

I. A.

MEMORANDUM



TO: Michael G. Herring, City Administrator

FROM: Mike Geisel, Director of Planning & Public Works

SUBJECT: Planning & Public Works Committee Meeting Summary
October 22, 2009

A meeting of the Planning and Public Works Committee of the Chesterfield City Council was held on Thursday, October 22, 2009 in Conference Room 101.

In attendance were: Councilmember Barry Flachsbart (Ward I); Acting Chair Lee Erickson (Ward II); and Councilmember Mike Casey (Ward III).

Also in attendance were: Councilmember Bob Nation (Ward IV); Mike Geisel, Director of Planning & Public Works; City Attorney Rob Heggie; Annissa McCaskill-Clay, Lead Senior Planner; and Kristine Kelley, Administrative Assistant.

The meeting was called to order at 5:30 p.m.

I. APPROVAL OF MEETING SUMMARY

A. Approval of the October 8, 2009 Committee Meeting Summary.

Councilmember Flachsbart made a motion to approve the Meeting Summary of October 8, 2009. The motion was seconded by Councilmember Casey and passed by a voice vote of 3 to 0.

II. OLD BUSINESS - None

III. NEW BUSINESS

A. **Assignment of Rights for Acquisition for both;** - the Mill Ridge Villas and Terra Vistas properties.

STAFF REPORT

Mike Geisel, Director of Planning & Public Works, explained that when Mill Ridge Villa and Terra Vista Subdivisions were approved, the City provided for a reserve corridor for the future northward extension of Route 141 to the Maryland Heights Expressway, which the trustees would be required to convey upon demand by the City.

St. Louis County is actively negotiating for easements and rights-of-way for this project. In order to avoid the City acquiring the property directly and subsequently conveying it to St. Louis County, Staff has drafted legislation to assign our acquisition rights for the reserve strip of St. Louis County.

Staff is asking the Committee to review, consider and recommend to City Council passage of these two ordinances that will allow St. Louis County to acquire those properties under the City's rights.

Councilmember Flachsbart made a motion to forward the two ordinances regarding Property Acquisition rights of Mill Ridge Villa and Terra Vista Subdivisions to City Council with a recommendation to approve. The motion was seconded by Councilmember Casey

Discussion on the Motion

Councilmember Nation asked whether the property conveyance could be used in lieu of the \$5 million pledge the City has towards construction of 141. Mr. Geisel stated that it could not – in fact the project, as submitted, had budget estimates where the cost of the right-of-way was reduced by this conveyance which was already provided for.

Acting Chair Erickson asked what would happen to the property if acquired, and if the project did not get constructed. City Attorney Heggie responded that it is an assignment of City rights and those rights will go away if a road is not constructed. The required conveyance was specifically identified for the purpose of this road project only. The property will revert back to the original land owners.

The motion then **passed** by a voice vote of 3 to 0.

Note: Two Separate Bills, as recommended by the Planning & Public Works Committee, will be needed for the November 2, 2009 City Council Meeting. See Bills #

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on Assignment of Rights for Acquisition for both; - the Mill Ridge Villas and Terra Vistas properties].

B. "City Code amendment - membership "

City Attorney Rob Heggie stated that this is primarily an effort to clarify language to be consistent with the original intent of the ordinance and actual practice. The Code requires that members of the Planning Commission cannot be members of other Boards, Commissions or Task Forces. Therefore, newly appointed Planning Commissioners are required to resign from other City Boards, Commissions, Task Forces and Committees. He recommends the following language be added to the City Code to clarify intent and to remove any ambiguity in purpose. The addition is shown in **bold** below:

City Code; Section 23 -18. Number of members and qualifications.

- (a) The Commission shall consist of nine (9) citizen voting members as nominated by the Mayor and approved by the City Council, and shall also include the Mayor and a member of the City Council selected by the City Council as non-voting members.
- (b) All citizen members shall be registered voters and have been a resident of the City for not less than one (1) year preceding the date of appointment.
- (c) Upon appointment to the Planning Commission, a citizen member who serves on any other City Board, Commission or task force shall immediately resign his/her appointment on any other City Board, **Committee**, Commission or task force.

