was noted that the current draft of the budget is in good shape to complete at the November meeting of the Finance Committee.

Mayor Schauder thanked the Finance Committee for their hard work on the budgets.

LAND USE AND NATURAL RESOURCES/ SHADE TREE COMMITTEE - None

PUBLIC RELATIONS COMMITTEE - None

ADMINISTRATIVE COMMITTEE - None

PLANNING COMMISSION REPORT - None

ZONING OFFICER

There were (2) Zoning Permit applications approved in October. Six (6) Building Permits were issued. One (1) Grading Permit was issued.

The Zoning Hearing Board met on October 26 and granted Variance relief and a Special Exception for an in-Law Suite in a detached garage at 2551 Alden Road.

An application to the Zoning Hearing Board for a Special Exception for 2739 Alnwick Road was withdrawn.

SEWER ADMINISTRATOR

The Sewer Administrator reported that the 2022 Budget is almost completed; there were no violations at the sewage treatment plant and that it is running smoothly. The equalization tanks handled all of the additional flows from the remnants of Hurricane Ida.

BOROUGH ENGINEER - None

OLD BUSINESS - None

NEW BUSINESS - None

QUESTIONS OR COMMENTS FROM THE FLOOR - None

There being no further business presented, the meeting was adjourned at 7:52pm.

Council's next regular meeting will be held on Monday, December 6, 2021 at 7:00pm in the Borough Hall.

Victoria S. Trost
Secretary