

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, MARCH 5, 2019 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Spencer, Grotting, and Betts

ABSENT: Councilor McCoy

STAFF: City Administrator Kaltsas, City Administrative Assistant Horner, City Attorney Vose

VISITORS: Bendicksons, Karyn O'Brien

4. \*\*\*\*Consent Agenda\*\*\*\*

All items listed under the Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes From the February 19, 2019 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 18656-18691.

**Motion by Betts, second by Grotting to approve the Consent Agenda. Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

Johnson added consideration of writing a letter to the Highway 12 Safety Coalition regarding the death on Highway 12 over the weekend.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Planning Commission Meeting

**Grotting attended the following meetings:**

- LMCC quarterly meeting

**McCoy attended the following meetings: (whole month)**

**Betts attended the following meetings:**

- None

**Johnson attended the following meetings:**

- Planning Commission Meeting
- Conference Call for National League of Cities
- Orono School Board Meeting
- Haven Homes Advisory Committee Meeting
- Haven Homes Facilities Meeting
- Hennepin County Community Action Partnership grant meeting
- Loretto Fire Department Quarterly Meeting
- Thank You note from Judy Johnson who will be our Representative on Met Council

**Horner attended the following meetings:**

- None

**Kaltsas attended the following meetings:**

- Fire Commission Meeting

7. Adoption of 2019 Fee Schedule Update No. 2 Pertaining to Vehicle Wight Restrictions Ordinance Update - **RESOLUTION 19-0305-01.**

**Motion by Spencer, second by Betts to approve RESOLUTION 19-0305-01- Adoption of 2019 Fee Schedule Update No. 2 Pertaining to Vehicle Wight Restrictions Ordinance Update. Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.**

8. Verizon Wireless (Applicant) and Wesley Bendickson (Owner) request that the City consider the following actions for the property located adjacent to 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001):

**RESOLUTION 19-0305-02** – Considering approval of a Conditional Use Permit and Site Plan Review to allow a new 159’ tall telecommunications tower on the subject property.

Kaltsas said Verizon Wireless has submitted an updated landscape plan based on the discussion and direction of the City Council and Planning Commission. Staff has reviewed the plan and worked with the applicant to update and revise the plan to bring it into compliance with the Council recommendation. The proposed plan provides an earthen berm and layered landscaping that will provide a high level of screening of the base equipment. The landscaping proposed varies in height and type of plantings to provide a more complete and long-term screening and buffering of the tower base and associated equipment. The proposed landscaping and earthen berm are in addition to the proposed composite fence.

Verizon Wireless has submitted an application to the City asking for approval to construct a wireless telecommunications tower on the property adjacent to the property that was considered for a similar request in 2015. The subject property is owned by the same owner that owned the property considered in 2015. At that time the City found that the proposed tower did not meet the criteria for granting approval due to the tower and associated base equipment not being adequately screened from the views of surrounding residential property. The Planning Commission recommended approval of the tower subject to the applicant moving the tower further to the south (approximately 1,000 feet) on the adjacent property to aid in

screening and reduce impacts on the surrounding properties. Ultimately, the application was withdrawn by the applicant and no further action was taken by the City Council. The applicant has now made a new application to the City seeking a conditional use permit and site plan approval to allow a new telecommunications tower and associated ground equipment to be located on the property that is essentially adjacent to the property previously considered by the City. The City has criteria relating to the location (setbacks), site improvements and landscaping for new telecommunications tower development. The proposed tower is a monopole type structure proposed to be 159 feet in height (to the tip of the highest antenna, pole is 150'). The required setback from the property line is equal to the height of the tower. The maximum height allowed for a telecommunications tower is 185 feet. For a tower that is 159' tall, the tower may be located no closer than 159 feet from any property line. The proposed tower location meets the requisite setbacks from the nearest property line (see attached site plan). The applicant is proposing to construct a gravel access drive to the proposed site from the existing driveway that provides access to the 6705 Highway 12 property. The proposed location on the property is currently farmed. The applicant is proposing to provide ground mounted base equipment associated with the tower. The equipment would be located within a fenced area comprised of approximately 1350 SF. A free-standing generator would be located within this area and not inside of a building. This is a departure from the last plan presented to the City in which all equipment was located within a fully enclosed structure. In addition to the ground mounted equipment, a new electric transformer would need to be installed on the property. The City has criteria that should be considered relating to telecommunications towers. The criteria provided in the ordinance are as follows:

- (a) To regulate the location of telecommunication towers and facilities;*
- (b) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;*
- (c) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;*
- (d) To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;*
- (e) To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;*
- (f) To ensure that telecommunication towers and facilities are compatible with surrounding land uses;*
- (g) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.*

There are several factors that should be considered relating to the conditional use permit and site plan approval. The following issues should be noted by the City:

1. The City requires that all towers and associated structures accessory to the tower must be of stealth design, landscaped and or screened and blend into the surrounding environment.

