

**PLANNING AND ZONING MEETING
THURSDAY, MARCH 15, 2018
CITY COUNCIL CHAMBERS**

These minutes are a summary of the meeting. For full details view online at www.casperwy.gov on the Meetings and Agendas web page. The Planning and Zoning Commission held a meeting at 6:00 p.m., on Thursday, March 15, 2018, in the Council Chambers, City Hall, 200 North David Street, Casper, Wyoming.

Members Present: Bob King
 Fred Feth
 Randy Hein
 Don Redder
 Ryan Waterbury
 Susan Frank
 Erik Aune

Absent Members: None

Others present: Craig Collins, City Planner
 Dee Hardy, Administrative Support Technician
 John Henley, City Attorney
 Bob Hopkins, Council Liaison

I. MINUTES OF THE PREVIOUS MEETING

Chairman Redder asked if there were additions or corrections to the minutes of the January 18, 2018 Planning & Zoning Commission meeting.

Chairman Redder called for a motion to approve the minutes of the January 18, 2018 Planning & Zoning Commission meeting.

Mr. Feth made a motion to approve the minutes of the January 28, 2018 meeting. The motion was seconded by Mr. Hein. All those present voted aye with the exception of Ms. Frank who abstained. Minutes approved.

II. PUBLIC HEARING

The first case this evening.

An Ordinance Amending Section 17.12.124 – Towers of the Casper Municipal Code; Providing Definitions; Providing for Permitted Locations; Providing for Permits; Providing for Severability; Providing for Repealer; and Providing for an Effective Date.

Craig Collins, City Planner, presented a summary of the staff report which recommends a Municipal Code Text Amendment to Section 17.12.124 of the Casper Municipal Code providing for permitted locations; providing for permits; providing for severability; providing for repealer; and providing for an effective date.

He stated that the demand for good cellular coverage and seamless connection to wireless broadband continues to grow. In response, wireless service providers estimate that next year alone, at least 150,000 new wireless telecommunication facilities will be installed nationwide, and more than 500,000 will be installed the following year to keep up with consumer demand for data and to deploy 5g networks.

The Telecommunications Act of 1996 states that local governments cannot “prohibit or have the effect of prohibiting wireless facilities,” but also preserves local zoning authority over the “placement, construction, and modification of wireless facilities.” Several other layers of law apply, and it appears clear that wireless telecommunication providers may locate in public rights of way.

While these new technologies are valuable to the community, City staff has concerns about preserving the integrity of the community and protecting its valuable property rights in its rights of way. Additionally, several factors make these new mini-towers different from traditional cell towers including: (1) location in City rights of way, instead of on leased or licensed public and private property; (2) the granting of utility status to distributed antenna system (“DAS”) contractors; (3) public safety concerns, and (4) the speed with which deployment is occurring.

City Council previously approved a contract with Thomas F. Duchon & Associates, Inc., d/b/a River Oaks Communications Corporation, to assist the City in updating its telecommunications ordinances and application packets, and allow for the new technology in accordance with federal law, while concurrently balancing the public interests in City rights of way. The consultant worked for several months, with City staff, to tailor the proposed ordinance to the needs of Casper, while being compliant with federal law, rules and regulations.

The Planning and Zoning Commission is required to review all ordinance changes to Title 17 (Zoning Regulations) of the Municipal Code, and to send its recommendation to the City Council for consideration.

Chairman Redder asked if there was anyone in the audience wanting to give comments regarding amending Section 17.12.124 of the Casper Municipal Code. There being none he closed the public hearing and entertained a motion to approve, approve with conditions, deny, or table the Amendments to Section 17.12.124 of the Casper Municipal Code - Towers of the Casper Municipal Code; Providing Definitions; Providing for Permitted Locations; Providing for Permits; Providing for Severability; Providing for Repealer; and Providing for an Effective Date.

For the purposes of discussion Mr. King made a motion to approve Amendments to Section 17.12.124 of the Casper Municipal Code - Towers of the Casper Municipal Code; Providing Definitions; Providing for Permitted Locations; Providing for Permits; Providing for Severability; Providing for Repealer; and Providing for an Effective Date, the motion was seconded by Ms. Frank.

Chairman Redder asked the Commission if there were questions for staff.

Chairman Redder asked if the changes were many or was this a total rewrite.

Craig Collins advised that this was a total rewrite. He advised that there are many wireless regulations that are coming into effect now, as well as those that should have reflected regulations enacted with the 1996 Telecommunication Act, and the City is trying to keep up.

Mr. King stated that it is apparent staff has spent a great deal of time on this rewrite, and asked if they had concerns with anything in the ordinance.

Craig Collins advised that Planning has no concerns, however the Ordinance was done in the attorney's office and is very complex, and deferred the question to the City Attorney.