Councilmember Casey made a motion to forward the "City Code amendment regarding membership" to City Council with the recommendation to approve. The motion was seconded by Councilmember Flachsbart

Discussion on the Motion

Councilmember Flachsbart stated that while the amendment is consistent with the original ordinance and Council's intent, as well as the actual membership policy that the City has followed since passage, he is not personally opposed to a Planning Commission member serving on another committee as long as it is not a statutory committee.

Mr. Geisel stated that the recommended change will clear up any confusion and would allow Staff to ensure that Council's direction be followed without any confusion. If City Council wants to change direction, he suggested that the language be clarified.

Councilmember Flachsbart then made a motion to amend the City Code to delete and replace with the following:

- (a) Upon appointment to the Planning Commission, a citizen member who serves on any other City Board, Commission or task force shall immediately resign his/her appointment on any other City Board, ~~Committee~~, Commission or task force **Statutory Committee**.

The motion to amend failed due to lack of a second.

The original motion then passed by a voice vote of 2 to 1 with Councilmember Flachsbart voting no.

Note: One Bill, as recommended by the Planning & Public Works Committee, will be needed for the November 2, 2009 City Council Meeting. See Bill #

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on "City Code amendment membership".]

C. T.S.P. 07-2009 T-Mobile (Villas at Ladue Bluffs/St. Louis County Emergency Tower) – EXEMPTION FROM PUBLIC HEARING REQUEST:

A request to obtain approval for a Telecommunication Siting Permit for the purpose of removing existing antennas and replacing with new antennas; and the addition of additional equipment to the equipment compound at an existing tower for a 2.81 acre tract of land zoned R3 (PEU) at 14845 Olive Boulevard in the Villas at Ladue Bluffs Subdivision. (17R430053)

STAFF REPORT

Ms. Annissa McCaskill-Clay gave a PowerPoint presentation showing the site plan and photographs of the surrounding area. Ms. McCaskill-Clay stated the following:

This is an emergency tower owned by St. Louis County. T-Mobile is proposing to add a "Node B Flexi Mode" cabinet into the site next to the existing antenna.

Upon site inspection, Councilmember Flachsbart noted that the height of the tower is very tall in relation to the existing neighborhood. Ms. McCaskill-Clay responded that the requested changes will not increase the height of the tower. The Petitioner is proposing to add an additional cabinet to the existing equipment yard and to remove three existing antennas and replace those three like-for-like.

Councilmember Flachsbart made a motion to forward T.S.P. 07-2009 T-Mobile (Villas at Ladue Bluffs/St. Louis County Emergency Tower) – EXEMPTION FROM PUBLIC HEARING REQUEST to City Council with a recommendation to approve.

The motion was seconded by Councilmember Casey

Discussion on the Motion

The attorney, representing the Petitioner, stated that the main issue relates to modifications to an existing site. Originally the ordinance stated that a Facility Siting Permit was required for any modification. The City adopted in the final version of the ordinance, a concept that the Facility Siting Permit would be required for new cell towers and for material modifications to the existing towers.

Copies of the City's final ordinance were given to the Committee members, which states the following:

- *Material modification: An important, essential or significant change to an existing wireless telecommunications facility. Changes that materially affect the obvious physical appearance of a facility...*
- *Collocation on a telecommunications structure for which a facilities siting permit allowing such collocation had previously been granted in conformity with this chapter shall not be considered a material modification for purposes of this statute so long as such collocation does not increase the height of the wireless telecommunications facility and does not increase the previously-existing antenna array of the wireless telecommunications structure. Ordinary repair and/or maintenance (which includes the replacement or upgrade of components with substantially similar components), without any material addition, removal or other material modification of any visible components or aspects of a wireless telecommunications facility shall not be considered a material modification for purposes of this chapter.*

The attorney noted that collocation on a telecommunications structure is not considered a modification unless it increases the height of the wireless telecommunications facility by ten (10) percent or increases the existing antenna array. The Petitioner does not propose increasing the height of the tower or increasing the antenna array. They are only proposing to provide an equipment upgrade by adding one 15" piece of radio equipment.

