

CITY OF BURTON
LEGISLATIVE SUB-COMMITTEE MEETING MINUTES
MARCH 22, 1999, 9:30 A.M., COUNCIL CHAMBERS

MEETING CALLED TO ORDER BY CHAIRMAN CHARLES CROSS AT 9:30 A.M.

MEMBERS PRESENT: Centilli, Cox and Cross.

MEMBERS ABSENT: None.

OTHERS PRESENT: J. Major, DPW Director; S. Perez, Fiscal Manager; Attorney R. Austin and
G. Webster, City Clerk.

PURPOSE OF THE MEETING:

1. Discussion and Review Cellular Tower Ordinance- 89C

PRESENTATION:

Attorney Richard Austin reviewed background information detailing how this ordinance originated. There have been several similar ordinances drafted by municipalities in Michigan. These documents have been compiled to meet FCC standards and have been filed with the organization. The ordinance being reviewed parallels the tower ordinance Mr. Austin drafted for Monitor Twp. Burton's ordinance was revised by Mr. Hamilton with the addition of an appeal board for hardship cases. Appeals would be heard by the Construction Board of Appeal rather than the Zoning Board of Appeals. An application permit and lease agreement will be incorporated into the cellular tower ordinance review. This ordinance establishes regulations and procedures for the application, review, approval, disapproval, construction, maintenance and removal of wireless communications facilities located within the city and provides penalties for violation of such regulations. This ordinance strongly recommends the placement of towers be colocated on City owned property.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., spoke in reference to an article on cellular towers. The article addressed constitutional rights in regards to the symbol, color and design of the towers. She commented on soil borings and whether previous applicants would fall under this ordinance.

Attorney Austin said the borings are very important for construction of these towers. It is critical to know that the towers are placed on stable soil, thus providing safety for the surrounding area. The existing towers would not fall under this ordinance unless additional changes are made. He recommended new tower applications be held until this ordinance is in place.

John Stapish, PO Box 190134, spoke in reference to the maintenance of the existing towers.

Mr. Austin said Page 3, definition 1, of this ordinance specifically includes all towers erected in Burton. Any existing towers would not fall under the maintenance guidelines in this ordinance.

COMMITTEE DISCUSSION:

The cellular tower ordinance was reviewed a section at a time, making revisions as needed.

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Section I

This section addresses the purpose and intent of the ordinance. It gives the City of Burton the authority to regulate in this area.

No revisions were made.

Section II

This section addresses the definition of Wireless Communication facilities. This refers to all tower structures, including radio towers and any structure producing electromagnetic waves.

This ordinance does not cover citizen band radio facilities, short wave radio facilities, satellite dishes and government facilities which are subject to state or federal law or facilities preempt from municipal regulatory authority.

No revisions were made.

Section III

This section addresses applications. Section III, A. refers to the Grandfather Clause of existing towers.

A discussion was held in reference to who would review the site plan of cellular towers. Incorporated into the ordinance would include the review of site plan by a professional engineer.

Discussion was held on meeting certain requirements for submitting an application. These requirements will be listed on the application.

1. Revision- Page 5, Section III, A. 1, Line 1 - This line is corrected by changing the word "not" to the word "no".

2. Revision - Pages 5 and 6, Section III, B. 1- This subparagraph has been changed to require an original and twelve (12) copies of the site plan be submitted with an application for a permit, and, to require that the site plan be prepared by a State of Michigan licensed professional engineer, and, to require the site plan be drawn to scale.

Section IV, V and VI

These sections strongly encourage the proper placement and location of the towers. Section IV refers to Permitted Communication Facility Approval (PCFA), placement of the towers. The ordinance strongly suggests that the tower should be constructed on City owned property. Section V and VI deals with a Special Communication Facility Approval (SCFA). These section were incorporated in to the document for applicants who wished to deviate from the City's intended placement of the towers. Very stiff requirements will need to met before permission is granted to locate in other areas.

No Revision were made to Section IV.

3. Revision- Page 11, Section V, B. 7, Line 8 - The word "meat" has been changed to the word "neat".

4. Revision- Page 13, Section VI, Heading, - The roman numeral has been changed from "IV" to "VI".

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Section VII

This part of the ordinance deals with the issue of colocation, adding multiple units to the same tower. It is the policy of the City to minimize the overall number of the newly established location of towers.

5. Revision- Page 14, Section VII A, Line 17 - The word "Township" has been changed to the word "City".

Section VIII

This section deals with the removal of towers due to the applicant or by the request of the City. This portion of the ordinance requires a complete restoration of the site after removal of a tower.

No revision were made to this section.

Section IX

This part of the ordinance specifically deals with the Board of Appeal process in which decisions and questions will be heard involving the interpretation of this ordinance.

City's Authorized Representative refers to the DPW representative or other designated person chosen by the City to handle these issues.

Fee schedules will be compiled and adopted by resolution. Changes can be made at a later date if needed.

6. Revision- Page 19, Section IX B. 1- This paragraph has been changed by deletion of any reference to the Board of Appeals reversing any decisions made by the City Council.

7. Revision- Page 21, Section IX E - This paragraph has been changed by deletion of any reference to the Board of Appeals granting variances of any provision or decision of the City Council.

Section X

8. Revision- Page 22, Section X D - This has been changed by the deletion of any references to the Board of Appeals and the City Attorney.

Section XI

9. Revision - Page 22, Section XI A - This is a new paragraph.

A. City Council approval of an application pursuant to Section IV C., Section V C or Section VI C shall exempt the applicant from the site plan requirements for the facility, including accessory structures, as would otherwise be required by the City of Burton Zoning Ordinance No. 19, as amended. This exemption shall only and specifically apply to the site plan reviewed and approved by City Council pursuant to this Ordinance No. 89-C, and, it shall not exempt the applicant from any site plan requirements applicable as a result of any alteration of the site plan or the site of the facility.

10. Revision - Page 22 and 23. Former paragraphs A, B and C, now designated B, C, and D.

Mr. Austin was of the opinion that none of these changes fundamentally modified the original version of the Ordinance. Therefore, it would be appropriate to add this to the next regular council agenda for a second reading of the ordinance.

Council will address all tower applications through Special Council Meetings. Adjustments will be made to the zoning ordinance to accommodate this process.

A study could be done to identify City owned property that would be appropriate for the placement of towers.

A brief discussion was held in regards to locating a unit on the water tower.

Mr. Austin said Monitor Twp. looked in to the possibility of placing a unit on their water tower, but after further investigation they withdrew the application.

Mr. Major will compile a fee schedule for the tower application, taking into consideration all aspects and requirements in determining the final application fee.

Mr. Austin would provide samples of similar ordinances, if the Council wanted to review them.

The applications would be considered by Council with a simple majority vote for approval.

Mr. Austin will send a letter to the Clerk noting all revisions made to the ordinance by the Legislative Committee. He will be available in his office until March 30, 1999, if there are any questions in regards to the ordinance.

COMMITTEE RECOMMENDATIONS:

Cox moved and Centilli seconded the following motion:

Recommend to the Council as a whole to adopt Legislative Committee changes made to the First Reading of Ordinance 89C, currently referred to as The Tower Ordinance, and place it on the agenda of the next Regular City Council Meeting, April 6, 1999 as the Second Public Reading.

Motion carried 3-0.

MEETING ADJOURNED AT 11:30 P.M.

Gayle Webster
City Clerk