*“Stealth” means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.*

**Subd. 8. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet setback requirements that are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.**

**Subd. 11. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of comparable vertical structures in the vicinity of the proposed site.**

1. The proposed tower is a monopole type tower with the low-profile antennas integrated with the tower rather than “hanging” off of the tower. This design appears to be different than other towers located in the City in that it is more streamlined. The ground mounted equipment is proposed to be located within a fenced area. The proposed fence is 10 feet in height and of an opaque composite fence design. The City will need to determine if the proposed tower is of a stealth type design. The City requires towers to be of stealth design and further defines stealth as “towers designed to appear other than a tower, such as light poles, power poles and trees”. Staff is seeking additional direction from Planning Commissioners relating to the design of the tower.
2. The proposed tower is located on a property that is currently zoned AG-Agriculture but guided by the City’s Comprehensive Plan as future CLI – Commercial/Light Industrial. Locating a tower on property. The location of the proposed tower on the subject site is largely a result of the setback requirement (towers must be setback a distance equal to or greater than the height of the tower). It was noted that this location in the middle of the subject property may hinder the future developability of the property and does not offer much ability to successfully screen the base of the tower. It was further noted that the tower could be moved further to the east (~30 feet without a variance and further with a variance) and south to allow future development and to better screen the tower from visibility. The applicant has stated that they would rather not move the proposed location of the tower.
3. The applicant has provided the City with verification of the need for the proposed tower (see attached letter and coverage map).
4. The City requires all towers to be able to accommodate colocation. The applicant has provided a letter from an engineer verifying that the proposed tower can accommodate additional antennas on this tower. In addition, the proposed tower elevations show the potential locations for colocation along with a lease area that appears to be suitable for accommodating additional providers.
5. The applicant is proposing to screen the ground mounted tower base equipment utilizing a 10-foottall, composite, opaque fence and eleven (11) 6-foot-tall evergreen trees around the north and east sides of the proposed site. While the proposed fence and associated landscaping will provide a visual barrier from Highway 12 to the proposed ground mounted equipment, the proposed screening could be vastly improved by installing a more complex and complete landscape and berming plan. The City recommends that the applicant provide a combination of an earthen berm and a more diverse and dense landscape screening plan around the north, east and west sides of the proposed tower base. This plan would need to be revised and resubmitted to the City. The City is anticipating that the applicant will resubmit a plan prior to City Council consideration but did

not have the plan at the time this report was prepared.

6. The applicant has provided the City with a lighting fixture cut sheet for the proposed building lighting. All lighting will need to comply with the City's lighting ordinance. The proposed light does not appear to meet the cut-off requirements of the City as the light source appears to angle outwards from the head. Staff will work with the applicant to specify a compliant light fixture. The location of the proposed lights are noted on the building plans.
7. The applicant has provided the City with a copy of relevant portions of a lease signed by the applicant and property owner(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed.
8. The City received correspondence from the Pioneer Sarah Creek Watershed Commission that is has reviewed and approved the proposed site improvements associated with the telecommunications tower. A request for a Conditional Use Permit must meet the requirements established for granting a Conditional Use Permit in the City's Zoning Ordinance. The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

Commented [TG1]:

1. *The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
2. *The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.*
4. *Sufficient off-street parking and loading space will be provided to serve the proposed use.*
5. *The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.*
6. *The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.*
7. *The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.*
8. *The proposed condition use is consistent with the comprehensive plan of the City of Independence.*
9. *The proposed use will not stimulate growth incompatible with prevailing density standards.*

The proposed telecommunications tower and associated ground mounted equipment is similar to those located within the City. The proposed site improvements will help to screen the new equipment required to support the antennas on the tower. Landscaping will further mitigate the impacts of the proposed equipment and building. It should be noted that the adjacent properties to the north (across Highway 12)

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east, south and west are guided for Commercial/Light Industrial by the City's 2030 Comprehensive Plan and Draft 2040 Comprehensive Plan. The proposed location in an area of the City that is guided for commercial development appears to be less impactful than if located in or adjacent to an area that was guided for or zoned residential. The tower will likely be visible from residential properties to the west and possible to the east. The closest existing residential structure that is zoned and guided for residential is approximately 1,450 feet from the base of the tower. There is a rental residential property located on the adjacent property to the east.

The applicant has provided several photo simulations that attempt to demonstrate views of the tower from several adjacent vantage points. The photo simulations show both the existing and proposed conditions from the designated vantage points. Staff has reviewed the photo simulations and noted that the base screening and landscaping is shown in a fully mature form and is not representative of the screening at the time the tower would be constructed.

