

**MEMORANDUM**

TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Zoning Committee Meeting Summary  
**September 6, 2007**

A meeting of the Planning and Zoning Committee of the Chesterfield City Council was held on Thursday, September 6, 2007 in Conference Room 101.

In attendance were: **Chair Connie Fults** (Ward IV); **Councilmember Jane Durrell** (Ward I); **Councilmember Bruce Geiger** (Ward II); and **Councilmember Dan Hurt** (Ward III).

Also in attendance were Councilmember Mike Casey (Ward III); Councilmember Bob Nation (Ward IV); Maurice L. Hirsch, Jr., Planning Commission Chair; Rob Heggie, City Attorney; Mike Geisel, Director of Planning & Public Works; Annissa McCaskill-Clay, Assistant Director of Planning; and Mary Ann Madden, Planning Assistant.

Chair Fults called the meeting to order at 5:30 p.m.

**I. APPROVAL OF MEETING SUMMARY**

- A. Approval of the August 23, 2007 Planning and Zoning Committee Meeting Summary

**Councilmember Durrell made a motion to approve the Meeting Summary of August 23, 2007.** The motion was seconded by Councilmember Geiger and **passed by a voice vote of 4 to 0.**

**II. OLD BUSINESS**

- A. **Bill No. 2569 – Rules/Regulations re: Wireless Telecommunications Facilities**: A request for repeal of City of Chesterfield Ordinance 1214, and replacing it with a new ordinance establishing rules and regulations for the siting, construction and modification of wireless telecommunications facilities.

Mr. Craig S. Biesterfeld, Blackwell Sanders Peper Martin LLPP, representing the MoKan Wireless Infrastructure Association, stated that the Association is made up of contractors, telecommunication carriers, and tower companies. He has received comments regarding the City's proposed Telecommunications Ordinance from the

national zoning directors of both American Tower Company and Crown Castle, the two largest tower companies in the country, along with comments from PCIA – the national trade industry group.

The Wireless Industry has proposed changes to the Telecommunications Ordinances, which City Attorney Heggie has reviewed. The draft Ordinance has been revised taking into consideration some of the recommendations made by the Industry.

Following is a summary of the changes proposed by the Wireless Industry in comparison to the recommendations of City Attorney Heggie:

<b>WIRELESS INDUSTRY PROPOSED REVISIONS</b>	<b>CITY ATTORNEY PROPOSED REVISIONS</b>
<b>Section 3(9) – Completed Application:</b>	<b>Section 3(9) – Completed Application:</b>
An application that contains all information and/or data required by this Ordinance.	An application that contains all the submittals, information and/or data required under this chapter and necessary to enable the Council to make an informed decision with respect to an application.
<p><b><u>Comments:</u></b> It was felt that the revisions are in agreement with the Industry’s revisions.</p>	

<b>Section 3(16) – Height:</b>	<b>Section 3(16) – Height:</b>
The difference in elevations, as measured from the pre-existing natural grade level to the highest point being measured.	The difference in elevations, as measured from the pre-existing natural grade level to the highest point on the tower or structure, even if said highest point is an antenna, attachments, or camouflage feature.
<p><b><u>Comments:</u></b> The Industry has an issue with the fact that the height includes the tip of the antenna, which they feel is pretty atypical. Normally, “height” for building code purposes deals with the tower structure itself and not the equipment that goes on the tower. It was noted that the tip of an antenna would be about 10 feet above the tower structure.</p> <p>City Attorney has not made any changes to this section as he felt Council wanted the height to include antennas. The proposed language includes the antenna in the height measurement.</p>	

<b>Section 3(23) – Stealth Design</b>	<b>Section 3(23) – Stealth Design</b>
Any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.	An antenna, including support structure(s) if any, or telecommunication facility that is designed or located in such a way that the antenna and facility are not readily recognizable as telecommunications equipment.
<p><b><u>Comments:</u></b>  The Industry proposes these revisions so the language matches up with what the Industry’s expectations are for a “stealth design” – which is something that is not readily apparent that the structure is a communications antenna. It may be a steeple or an architectural feature.</p> <p>City Attorney has not changed the definition of “stealth design”. It is felt the proposed language helps resolve the issue of defining what is and isn’t an “architectural element”.</p>	

