



Office of the Town Manager

MEMORANDUM

TO: Mayor Collins and Members of the Town Council
FROM: Kevin Burke, Town Manager
DATE: September 30, 2016
SUBJECT: Proposed Cell Phone Ordinance Amendment

As I debriefed from our study session on Cell Phone coverage from last Thursday, I realized just how poorly the last part of Ghost Networks and then my presentation was communicated. I'd like to take another stab at that and outline some next steps.

The solution suggested by Ghost Network was to use macro antennas and place them somewhere between 50 and 60 feet high in three "dark spots" around Town. The fine print with this solution is how this gets accomplished.

First, while this was proposed by Ghost Network, there is no contractual relationship nor promise of business between the Town and Ghost Networks. This was a firm who saw this as a business opportunity if they could verify there was a real problem and propose a solution to the carriers. The Town benefited by getting a lot of free consulting and some specific data. Ghost has been great to work with and has neither asked for nor expected something financial in return from the Town.

Second, as we learned, there are currently 4 types of antennas—macro, micro, distributed antenna systems (DAS) and wifi (although wifi is not really an antenna but it is a way convey phone calls and data). As Ghost indicated, the industry is currently moving more toward micro cell antennas and systems that allow a call to be handed off from one platform to the next. The problem is that these new investments usually are filling in areas that already have macro sites in the vicinity. Paradise Valley is not one of those places. So to cover our broad dark spots with shorter antennas requires greater infrastructure purchases. Ghost felt this was a tough sell to the carriers versus a few macro antennas. Now that is one industry professional's opinion. Others may disagree, but the issue of infrastructure investment was a very real topic when we met with Verizon, AT&T and another small tower company owner who lives in PV. So for argument sake, what would it take to facilitate investment in macro sites? This led to my proposed amendments to the PWSF ordinance.

In that ordinance, I was NOT proposing straight 60' cell towers. I was proposing that SUP sites be allowed to place a roof mounted antenna a maximum of 20 feet above the highest point of the roof. That would place the antenna somewhere between the 50' and 60' target. The maximum height of the roof continues to be governed by our current code or SUP ordinances and is not proposed to be changed, but we know we have an SUP with a 36' foot maximum roof height and

others with a 24' foot maximum height. Enabling a 20' roof mounted antenna may put a macro site in the sweet spot in some locations and just below it in others versus the current code that only allows roof mounted antennas to 4.5' above the highest point on the roof.

What is not changed, and in fact is strengthened in the proposed ordinance, is that roof top antenna must be camouflaged. Further, the antenna is not a use-by-right, but instead a Conditional Use Permit (CUP) approved by the Planning Commission. That remains the same. This provides an additional check and balance on this proposal.

Another notable, although less controversial, change is the distance from a dwelling unit. The current code requires any antenna to be 200' from the nearest dwelling unit or the lot line of a vacant lot zoned for a residential dwelling unit. The proposed code requires the distance to be equal to the height of the tower plus twenty feet. To be more specific, it is the height of the tower structure. In other words, if a 20' roof mounted antenna is placed upon a 36' roof, the distance is 40' from the dwelling unit not 56'.

Given one "dark spot" was identified at 56th and Lincoln and a second was identified near Mockingbird and Northern, the abovementioned amendments seemed suitable for consideration on SUP's near those intersections. In those instances, it is a private tower company, negotiating with a private property owner to place an antenna on the property. Then that same private tower company needs to convince 2 to 4 carriers to put an antenna on their tower. Lastly, the tower company needs to convince Town staff and ultimately Town Planning Commission that their antenna meets the codes not just in height, but in screening and camouflage. I believe there may even be an appeal process to the Town Council if either party feels the Planning Commission has erred. These remain significant protections for Town residents, but believe it or not, facilitate improved wireless infrastructure.

All that being said, I have left out perhaps the most concerning (and poorly communicated) proposal that came out of the meeting—that is, an antenna in the roundabout at Mockingbird and Mockingbird (to help clarify it's the intersection that aligns with 52nd St.). The proposed amendment to the PWSF code defines a Roundabout Pole as a possible infrastructure in which an antenna could be housed within a pole constructed in the center of a roundabout. However, it does NOT assign a height. The reason it does not assign a height, is the Roundabout Pole, like a structure mounted to the top of a traffic signal pole or a street light pole, is located within the Town owned right-of-way (ROW). As such, the Town controls what, who and how things are constructed within that space. My vision for trying to solve wireless coverage in this dark spot was to eventually work with staff, Council and/or the appropriate board or commission to develop a solution for this area. More specifically, I envisioned awarding the Town an exclusive license to construct an antenna in the ROW but then soliciting proposals to get the industry to propose and finance a design that best suits this location. This allows for greater creativity and flexibility. The point of the amendments to the PWSF was to put some of those tools in the ordinance now since I was already proposing to amend it for the other reasons mentioned above.

So now that you have labored through two pages of single spaced CYA, I want to be clear that I by no means believe this is the only solution to this problem. My job as staff is to provide you with a solid, reasonable solution to a problem that has been identified. More options are always welcomed. As is more review and analysis of the solution proposed. That is why the next step is to present this proposed amended ordinance to the Planning Commission in study session and have them pick it apart. This is appropriate as the PWSF code is found within the Town Zoning Ordinance and will be required before any Council action can occur. Further that process requires a citizen meeting. Lastly, this is the process we have used for similar land use related Quality of Life Initiatives of the Mayor and & Town Council. Therefore, if you have material, industry professionals you think I should talk to, or just additional feedback, please feel free to send that to me as I now forward this bundle to the Planning Commission for some additional heavy lifting.

I apologize for the length of this memo but hope it has compensated for a rather poor explanation of a possible solution to the well articulated cell phone service problem that occurred Thursday the 22nd..