

A special meeting of the East Amwell Township Committee was called to order at 7:04 p.m. Present were Mayor Tim Mathews, Deputy Mayor Richard Wolfe, and Committee members David Wang-Iverson, Kevin Ostrander, and Peter Miller. Attorney Carl Taylor was also in attendance.

In compliance with the Open Public Meetings Act, Municipal Clerk Teresa R. Stahl announced that this is a special meeting with notice sent to the Hunterdon County Democrat, Times of Trenton, and Star Ledger, and posted on the bulletin board on May 23, 2018. The purpose of this meeting is to hear a presentation from representatives from Cross River Fiber to obtain a right of way. The public is invited to attend.

Fred Brody, representing Cross River Fiber, was present. He thanked the governing body for allowing him to present this evening, commenting anecdotally on a radio broadcast on NJ 101.5 regarding a cat in East Amwell whose head was stuck in a Hellman's jar.

Mr. Brody said that he is consulting for Cross River Fiber, adding that this public utility was authorized by the NJ BPU. He commented on previously providing all information to the governing body, including a draft agreement, map, and resolution. He mentioned the federal authority through the 1996 Telecommunications Act to allow utilities access to right of ways, adding that Cross River Fiber is for data transmission from dark fiber. They connect data centers, such as hospitals, stock exchanges, etc., and they own, operate, and maintain the dark fiber, as opposed to light fiber, which is used for telephones. Mr. Brody said that the company manages the service, i.e., they own and operate the fiber and help if it breaks and if there is any repositioning needed, e.g., road widening, etc., Cross River Fiber would relocate the fiber, which is attached to existing poles. If there is conduit, the fiber would be run in that; if not, it will be run aerially from Point A to Point B. Mr. Brody again mentioned use for hospitals, data systems, stock exchanges, etc. The company already has permission from West Amwell, and the company is building up in this area. Cross River Fiber has to obtain permission from the municipalities in order to connect to the utility companies' poles. He added that they would be responsible for attorney review costs and environmental review.

Mayor Mathews asked what the benefit would be to East Amwell Township. Mr. Brody mentioned the economic development to companies such as data centers or x-ray facilities, saying that they would need a dark connector. On a question from the Mayor, Mr. Brody said that the company was a highway coming through, and if there was a data center in the Township, they could connect to the fiber highway. Mr. Brody said that there are no companies mentioned in the plan, and the proposed map shows where only a right of way was being asked. Mayor Mathews mentioned Mr. Brody using an analogy of a pipeline, and the Mayor said that the Township was sensitive to pipelines, particularly gas and oil pipelines.

Mayor Mathews said that he was one of the more vocal members of the Township Committee who wanted to have this meeting. He told Mr. Brody that the Township has had a lot of problems with the existing infrastructure, adding that East Amwell is a self-sufficient community. He said that during power outages, the residents have no water or septic disposal. He said that there are problems with some of the poles, and some of the JCP&L poles being over-burdened with lines. The Mayor asked what was the company's liability or what were the company's assurances in East Amwell that by adding the weight of the fiber, the poles wouldn't go down.

Mr. Brody said that this was a good question, adding that he did not have any assurance. He said that the infrastructure does not belong to Cross River Fiber. It is up to the cable, telephone, or electric companies to see if the wires can go up. He said that it was expensive for Cross River Fiber, but once the municipality gives its permission, they negotiate with the power or phone company to make the infrastructure ready. Mr. Brody said that he had never been asked that question before, but he did not think that Cross River Fiber has any decision on the pole's integrity. He added that the cable being proposed by Cross River is the size of an index finger in diameter, and the company would not be installing any other equipment. He believed that Cross River Fiber would know the weight coming through on the poles, and he was willing to ask the company, if the governing body wished.

Mayor Mathews said that when there are outages, there is a lot of contention between the providers, e.g., power and phone, and sometimes there is a delay in repair while they determine

whose wire it is and who is on site to fix the utility. He said that this past winter there were a number of residents without power for a while, and he commented on the residents being at risk.

Mr. Brody said that if the poles aren't sturdy enough, it is the pole owner's responsibility, and the company who owns the poles should know that if another cable was being proposed, whether the pole was worthy; he added that the company would assess the infrastructure before allowing the fiber to be hung.

On a question on whether this connection is being built for the future or now, Mr. Brody said that the company is looking for a right of way for some facilities there now and for future connection. He said that was why he was looking to get the right of way approvals in place with a turn-around of four months.