There was considerable discussion of the definition of a "material modification".

Ms. McCaskill-Clay stated that with the exception of Agenda Item III.F-Woodcliffe Place, none of these sites have been issued a telecommunications siting permit.

Councilmember Flachsbart feels that anything added to the site should be reviewed by City Council. Mr. Geisel clarified that the Petitioner is requesting an Exemption from the Public Hearing. With or without a Public Hearing, Council will be reviewing the telecommunications siting permit.

Question was raised as to whether granting an exemption would set a precedent. City Attorney Heggie felt that a policy decision should be determined in terms of what constitutes meeting the burden of being granted an exemption from public hearing.

It was noted that Councilmember Flachsbart has concerns about granting exemptions, but has no problem with this specific proposal, due to the fact that the cabinet is a very small addition and the visual visible impact is very slight due to the topography and that the lone addition is an 18" cabinet which is completely obscured.

The motion allowing an Exemption from Public Hearing then passed by a voice vote of 3 to 0.

It was noted that the exemption was allowed in this case because the cabinet is a very small addition and the visual visible impact is very slight due to the topography and that the lone addition is an 18" cabinet which is completely obscured.

Note: This is a Request for Exemption from Public Hearing for a Telecommunications Siting Permit, which requires approval by City Council. A voice vote will be needed at the November 2, 2009 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on T.S.P. 07-2009 T-Mobile (Villas at Ladue Bluffs/St. Louis County Emergency Tower) – EXEMPTION FROM PUBLIC HEARING REQUEST: 1.

D. T.S.P. 10-2009 T-Mobile (Parkway Central High School) - EXEMPTION FROM PUBLIC HEARING REQUEST: A request to obtain approval for a Telecommunication Siting Permit for the purpose of removing existing antennas and replacing with new antennas; and the addition of more equipment to the equipment compound at an existing telecommunications tower for a .0275 acre tract of land zoned "NU" at Parkway Central High School located at 471 N. Woods Mill Road. (17Q230085)

STAFF REPORT

Ms. Annissa McCaskill-Clay gave a PowerPoint presentation showing the site plan and photographs of the surrounding area. Ms. McCaskill-Clay stated the following:

The subject site is 90 acres. The Petitioner is proposing to add a Node B Flexi Cabinet to the existing yard and remove three existing antennas and replace with three antennas of similar size and dimension.

Councilmember Flachsbart feels that the same situation applies in that this is a minor addition to the site, which is significantly distant from adjacent property boundaries, shielded on three sides by heavily-wooded areas and is shielded by the additional cabinets, which warrants exemption from public hearing.

Councilmember Casey made a motion to forward T.S.P. 10-2009 T-Mobile (Parkway Central High School) - EXEMPTION FROM PUBLIC HEARING REQUEST to City Council with a recommendation to approve. The motion was seconded by Councilmember Flachsbart and **passed by a voice vote of 3 to 0.**

Note: This is a Request for Exemption from Public Hearing for a Telecommunications Siting Permit, which requires approval by City Council. A voice vote will be needed at the November 2, 2009 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on T.S.P. 10-2009 T-Mobile (Parkway Central High School) - EXEMPTION FROM PUBLIC HEARING REQUEST].

- E. T.S.P. 12-2009 T-Mobile (St. Thomas Church UCC) – EXEMPTION FROM PUBLIC HEARING REQUEST:** A request to obtain approval for a Telecommunication Siting Permit for the purpose of removing existing antennas and replacing with new antennas; and the addition of more equipment to the equipment compound at an existing telecommunications tower for an 18.35 acre tract of land zoned "LLR"(CUP) at St. Thomas Church located 17836 Wild Horse Creek Road. (18V120254)

STAFF REPORT

Ms. Annissa McCaskill-Clay gave a PowerPoint presentation showing the site plan and photographs of the surrounding area. Ms. McCaskill-Clay stated the following:

The existing tower is located on one of the highest points within the City of Chesterfield. There is a masonry fence surrounding the compound. The Petitioner is proposing to add a Node B Flexi Cabinet to the existing yard and remove three existing antennas and replace with three antennas of similar size and dimension.

