

SUMMIT TOWNSHIP SUPERVISORS

Public Hearing

Monday, June 15, 2015

Motion by Lee, seconded by Church, to open the hearing to receive public input regarding the Time Warner Franchise Agreement.

Vote: 3/0

Supervisors Agostine, Church and Lee were present, as were, Solicitor Herzing, Solicitor Bauer, Zoning Administrator Miller, Engineer Jonas, Secretary Yeast, and ten interested persons.

Atty. Bauer explained that the purpose of this hearing is to receive public input regarding an alleged breach of the Time Warner Cable Franchise Agreement. On May 4, 2015 a public hearing was held and today's hearing is an agreed upon continuation granted at the request of Time Warner Cable. The complaint is that cable service has not been provided to residents as required by the Franchise Agreement, specifically on Route 97 (Perry Highway) corridor, south of Marsh Road.

Chris Thomas, Time Warner Director of Government Affairs, Akron, OH, argued that the current Time Warner Agreement requires a density of 30 homes per mile when extending from the last "plant". The first area in dispute is a 1.1 mile stretch with 23 homes and (1) business, subtracting out satellite customers and homes set-back 150' leaves 8 homes. Mr. Thomas added that they researched a 2.3 mile stretch of Route 97 (Perry Highway) and determined there were 44 homes, less 27 satellite customers and 4 set-back 150' leaving 13 countable homes.

In response to questions from Atty. Bauer, Mr. Thomas acknowledged that Time Warner voluntarily provides no service along that stretch of Route 97, and that no "Acts of God", or other circumstances beyond their control are preventing Time Warner from providing service, and that they have the ability, technically and financially, to provide service. There are no labor strikes, or instances of force majeure. Mr. Thomas contends that Time Warner is simply not legally obligated to provide service along this stretch. Mr. Thomas confirmed that, if the Township would provide a financial contribution, it may agree to extend service to this area. In response to a question from Atty. Bauer, Mr. Thomas confirmed that the current Time Warner Agreement does not require financial contributions from the Township in order to provide service.

Atty. Bauer provided the following exhibits for the record:

1. June 8, 2010 Time Warner Cable correspondence re: Route 97/Perry Highway
2. June 29, 2010 solicitor Response to Time Warner
3. September 30, 2014 Summit township Notice of Franchise Agreement Breach
4. November 25, 2014 Time Warner Response to Notice of Breach
5. February 27, 2015 Solicitor's Reply to Time Warner Response
6. April 17, 2015 Notice of May 4 Public Hearing
7. June 1, 2015 letter Notice of June 15 Public Hearing

John Fogerty, Attorney for Time Warner, requested that a June 9, 2015 letter from Time Warner also be added to the record.

Supervisor Church expressed his confusion regarding this process. Church provided his opinion that Time Warner is not required to extend service along the Route 97 area.

Supervisor Agostine responded that these proceedings are part of a process, and that the Board is relying on our Solicitor's advice.

CALL TO ORDER

PURPOSE OF HEARING:
To continue the 5/4/2015 hearing regarding alleged Franchise Agreement violation

PUBLIC INPUT

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Atty. Bauer clarified that, if the Board of Supervisors determine that Time Warner is in violation of the Franchise Agreement, the remedies available are to: terminate the franchise agreement, not allow a transfer of the agreement to another company, assess a one-time fine and penalties, or assess an accumulative daily fine (i.e. \$100/day).

Atty. Bauer added that the public hearing concluded with tonight's meeting, although further discussion with Time Warner is expected.

Supervisor Lee maintained that some areas in Summit Township are very lucrative for Time Warner and he wants to be able to extend the same opportunities to residents in less dense areas.

Atty. Fogerty further added that this hearing was to determine what sanctions are to be imposed if Time Warner is in breach of the Franchise Agreement, but the Agreement provides no sanctions if they are.

Atty. Bauer further added that Time Warner was notified of this breach on September 14, 2014, even though Time Warner now disagrees, it did not do so in a timely manner. Discussion with Time Warner can proceed after the meeting.

With no further public input, motion by Church, seconded by Lee, to close this Public Hearing at 6:25 p.m.

Vote: 3/0

HEARING
ADJOURNED

Respectfully submitted,

Christene S. Yeast
Recording Secretary
6/18/2015