John Henley, City Attorney, stated that due to the complexity of this contract the City Attorney's office hired a consultant to assist them. With new technology, significant rise in volume, and quality of services provided by wireless carriers it is imperative to have a contract in place. Many service providers are going with smaller distributive systems, and not the tall tower that many of us have seen. The smaller type will not be as big of eye sore, however there will be many more. New Federal Regulations require the use of City rights of way. There will be some specific time frames with this contract in place. New applications and existing towers will have 60 days to approve or disapprove. Collocate applications have a 90 day time frame, and brand new sites have 150 day time frame. That includes submitting the application and getting any other materials needed for review. Erik Aune, Commissioner, came in and expressed some concerns. Mr. Collins passed out copies of the revised Ordinance showing the highlighted concerns. Mr. Aune pointed out that some definitions were ambiguous, an example would be the definition of residential areas, page 3. Continuing on page 5 wireless facilities, didn't include some areas that encompass the sites, fencing and graffiti. The use of different fencing types may prevent graffiti. On page 8 use of faux native trees, changed to one that is generally found growing in Casper. Finally, we talk about site-obscuring fencing. For example, solid or slatted

wood, faux wood, vinyl, masonry or wrought iron fence or a combination thereof, on Page 9. Minitowers can't put up a barbed wire fence for site-obscuring, but may use a wrought iron fence. Hoping some companies select this type of fencing or the planning office could require a particular type of fencing for different areas of town. Mr. Henley thanked Mr. Aune for the great comments.

Mr. Aune stated that Section 2(b) talked about preserving the aesthetic community of Casper, nothing of maintaining it under the Municipal Code. He noted zoning regulations must be adhered to.

Mr. Waterbury advised that he has some experience with these sites. Many are owned by a tower leasing company, with different carriers that lease space on those towers. They typically are housed in a 50 x50 fenced area, and he has observed that many don't do a great job of taking care of their stuff. He stated he did not have any concerns with the Ordinance, however, if they are going to be in a public rights of way there needs to be some teeth to the Ordinance.

Mr. King asked Mr. Aune what language he would add. Mr. Aune deferred the question to staff.

Mr. Henley advised that there is a reference they must comply with the Building Code, which is incorporated into the Municipal Code.

Mr. Collins stated that he understands what Mr. Aune is getting at with aesthetics. Applicants will be required to do a franchise agreement where restrictions may be placed on how the tower will look and be maintained. He advised that all utilities must adhere to a franchise agreement when they want to locate in a City rights of way.

Mr. Henley stated federal regulations come into play to make sure there will be uniformity across all communities.

Mr. Waterbury stated that there are different types of cell towers located in the City. The cell site located at Kelly Walsh High School has a chain link fence around a prefab building. The actual tower is located in the stadium lighting and the district would like to rent some of its tower space. Another example is a tower located on CY Avenue disguised as a tree with a vinyl fence.

Mr. Collins stated Mr. Waterbury brings up a good point, in the past towers were speculative and there was not any technical expertise on staff to review the need for a tower. Now the applicant will have to prove the service of the tower is needed and the height must be justified.

Mr. Hein asked if part of the work would be to identify a location.

Mr. Henley advised that going forward they must provide a list of locations they have in Casper, and must articulate why they are asking for the deviation.

Ms. Frank asked for an explanation of the zoning classification FC. She noted the table of twelve (12) zoning classifications listed on page 12 of the Ordinance.

Mr. Collins replied that the zoning classification was FC- Flood Channel. He advised that there was one (1) lot in Casper that falls under the FC classification, and it has to do with the 100 year flood zone. This classification is not utilized as a Zoning District.

Mr. King made a motion to amend the motion to approve with amendments shown in the handout. Ms. Frank seconded the motion.

There was discussion on:

- Specifying trees that grow in Casper to blend in surrounding area.
- May be something other than a tree such as a silo, steeple or anything that could and would fit in the neighborhood.
- Balance needed with these restrictive rules.
- Review on a case by case basis with a franchise agreement

Chairman Redder asked members to cast their vote on the motion to amend the original motion. All those present voted aye. Motion carried.

Mr. King made a motion to approve Amendments to Section 17.12.124 of the Casper Municipal Code - Towers of the Casper Municipal Code; Providing Definitions; Providing for Permitted Locations; Providing for Permits; Providing for Severability; Providing for Repealer; and Providing for an Effective Date with the amendments listed in the handout, and forward a "do pass" recommendation to Council. The motion was seconded by Ms. Frank. All those present voted aye. Motion carried.

III. COUNCIL ACTIONS:

Approving an Amendment to the New Delta Addition Subdivision Agreement Dated August 3, 1999.

Approving the Replat Creating Meadow View Estates Addition No. 2, Lots 24 and 25, Block 3.

IV. SPECIAL ISSUES:

None.

V. COMMUNICATIONS:

A. Commission:

Mr. Hein, Ms. Frank, Mr. King, Mr. Waterbury and Mr. Redder expressed an interest in attending the WYOPASS Spring Workshop to be held

Thursday, May 10, 2018 and Friday May 11, 2018, in Riverton, Wyoming. Mr. Collins advised that registration and hotel accommodations would be made through the Planning office. He asked the Commission to let us know as soon as possible if they would like to attend.

Mr. King asked about a tour of the Plains Furniture Building for the Planning Commission.

- B. Community Development Director:
There were none.
- C. Other Communications:
There were none.
- D. Council Liaison:
Bob Hopkins, Council Liaison thanked the commission for passing the Ordinance this evening. Having this in place will enable citizens to use their cell phones anywhere. He advised that the micro cell towers will be less invasive than many of the tall towers. He advised that there would be an RFP (Request for Proposal) process for the remaining property at the Plains Furniture site. He asked the Planning and Zoning Commission to be part of this process.

VI. ADJOURNMENT

Chairman Redder called for a motion for the adjournment of the meeting. A motion was made by Ms. Frank and seconded by Mr. Waterbury to adjourn the meeting. All present voted aye. Motion carried. The meeting was adjourned at 6:49 p.m.


Chairman


Secretary