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Title: Review of Ordinance Number 2017-05 Regarding Small Cell Wireless Facilities Located in Rights-of-Way and Resolution Number 2017-16 Amending the Master Fee Schedule

Sponsors: Town Council

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Attachments: 1. CELL SERVICE STATEMENT OF DIRECTION 6-8-17, 2. Ordinance 2017-05 PC Adopted (fee schedule reference added), 3. Resolution 2017-16 Master Fee Schedule - Small Cell, 4. Alternative SWF Ordinance 08 08 2017 Redline, 5. Alternative SWF Ordinance 08 08 2017 Clean, 6. 080817 Small Wireless Facility Ordinance PowerPoint, 7. SWF ROW Application w Exhibits, 8. Light Pole Detail, 9. Signal Pole Detail

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| 8/8/2017 | 1 | Town Council | Received and Filed | |

TO: Mayor Collins and the Town Council

FROM: Kevin Burke, Town Manager

DATE: August 8, 2017

DEPARTMENT: Town Manager

AGENDA TITLE:

Review of Ordinance Number 2017-05 Regarding Small Cell Wireless Facilities Located in Rights-of-Way and Resolution Number 2017-16 Amending the Master Fee Schedule

Council Goals or Other Policies / Statutory Requirements:

Responsiveness to Residents - Identify and consider resident concerns in a timely manner and seek solutions to the best of the Town's ability - Cell Service.

SUMMARY STATEMENT:

The Town Council adopted a Statement of Direction (SOD) regarding small cell wireless facilities located in Town rights-of-way on June 8, 2017. The purpose of the revision is, first and foremost, to come into compliance with the new State statute in terms of objective design standards, undergrounding, stealth and concealment, and timely processing. The Council has directed that the objective design standard for "new small cells in the right-of-way" model the New Path/Crown Castle faux cactus. Second, the Council has directed that "small cell antennas attached to existing utility poles in the ROW" model the antenna on the southwest traffic signal post of 56th Street and Lincoln Drive.

To that end, Town Attorney Andrew Miller drafted an ordinance amendment. That amendment was presented at the June 20, July 11, and July 25, 2017 Planning Commission meetings for study session, citizen review, public hearing and finally as an adopted recommendation.

The draft ordinance has two sections. Section 1 enables an applicant to receive a small wireless facility (SWF) permit through an administrative review process if the applicant meets objective design standards, undergrounding and stealth and concealment conditions. Section 2 requires an applicant for an SWF permit who wishes to deploy a design not pre-approved by the Council to undergo a legislative review process.

Section 1 amends Chapter 2 of the Town Code, rather than Chapter XII (Personal Wireless Services Facilities) of the Zoning Code, to make clear this is an administrative process rather than a zoning process. Section 2 is a legislative process requiring Planning Commission and Town Council approval that amends Chapter XI (SUP's) of the Zoning Code. Chapter XI was selected over Chapter XII since these SWF's are utility poles in the Town ROW rather than on private property. Because Section 2 is an amendment to the Zoning Code, this required Planning Commission action and a public hearing before action by the Town Council.

The majority of this action report and presentation will focus upon Section 1 because this is where the objective design standards are set. Section 2 is more open ended and therefore requires less new text.

There are 12 subsections to Section 1. Subsection 1 and 2 provide a purpose statement and definitions. Subsections 3-6 outline the objective design standards and how they apply. Subsection 7-9 address radio frequency, noise and environmental standards. Subsection 10 are the submittal requirements. Subsection 11 and 12 are limitations, general conditions and applicability.

The objective design standard is a 24' faux cactus with all associated equipment buried except for the meter and the disconnect switch. The location of the cacti must blend with its surroundings necessitating staff to visit the site prior to presenting the application to the Planning Commission. In order to blend into the surrounding built and natural environment, the cactus may not be placed in a sidewalk or visible concrete base. If, for technical reasons, the 24' faux cactus will not provide coverage and capacity consistent with industry standards, the applicant may request to place the SWF on an existing, or replaced, traffic signal pole or light pole. Such placement must be consistent with the design standards established with the 56th and Lincoln example. The exact specifics for both of these standards will be shown in an illustration attached to the application.

This first option, faux cactus, and second option, 56th & Lincoln, is different than the SOD in that the SOD allowed the applicant to place an SWF on either the faux cactus or the existing light pole at the applicant's choice. The draft ordinance directs the applicant to demonstrate the faux cactus doesn't work before going to an existing light or traffic signal pole. If Council prefers the SOD over the draft ordinance, an alternate ordinance is attached that accomplishes that version.

The Town is limited by the State statute in imposing additional requirements, but can ask for evidence that other conditions are being met. This includes compliance with FCC limits on radio frequency radiation and with National Environmental Policy Act (NEPA) assessment requirements. The ordinance also sets a noise limit of 50 decibels.

Once an SWF permit is granted, the SWF must be constructed within 180 days unless the delay is due to extending power to the location. The permit is good for 10 years, at which time the permit must either be renewed or the SWF removed. There are also provisions for removal if the SWF is not active.

In order to accomplish this code amendment prior to the effective date of the new statute on August 9, 2017, this agenda item is scheduled for public hearing and action at this August 8, 2017 meeting.

BUDGETARY IMPACT:

New statute will reduce the revenue received from those carriers licensed to place PWSF's in the rights-of-way.

ATTACHMENT(S):

Cell Service Statement of Direction 6-08-17

Ordinance 2017-05 PC Adopted (with fee schedule reference added)

Resolution 2017-16 Master Fee Schedule

Alternative SWF Ordinance 08 08 2017 Redlined

Alternative SWF Ordinance 08 08 2017 Clean

080817 Small Cell Powerpoint

SWF Application