<p><b>Section 3(24) – Support Structure(s)</b></p>	<p><b>Section 3(24) – Telecommunications Structure(s)</b></p> <p><b>Section 3(26) – Wireless Telecommunications Facility</b></p>
<p>A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, Utility Poles and other free-standing self-supporting structures.</p>	<p>A structure used in the provision of services described in the definition of Wireless Telecommunications Facilities.</p> <p><i>“Wireless Telecommunications Facility” or “Telecommunications Tower” or “Telecommunications Site” or “Personal Wireless Facility”:</i></p> <p>A structure, facility or location designed, or intended to be used as, or used to support, antennas or other telecommunications transmitting or receiving devices, including but not limited to, towers of all types, the tower compound, alternative support structures, fencing, enclosures, roads, parking areas, generators, required lighting, landscaping and similar structures that employ camouflage technology or stealth design, including but not limited to structures such as multi-story buildings, church steeples, silos, water towers, signs or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such.</p>
<p><b>Comments:</b></p> <p>The Industry indicated that no definition was previously provided.</p> <p>City Attorney noted that the proposed Ordinance had contained redundant definitions of “telecommunications buildings” and “wireless telecommunications facilities”. A definition is provided for “telecommunications structure”. It combines the two definitions for telecommunications facility and wireless telecommunications facility into one.</p> <p>It was felt these revisions are in agreement with the Industry’s revisions.</p>	

<p><b>Section 5.(2) – Facilities Siting Permit Application and Other Requirements</b></p>	<p><b>Section 5.(2) – Facilities Siting Permit Application and Other Requirements</b></p>
<p>Allows Applicant to provide written Authorization to sign the Application on the landowner’s behalf instead of signing the Application. On collocations, allows the structure owner to sign the application.</p>	<p>An application for a facilities siting permit shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application unless the applicant provides written authorization to sign the application on the landowner’s behalf. For applications for collocations on existing telecommunications structures, the owner of the structure shall sign the application in lieu of the landowner. At the discretion of the Council, any false or misleading statement in the Application may subject the applicant to denial or revocation of approval of the application without further consideration or opportunity for correction.</p>
<p><b>Comments:</b>  The Industry noted that typically, the application is not taken to the property owner because the owner usually is not familiar with this type of application. The property owner typically signs an authorization allowing the applicant to file an application on the property owner’s behalf.</p> <p>It was felt the revisions accommodate the Industry’s request.</p>	

<p><b>Section 5.(6) – Monopole Tower</b></p>	<p><b>Section 5.(6) – Monopole Tower</b></p>
<p>Allows, at Council discretion, a lattice or guyed tower rather than just a monopole tower.</p>	<p>All new Wireless Telecommunications facilities requiring a new supporting tower to be erected shall use a monopole tower, unless the Council approves a lattice or guyed design based on the specifics of the application. . .</p>
<p><b>Comments:</b>  Mr. Geisel expressed concern that the guy-wired towers may not be aesthetically appropriate. It was noted that Council would have to approve such a tower.</p> <p>It was felt the revisions accommodate the Industry’s request.</p>	

<b>Section 5.(6)(g) – Distance to structures</b>	<b>Section 5.(6)(g) – Distance to structures</b>
Eliminates both the distance measurement to the residences and the cross section.	Location of nearest ten residential structures.
<p><b><u>Comments:</u></b>  The Industry has a concern about knowing when something is a residential structure. City Attorney stated that the word “habitable” has been removed from the language.</p> <p>They also question why they must identify the 10 closest residences instead of just the closest residence. <u>Ms. McCaskill-Clay</u> stated that the topography can affect how a tower is viewed from different residences – depending on whether the topography is level or hilly.</p> <p><u>Mr. Geisel</u> stated that the language needs to include provisions for knowing what structures are in the “fall zone” in the event a tower falls. City Attorney proposed the following language:</p> <p style="padding-left: 40px;">Location, size and height of all structures on the property which is the subject of the Application <b>and other structures within a radius of 110% of the height of the structure.</b></p>	