Mayor Mathews asked if the Township Committee denied the request, what would be the impact. Mr. Brody said that the BPU documents the Telecommunications Act of 1996, which allows for competition, such as Cross River Fiber and allows connectivity. Mayor Mathews asked if this meant that the Township Committee could not deny the request. Mr. Brody said that the company might want to get their corporate counsel involved with the process.

Deputy Mayor Wolfe said that he read the material, and he got the impression that this (access to the right of way) can happen and would happen whether the township approved it or not. Mr. Brody said an agreement had to be in place. Deputy Mayor Wolfe said that he read that under federal law, the company can do this, and nowhere did he read that the company needs the Township's consent or approval. The Deputy Mayor asked, in furtherance to the Mayor's question, does the company need the municipal consent or under federal law, can the company do this without municipal consent.

Mr. Brody said that Cross River Fiber needs the agreement in place, i.e., the utility companies providing access to the poles has to know there's an agreement or otherwise nothing happens. He said that he was not a lawyer, but he knew that deregulation allows access.

Deputy Mayor Wolfe said that the poles are overloaded, and the Township could not assume that the utility company allowing the hanging of the cable is acting on the Township's best interest. He said that the Township has been told more than once that the poles are long beyond their useful life and should be replaced, and the utility companies are not replacing them. He said that if the utility company is not getting anything out of it, he assumed that they would not act on the Township's best interest; they would act on the best interest of their bottom line. He said that if this means overloading the poles because it would make additional profit for the utility company, he assumed that the utility company would do that.

Deputy Mayor Wolfe did not see any upside for the municipality to provide the right of way for dark fiber. He said that this is a small farm town with not much development or commercial area, so he was looking at the downside for East Amwell Township, with an increased risk of snapped poles during a storm, and the township being at the bottom of the list for power return because of the small population, which is common. The Township sometimes goes a week or two without power, and this is not an aberration, having been common the last few years. He added that New Jersey is having hearings from the utility companies, and East Amwell is not getting anything out of them. The Deputy Mayor asked Mr. Brody if he were in his shoes, and he, along with the full governing body, had a fiduciary duty to the residents of East Amwell, why should this be approved. The Deputy Mayor said that he was not trying to be argumentative or difficult, but the Township Committee had a duty to the residents to look out for their best interests and getting nothing but downside; he asked how they could approve this.

Mr. Brody said that it was the Township Committee's decision, adding that the company would determine the need for the right of way for the fiber to come through the area. He said that he would be turning back to the company to see how they wanted to proceed. Deputy Mayor Wolfe again stated that if there was a benefit to the Township, they would consider it, but he saw nothing but down side. Mr. Brody commented on not knowing the community.

Mayor Mathews asked if Mr. Brody needed a decision now or would he be able to meet with JCP&L and PSE&G and come back with a risk analysis about putting the dark fiber technology on the poles and to see if there is a mitigation plan, e.g., the companies may decide to replace the

poles. The Mayor asked based on timing, when Mr. Brody needed a decision. Mr. Brody said that the company needs the rights of way in place now, and he was assigned to go to different towns to get this done. He added that Cross River Fiber makes the decision how to proceed.

Mr. Ostrander wanted to echo the sentiments tonight, saying that they had an incomplete data set. He wanted to see an agreement from the utility about infrastructure before he would authorize the right of way. He would like also to see an engineer's report on whether the poles can handle the load and all relevant certifications that the installation will not interrupt vital services to East Amwell. He said that this information would help the Township Committee to make their decision.

Mr. Brody said that the company's general counsel would get in touch with the Township Attorney, Mr. Taylor, and provide whatever was needed. The Clerk will provide the contact information for Mr. Taylor to Mr. Brody as soon as possible.

Motion by Mr. Miller, seconded by Mr. Ostrander, and carried to open to the public.

Frances Gavigan, 123 Wertsville Road, said that when the Township has had hurricanes and storms and when power is out, she has to evacuate to live in a hotel because of life threatening medical conditions. She said that without compensation, the increased risk makes no sense. She also asked where the lines would be run, i.e., what is the route. She questioned whether there was any value in providing an over ramp to the library or the school or to give the Township something. She believed that some negotiation to get something from the utilities was important.

Motion by Mr. Miller, seconded by Mr. Ostrander, and carried unanimously to close to the public.

There being no further business, motion by Deputy Mayor Wolfe, seconded by Mr. Miller, and carried unanimously to adjourn at 7:29 p.m. A number of the Township Committee members left the meeting room to look at the control station for the live streaming being done at the meeting tonight.

Teresa R. Stahl, RMC/CMC
Municipal Clerk