

TOWNSHIP OF LOWER MERION

Building and Planning Committee

Issue Briefing

Topic: Crown Castle Right of Way Use Agreement Extension

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Date: April 20, 2018

I. Action To Be Considered By The Board:

The Board of Commissioners are being asked to approve an extension for a 10-year Right of Way (ROW) Use agreement with Crown Castle with three automatic five-year successive term renewals after this initial ten-year period.

II. Why This Issue Requires Board Consideration:

A standard Right of Way Use Agreement does not require approval from the Board but staff believes an agreement with successive five-year terms beyond the standard 10-year agreement should obtain approval from the Board of Commissioners.

III. Current Policy Or Practice (If Applicable):

The Lower Merion Code Chapter 140, Telecommunications Facilities, Article I, authorizes the use of the public ROW for cell phone antenna systems subject to entering into a Use Agreement with the Township. The current 10-year Use Agreement with Crown Castle expired in 2017 and staff has been working with the Solicitor to negotiate a new agreement since last fall.

IV. Other Relevant Background Information:

The Township has encouraged the use of the ROW for the smaller antennas to extend cell service throughout the Township. These smaller antennas create a communication system that connects to the larger tower antennas and reduce the need for additional larger antenna towers in the Township. Crown Castle contracts with the larger cell service providers to expand this antenna network for improved service. Crown Castle now has 70 of the small antenna sites in the ROW throughout the Township (14 of the 70 are located on state roads). The current ten-year agreement with Crown Castle expired in late 2017. We agreed to continue the current agreement until a new agreement has been negotiated and approved.

The first draft of the Use Agreement renewal presented by Crown Castle included a number of provisions relating to notice obligations placed on the Township and other antenna carrier obligations that were not acceptable to the Township. The document has been revised to address all of the concerns raised by staff and the Township Solicitor. The proposed lease agreement requires Crown

Castle to go through the process and obtain any permits that are generally required of antenna owners seeking installation in the right of way.

The Township fee schedule establishes ROW fees for antenna facilities within the ROW. The current fee schedule provided approximately \$20,000 of revenue in 2017. Crown Castle has offered a ROW fee structure reflecting the \$250 per location or 5% of the revenue they receive for each location whichever is greater. The proposed agreement also requires a fee to attach to municipal owned facilities rather than utility owned facilities of \$500 per location and that fee is adjusted by CPI every five years.

Based on current leases, the revenue received by the Township in 2017 with this new fee arrangement would have been approximately \$40,000 based on current lease calculations provided by Crown Castle. The down side to this revenue structure is if leases are not renewed in the future, Crown Castle revenue would be reduced and the Township's 5% share would also be lower. Staff has required the agreement to pay the higher amount of the Township established (\$250 per location on Township roads) ROW fee or the 5% Crown Castle revenue. This means the Township revenue will not be less than received in 2017 but will likely equal the increased projections listed below.

V. Impact On Township Finances:

This agreement will result in an increase in revenue to the Township. The actual increase will vary based on future Crown Castle leases with cell providers but projections are \$43,000 in 2018, \$44,000 in 2019 and \$31,000 in 2020. The 2020 reduction is due to Crown Castle's knowledge that they will lose one of their leases in 2020.

VI. Staff Recommendation:

Staff recommends the Board of Commissioners approve the extension of this agreement.