<b>Section 5.(6)(i) – Make, model and manufacturer of the tower and antenna(s)</b>	<b>Section 5.(6)(i) – Make, model and manufacturer of the tower and antenna(s)</b>
The Industry has proposed deleting this section.	The make, model, type and manufacturer of the tower and design plan stating the tower’s capacity to accommodate multiple users.
<p><b><u>Comments:</u></b>  The Industry indicated that In most cases, this information is not known when a tower is being built.</p> <p><u>Ms. McCaskill-Clay</u> stated that when applications are submitted for administrative approval, it is typical that the contractors are already taking the plans to the County to begin the building permit process. In order to obtain the building permit, the make, model and manufacturer are required – so this information should be available at the time of application.</p>	

<b>Sections 5.(6)(k-t) - Specifications</b>	<b>Sections 5.(6)(k-t) - Specifications</b>
The Industry has proposed deleting all these sections.	(See "Comments" below.)
<p><b>Comments:</b> The Industry does not feel it is a legitimate zoning issue for the City to decide what type of equipment is used. They feel these issues are within the purview of the FCC, not the City.</p> <p>City Attorney Heggie felt the City wants the ability to analyze the technology to make appropriate judgment calls.</p>	

<b>Section 5.(6)(u) – City use of towers</b>	<b>Section 5.(6)(u) – City use of towers</b>
The Industry has proposed deleting this section as it required reserving space on the tower for public safety usage at no cost to the public safety entity.	Where reasonably possible and practicable, all Applicants for facilities siting permits should develop their plans to allow reasonable requests from the City to use space on its towers and spaced within the existing or planned compound for deploying and operating public service radio facilities (e.g. police, fire, emergency, homeland security, and the like.) Should the addition of City requirements exceed structural limits, the request may be denied by the permit holder or owner of the wireless telecommunications facility. The City will pay reasonable market value for any such use . . .
<p><b>COMMENTS:</b> The Industry has real concern over this section. They feel they should have the ability of deciding who goes on their "vertical real estate" – they feel this is their property right.</p> <p><u>City Attorney Heggie</u> felt that the above revised language accommodates the Industry's concerns. <u>Mr. Biesterfeld</u> disagreed.</p>	

<b>Section 5.(9)(a) – Written Certification</b>	<b>Section 5.(9)(a) – Written Certification</b>
The Industry has proposed deleting this section.	Written certification that the wireless telecommunications facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
<p><b><u>Comments:</u></b>  The Industry feels this is a building code issue – not a zoning code issue.</p> <p>City Attorney stated that this information will be needed for the building permit so he felt it could be made available for the application.</p>	

<b>Section 5.(10)(b) – Consultants</b>	<b>Section 5. (10)(b) – Consultants</b>
The Industry proposes eliminating the Council acting with consultants for the key sites visual map.	The Council, acting in consultation with its Consultants or experts, will provide guidance concerning the appropriate key sites at a pre-application meeting.
<p><b><u>Comments:</u></b>  The Industry does not feel that it should be mandated that a Consultant be involved at the applicant’s expense.</p> <p>City Attorney stated that changes have been where the applicant will pay for a portion of a consultant’s cost – but if certain limits are exceeded, the City would pay for a portion of it. It was noted that the City requires other applicants to hire traffic consultants at their expense if the City deems it necessary.</p> <p><u>Mr. Biesterfeld</u> still disagreed with the revision.</p>	

<b>Section 5.(14) - Siting</b>	<b>Section 5.(14) - Siting</b>
<p>The Industry proposes having the Facility sited so as to minimize its visual and auditory effect.</p>	<p>All wireless telecommunications facilities applications shall contain a demonstration that the facility be sited so as to minimize its visual and auditory effect on the environment and its character, and the residences in the area of the wireless telecommunications facilities sites, including but not limited to a landscaping plan, fencing, or other screening.</p>
<p><b><u>Comments:</u></b> It was felt the revisions accommodate the Industry's request.</p>	