Councilmember Flachsbart again feels that the same situation applies in that this is a minor addition to the site and due to the sight-proof fencing, qualifies the site for exemption from public hearing.

Councilmember Casey made a motion to forward T.S.P. 12-2009 T-Mobile (St. Thomas Church UCC) – EXEMPTION FROM PUBLIC HEARING REQUEST to City Council with a recommendation to approve. The motion was seconded by Councilmember Flachsbart

Discussion on the Motion

It was noted that due to the height of the tower and its location within flight pattern of Spirit of St. Louis Airport, it is required by the Federal Aviation Administration that the tower be painted.

There was considerable discussion regarding the notification process of public hearings and the substantial costs of advertising.

The motion then passed by a voice vote of 3 to 0.

Note: This is a Request for Exemption from Public Hearing for a Telecommunications Siting Permit, which requires approval by City Council. A voice vote will be needed at the November 2, 2009 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on T.S.P. 12-2009 T-Mobile (St. Thomas Church UCC) – EXEMPTION FROM PUBLIC HEARING REQUEST].

- F. T.S.P. 13-2009 T-Mobile (Wildhorse Springs/132A Woodcliffe Place) - EXEMPTION FROM PUBLIC HEARING REQUEST:** A request to obtain approval for a Telecommunication Siting Permit for the purpose of removing existing antennas and replacing with new antennas; and the addition of more equipment to the equipment compound at an existing telecommunications tower for a .41 acre tract of land zoned R3(PEU) at 132A Woodcliffe Place. (18T410128)

STAFF REPORT

Ms. Annissa McCaskill-Clay gave a PowerPoint presentation showing the site plan and photographs of the surrounding area. Ms. McCaskill-Clay stated the following:

On October 19th, City Council granted Verizon Wireless a TSP for replacement of antennas and replacement of an existing generator. As part of their approval, Verizon Wireless will sight-proof the fence and install additional landscaping to the site. The property is located within a subdivision, which was built around the subject site.

The Petitioner, T-Mobile, is proposing to add a Node B Flexi Cabinet to the existing yard and remove three existing antennas and replace with three antennas of similar size and dimension.

Noting that the visual impact is minimal due to the size, location and visual screening, Councilmember Flachsbart made a motion to forward T.S.P. 13-2009 T-Mobile (Wildhorse Springs/132A Woodcliffe Place) - EXEMPTION FROM PUBLIC

HEARING REQUEST to City Council with a recommendation to approve. The motion was seconded by Councilmember Casey and **passed** by a voice vote of 3 to 0.

Note: This is a Request for Exemption from Public Hearing for a Telecommunications Siting Permit, which requires approval by City Council. A voice vote will be needed at the November 2, 2009 City Council Meeting.

[Please see the attached report prepared by Mike Geisel, Director of Planning & Public Works, for additional information on T.S.P. 13-2009 T-Mobile (Wildhorse Springs/132A Woodcliffe Place) - EXEMPTION FROM PUBLIC HEARING REQUEST].

G. Defacing public streets

Acting Chair Erickson stated that some residents took it upon themselves to paint “go slow” in the roadway. He asked for clarification of how the City handles removal of any type of graffiti on public roadways. Mr. Geisel responded that if graffiti was offensive, or vulgar, crews would make an attempt to power wash or paint over the markings. In actuality, this represents defacing public property. However, in practicality, it would be difficult to discern between markings on the pavement, such as spilled paint, children’s games, spilled oil, or even painted addresses on the curbs. To date, the City has not pursued prosecution for these types of issues. More importantly, Mr. Geisel expressed concern about the level of effort required to address such damage. There simply is not sufficient manpower to direct maintenance crews to power wash streets without directly impacting streets repairs, tree trimming, sign installations, or sewer work.

IV. ADJOURNMENT

The meeting adjourned at 6:10 p.m.