In the AG-Agriculture zoning district, telecommunication towers are permitted as a conditional use. Resulting traffic, noise, and other measurable impacts (other than the height of the tower) should not be incrementally amplified as a result of the proposed telecommunications tower and associated base site improvements. The City will need to determine if the requested conditional use permit and site plan meet all of the aforementioned conditions and restrictions as well as the criteria for granting a conditional use permit and approving a wireless communications tower. The City received several comments pertaining to the proposed application at the public hearing. The following comments were provided to the City:

1. A question was asked regarding why the tower was not located on City property. It was noted that the City was working on a potential tower site on City property several years ago and was ultimately notified by Version that they were no longer going to pursue the City property...no reason was provided at that time. It was additionally noted that the City cannot prohibit towers on all other property but City property.
2. It was noted that the applicant did not reach out to any property owners regarding the proposed tower prior to notification of the public hearing being provided by the City.
3. A resident stated that they were concerned with the proposed location of the tower, the lack of screening and the visibility from their property. It was further stated that they did not believe that the proposed site was the best location within the City for a new wireless communications tower.
4. A resident stated that they were in favor of the tower and believed that the City needed to have another tower to improve service in the area.

Planning Commissioners discussed the request for a conditional use permit and asked questions of staff and the applicant. Commissioners commented that they had reviewed the location of the other towers in the area and their distance/relationship to surrounding residential properties. Commissioners noted that this tower appeared to have a better design aesthetic than the other towers in the area. Commissioners asked if the location of the tower on the property was going to be detrimental to the future development of the property. It was noted that the proposed location would likely impact future development in some manner. It was discussed whether or not the tower could be located closer to the east property line to aid in screening and to allow for the highest redevelopment potential of the property. The applicant has noted that they reviewed moving the tower and are not interested in moving the tower further east at this time. Commissioners asked if there was going to be a light on the top of the tower. The applicant noted that they would comply with the FCC regulation regarding lights. At this time, the tower is not proposed to have a light. Commissioners discussed the proposed screening and landscaping and recommended that the applicant work with the City to

develop a more robust and better screen utilizing an earthen berm and additional and more mature landscaping. Planning Commissioners found that the proposed tower met the criteria for granting a conditional use permit and recommended approval to the City Council with the conditions and findings stated within this report.

**Recommendation:**

Planning Commissioners recommended approval to the City Council of the request for a conditional use permit and site plan approval with the following findings and conditions:

1. The proposed conditional use permit and site plan review meet all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
3. This conditional use permit will approve a monopole tower with a maximum height of 159 feet and the associated site improvements, ground mounted equipment and landscaping as indicated on the approved site plans and attached hereto as **Exhibit B**. The ground equipment and antennas shall be installed in accordance with the approved site plans and tower elevations.
4. The conditional use permit shall allow six (6) antennas to be located on the proposed tower.
5. Any expansion of the existing ground equipment, buildings or antenna will be subject to the City's review and an amendment to the conditional use permit.
6. The City can administratively approve replacement of existing antennas as long as the size and location are consistent with the existing equipment. Any expansion or increase to the size or area of the existing antennas or similar mounted transmission equipment, ground equipment, buildings or number of antennas will be subject to the City's review and require an amendment to the conditional use permit.
7. City Council approval of the Conditional Use Permit and Site Plan is subject to the Applicant completing the following items:
  - a. Completion of all comments and conditions made by the Planning Commission during their review of the Conditional Use Permit and Site Plan and including the following:
    - Revision to the landscape and screening plan to include an earthen berm and more diverse and dense landscape screening plan.
    - Moving the tower to the east ~30 feet to allow future development on the property.
8. The applicant shall pay for all fees associated with the City's processing and review of the Conditional Use Permit and Site Plan Review.

Johnson noted it is imperative that is whatever is planted need to thrive. Kaltsas said there would be some loss naturally, but the screening is ample, and they would be required to replace dying trees. Grotting asked if this screening plan was like other proposals. Kaltsas said this proposal was way more intense than anything the City has seen before and should provide an adequate buffer.

**Motion by Spencer, second by Betts RESOLUTION 19-0305-02 – approving a Conditional Use Permit and Site Plan Review to allow a new 159' tall telecommunications tower on the subject property located adjacent to 6705 State Highway 12, Independence, MN (PID No. 22-118-24-44-0001): Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.**

8. Open/Misc.

Johnson asked if Council should prepare a letter for the Highway Coalition meeting this week regarding the death on Highway 12 this week. Kaltsas said he consulted with Kroells and the thought is a letter to

MnDOT that encourages the construction and safety of the Independence corridor as well as the rest of Highway 12. This is the only stretch of Highway 12 that has never been redone.

**Motion by Spencer, second by Betts for Staff and WHPS to construct a letter addressing the Independence corridor per the Highway 12 reconstruction process for MnDOT. Ayes: Johnson, Grotting, Betts and Spencer. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.**

9. Adjourn.

**Motion by Grotting, second by Betts to adjourn at 7:00.**

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

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