<b>Section 5.(22) - Collocation</b>	<b>Section 5.(22) - Collocation</b>
<p>The applicant shall submit to the Council a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. . .</p>	<p>The owner of a tower permitted under this chapter shall negotiate in good faith for shared use of the tower by other wireless telecommunications service providers in the future and shall . . . allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable, fair market charges for such use, and the services are technologically compatible. . .</p>
<p><b><u>Comments:</u></b> City Attorney stated some changes have been made to accommodate some of the Industry's concerns. He said the requirement for allowing collocation must remain.</p>	

<b>Section 5.(23) – Paying for Consultant</b>	<b>Section 5.(23) – Paying for Consultant</b>
<p>The Industry proposes eliminating the requirement of the Applicant paying for a consultant.</p>	<p>. . . Costs to the City's consultants to prepare for and attend the pre-application meeting will be charged to the applicant's escrow account established under sub-section 13 of this chapter.</p>
<p><b><u>Comments:</u></b> City Attorney felt the proposed revision should be "more palatable" to the Industry.</p>	

<b>Section 5.(25) – Agency Comments</b>	<b>Section 5.(25) – Agency Comments</b>
The Industry proposes that the Applicant will <u>solicit</u> comments from Spirit of St. Louis Airport and limits the other agencies as ones identified during the pre-application meeting.	The applicant will provide written comments from Spirit of St. Louis Airport and other applicable agencies as required by the City of Chesterfield.
<p><b><u>Comments:</u></b>  The Industry has concern that even though comments are solicited, they have no control over whether an agency responds.</p> <p>It was noted that agency comments are required for any zoning within the City and that Staff has procedures in place to insure that comments are received.</p>	

<b>Section 5.(26) – Qualified Individual or Organization</b>	<b>Section 5.(26) – Qualified Individual or Organization</b>
The Industry proposes eliminating the requirement of an analysis being provided by a qualified individual or organization	. . . the applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the telecommunications tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation Part 77.
<p><b><u>Comments:</u></b>  The Industry questions the need for an analysis if FAA requirements are being met.</p> <p>City Attorney felt the Industry would be able to provide this information “in-house” – the “qualified person” could be the applicant. After discussion, City Attorney proposed the following revision:</p> <p style="padding-left: 40px;">. . . the applicant will provide <del>a written copy of an analysis, completed</del> <b>certification</b> by a qualified individual or organization, to determine if the telecommunications tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation Part 77.</p>	

<b>Section 6.(4) – Collocation Requirements</b>	<b>Section 6. (4) – Collocation Requirements</b>
The Industry proposes deleting this sentence.	An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use.
<p><b><u>Comments:</u></b>  The Industry questions who “owner” refers to – is it the property owner or the structure owner? City Attorney stated that it refers to structure owner and proposed the following revision:</p> <p style="padding-left: 40px;">An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing <b>structure</b> owner to share use.</p>	

<b>Section 6.(5) – Minimal Antenna Array</b>	<b>Section 6.(5) – Minimal Antenna Array</b>
The Industry proposed deleting this section because it objects to the requirement that a tower constructed in Chesterfield can only service Chesterfield.	All collocations shall comprise the minimum antenna array technologically required to provide service in the manner described in the application, to the extent practicable.
<p><b><u>Comments:</u></b>  City Attorney stated that the revisions have removed the language to which the Industry objected.</p>	

<b>Section 7.(1) – Location of Wireless Telecommunications Facilities</b>	<b>Section 7.(1) – Location of Wireless Telecommunications Facilities</b>
<p>The Industry proposes eliminating the two siting requirements for municipal or governmental property and adding a general siting of new towers. Proposes deleting the demonstration of the need for exception.</p>	<p>Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and four (4) being the lowest priority.</p> <ul style="list-style-type: none"> <li>(1) On existing telecommunications towers or other tall structures;</li> <li>(2) Co-location on a site with existing Wireless Telecommunications Facilities or structures;</li> <li>(3) On municipally-owned properties or structures (provided space is available, loading is within the structure’s capacity and the City deems use appropriate.);</li> <li>(4) On other government property in the city and its police jurisdiction.</li> </ul>
<p><b><u>Comments:</u></b></p> <p>The Industry feels the proposed language limits them to existing telecommunications towers, collocation of existing towers, or City property – and did not permit a new tower structure. They also question why there is a ranking of the ability to put a tower up based on whether it’s owned by a municipality or owned by private property. They feel it should be based on where the tower is located, the characteristics of the property, and how it services their needs. They feel the owner of the property is irrelevant to a legitimate land use regulation. They do not feel it is fair to force them to go on municipally-owned property if they have a site that gives better coverage and fits their needs better.</p> <p>City Attorney stated that he feels the rankings are important to give the City the clear ability of saying where towers can be located. Ms. McCaskill-Clay added that the order of the rankings is the least-likely way to impact residents. Further, provisions are made in the ordinance under Section 7.(4) to allow the applicant to provide documentation as to why another site may be more beneficial.</p>	

<b>Section 7.(4) - Report</b>	<b>Section 7.(4) - Report</b>
<p>The Industry proposes adding the stipulation that Applicant does not need to submit this report if it is collocating on an existing tower or tall structure.</p>	<p>If the site selected is not the highest priority, then the applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selection is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.</p>

**Comments:**

The Industry does not feel a report is needed if they are going on an existing tower.

Mr.Geisel stated that the co-locating should apply to both the existing tower and tall structure – it should not be interpreted as the first antenna on a tall structure.

City Attorney indicated that these changes could be addressed.

<b>Section 7.(5) – Identifying Sites</b>	<b>Section 7.(5) – Identifying Sites</b>
<p>The Industry proposes deleting the requirement of identifying all proposed sites in the City planned for the next two years.</p>	<p>(This language has been removed from the ordinance.)</p>

**Comments:**

City Attorney agrees with this deletion.

<b>Section 7.(6)(d) – Permit Denial</b>	<b>Section 7.(6)(d) – Permit Denial</b>
<p>The Industry proposes deleting the allowance by Council to deny permit if facility is contrary to an already stated purpose of a specified zoning or land use.</p>	<p>(This language has been removed from the ordinance.)</p>

**Comments:**

City Attorney agrees with this deletion.

<b>Section 7.(6)(e) – Permit Denial</b>	<b>Section 7.(6)(e) – Permit Denial</b>
The Industry proposes deleting the allowance by Council to deny permit if facility poses an unacceptable risk	The placement and location of wireless telecommunications facilities which would create an unreasonable risk, physical harm or safety issue arising from a collapse, structural failure or weather-related safety issues all relating to the facilities.
<p><b><u>Comments:</u></b>  The Industry feels that if all the building code regulations, structural requirements, and wind-load requirements are met, the proposed language is unnecessary. They have concern that no standards are specified as to when Council can, and cannot, make such a decision.</p> <p>City Attorney agreed that standards would have to be specified in order to apply this particular section but advised to leaving this section in the ordinance.</p>	

<b>Section 8.(1) – Documentation for Height of Towers</b>	<b>Section 8.(1) – Documentation for Height of Towers</b>
The Industry proposes making this section applicable to new support structures only.	The applicant for a new support structure must submit documentation justifying to the Council the total height of any telecommunications tower, facility and/or antenna and the basis thereof.
<p><b><u>Comments:</u></b>  City Attorney stated that the revised language incorporates the Industry’s proposal.</p>	

<b>Section 8.(2) – Maximum Height of Towers</b>	<b>Section 8.(2) – Maximum Height of Towers</b>
<p>The Industry proposes deleting the first sentence and not making the height limit pertain to collocation unless it extends the height of the power.</p>	<p>Telecommunications towers shall be no higher than the minimum height necessary to provide reasonable service. Unless waived by the Council upon good cause shown, the maximum height shall be 110 feet, based on 3 collocated antenna arrays and ambient tree height of 100 feet.</p>

**Comments:**

The Industry feels that there are very few new users who want to be at 60 feet, or who can operate at 60 feet.

After discussion, City Attorney proposed the following revision to Section 8.(2):

Telecommunications towers shall be no higher than the minimum height necessary to provide reasonable service **and collocation**. Unless waived by the Council upon good cause shown, the maximum height shall be 110 feet, based on 3 collocated antenna arrays and ambient tree height of 100 feet.

<b>Section 8.(3) - Lighting</b>	<b>Section 8.(3) - Lighting</b>
<p>The Industry proposes deleting the language that bans towers requiring artificial lighting.</p>	<p>(This language has been removed from the ordinance)</p>

**Comments:**

City Attorney agrees with this deletion.

<b>Section 10(1) - Security</b>	<b>Section 10(1) - Security</b>
<p>The industry proposes modifying the language to state that antennas, towers and guy wires are secured by a six-foot fence.</p>	<p>All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with.</p>
<p><b><u>Comments:</u></b>  The Industry proposes a six-foot fence so that the security requirements are clearly defined.</p> <p>Mr. Geisel felt the “fence language” does not address the situation where a tower is guyed on top of a structure.</p> <p>It was agreed that Mr. Biesterfeld would review this language again with representatives from the Industry.</p>	

<b>Section 11 - Signage</b>	<b>Section 11 - Signage</b>
<p>The Industry proposes signs that notify persons of the presence of the facility be placed on the perimeter of the facility. They also propose that identification signs be limited to 4 feet.</p>	<p>Wireless telecommunications facilities shall contain signs no larger than 4 square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. These signs shall be placed on the perimeter of the facility. In addition, the facility shall contain a sign no larger than 4 square feet containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s) . . .</p>
<p><b><u>Comments:</u></b>  The Industry’s proposed changes have been incorporated into the revised language.</p>	

<b>Section 12 – Lot Size and Setbacks</b>	<b>Section 12 – Lot Size and Setbacks</b>
<p>The Industry proposes excluding this requirement for collocations. They also propose allowing setbacks based on the failure point.</p>	<p>Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater, unless the applicant demonstrates the support structure is designed with a failure point allowing for a setback distance less than tower height. This requirement shall not apply to collocations on existing support structures. .</p>
<p><b><u>Comments:</u></b>  The Industry’s proposed changes have been incorporated into the revised language.</p>	

<b>Section 13 – Retention of Expert Assistance and Reimbursement by Applicant</b>	<b>Section 13 – Retention of Expert Assistance and Reimbursement by Applicant</b>
<p>The Industry proposes eliminating the requirement that the Applicant pay for a consultant hired by the City</p>	<p>An Applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs for consultant and expert evaluation and consultation to the Council in connection with the review of any application, including the construction and material modification of the site, once permitted. The initial deposit shall be \$7,500 a new tower and \$4,000 for a collocation or material modification of an existing structure. . .</p>
<p><b><u>Comments:</u></b>  The Industry objects to the requirement of paying the high application fees and escrows.   City Attorney noted that a lot of changes have been made to this section.   Mr. Biesterfeld will review the revisions with representatives from the Industry.</p>	

Section 19 – Application Fee Section 20 – Performance Security	Section 19 – Application Fee Section 20 – Performance Security
<p>The Industry proposes deleting the section pertain to application fees for new towers and collocations.</p> <p>The Industry proposes eliminating the required \$75,000 bond and proposes requiring a bond equal to the cost of removing the tower (2 estimates would be submitted to the City)</p>	<p>City Attorney noted that the proposed application fee is \$5,000 for a tower and \$2,000 for collocation.</p> <p>The proposed refundable bonding fee is \$75,000.</p>
<p><b><u>Comments:</u></b>  The Industry feels that they have been singled out for these types of fees that other industries are not required to pay.</p> <p>City Attorney noted that there is a lot of expense involved with respect to Staff time and Public Hearing notification regarding cell towers. Mr. Geisel stated that the City does not have professional staff on hand that is aware of all of the telecommunications issues.</p> <p>The Industry asks that certain issues be identified where an outside expert is necessary.</p> <p>It was agreed that Mr. Biesterfeld and Mr. Heggie would discuss this issue further.</p>	

**Councilmember Durrell made a motion to have the City Attorney review the considerations discussed; consult with the Industry’s attorney; and present a revised draft Ordinance to the Committee at its next meeting.** The motion was seconded by Councilmember Hurt.

**DISCUSSION**

Councilmember Geiger expressed concern about not moving the Ordinance forward to Council taking into consideration that any cell tower applications submitted would fall under the current Ordinance. Councilmember Hurt agreed that he is comfortable with having a draft Ordinance presented to Council rather than coming back to Committee.

City Attorney Heggie stated that there is not enough time to prepare a draft Ordinance for the September 17th City Council meeting packet.

Councilmember Hurt then withdrew his second of the motion. **The motion died due to a lack of a second.**

**Councilmember Geiger made a motion to have the attorneys work out the language and present a revised draft Ordinance at the October 1<sup>st</sup> City Council meeting.** The motion was seconded by Councilmember Hurt and **passed by a voice vote of 3 to 1** with Councilmember Durrell voting “no”.

Councilmember Durrell indicated her preference that the draft Ordinance be returned to Committee before going to Council. City Attorney Heggie stated that if the draft is available by the next Committee meeting, he will have it in the meeting packets.

(City Attorney Heggie, Councilmember Geiger, and Ms. McCaskill-Clay left the meeting at this point to attend a scheduled Board of Adjustment meeting.)

Ms. Lauren Strutman added the following issues for City Attorney Heggie to consider:

- Retain the requirement of monitoring the NIER levels of the towers – (Section 5.(6)(o).
- Insure that the fall distance relates to existing towers – (Section 12)

**[Please see the attached report, prepared by Mike Geisel, Director of Planning & Public Works, for additional information on Bill No. 2569 – Rules/Regulations re: Wireless Telecommunications Facilities.]**

### III. NEW BUSINESS

#### A. **Proposed Modifications to the Submittal Requirements for Residential Tear-downs and Residential Additions**

**Staff Report:**

Mr. Geisel reported that in September 2006, City Council passed the Residential Tear-downs and Residential Additions Ordinance. This ordinance requires that any residential addition of 500 square feet or more be reviewed by the Planning Commission.

The Planning Commission is requesting that the Petitioner be required to provide color photographs of adjacent properties to get an idea of the character of the neighborhood. The Commission was advised that City Council must revise the Ordinance to include this in the application submission requirements.

### DISCUSSION

#### **Costs Involved to the Petitioner**

The Petitioner would be required to submit 20 sets of 10-15 photographs for the meeting packets. The photographs would be of the properties immediately surrounding the subject residence, with the possibility of photos of a few additional homes further down.

Planning Commission Chair Hirsch felt the cost would be minimal if a digital camera and home color printer are used. He stated that the photographs would provide some context of the neighborhood and how a proposed addition would fit in with the character of the neighborhood.

Councilmember Durrell expressed concern that the submittal requirements for an addition put an onerous burden on the Petitioner.

Chair Fults suggested that a slide show of the surrounding properties be presented vs. having photographs in each meeting packet.

### **Tear-downs**

Chair Fults questioned whether the Ordinance should be reviewed with respect to tear-down issues.

Councilmember Durrell felt that strict guideline for tear-downs could be established so that tear-downs could be reviewed by Staff rather than the Planning Commission.

Mr. Geisel indicated that Staff would be able to do research on the build-up and tear-down ordinances from other municipalities and bring information back to the Planning & Zoning Committee. The document could then be finalized with the Ordinance Review Committee.

Planning Commission Chair Hirsch stated that the Commission would be willing to review the Ordinance and make recommendations to the Council if so directed. He indicated that the Commission wants to be “pro-active” in bringing ideas to the Committee.

### **Additions**

Discussion was held on the requirement of having the Planning Commission review all additions of 500 square feet or larger. It was suggested that the review of additions by the Commission should be of a square footage size of either 1000 or 1500 square feet vs. the current 500 square feet.

**Councilmember Hurt made a motion directing Staff and the Commission to propose language regarding new sections to the Ordinance pertaining to additions under 1,000 square feet and additions over 1,000 square, which would include submittal requirements. The motion was seconded by Chair Fults and passed by a voice vote of 4 to 0.**

## **B. Power Outages**

Councilmember Durrell stated that she has received a call from a resident inquiring if the City could investigate a company other than Ameren UE for electrical service considering the number of times outages have occurred in the area. It was indicated that this would not be feasible.

It was suggested that residents purchase their own gas generators. It was noted that Laclede Gas Company installs natural gas generators.

## **IV. ADJOURNMENT**

The meeting adjourned at 7:34 p.m.