

**City of Taylorsville
Planning Commission Meeting Minutes
March 26, 2019
Regular Session – 6:00 p.m.
2600 West Taylorsville Blvd – Council Chambers**

Attendance:

Planning Commission

Anna Barbieri – Chair
Justin Peterson – Vice Chair
Don Quigley
Marc McElreath
Rebecca Scholes
Kent Burggraaf
Lynette Wendel

Community Development Staff

Mark McGrath – Director of Community Development
Angela Price – Associate Planner
Amanda Roman – Associate Planner
Stephanie Shelman – Deputy City Attorney
Jean Gallegos – Admin Assistant/Recorder

PRESENT: Ernest Burgess

 6:04 PM

Commissioner Barbieri opened the meeting and explained the process to be followed this evening.

CONSENT AGENDA

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| 1. Review/approval of Minutes for March 12, 2019. |
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MOTION: [Commissioner Wendel](#) - I will make a motion to approve the Minutes for March 12, 2019 with one correction of a typographical error as suggested by Commissioner Burggraaf on Page 7.

SECOND: [Commissioner Peterson](#)

VOTE: All Commissioners present voted in favor. Motion passes unanimously.

Commissioner Barbieri turned the time over to **Ms. Shelman, Deputy City Attorney**, for her presentation.

ZONING TEXT AMENDMENT

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| 2. 2Z19 - Recommendation to the City Council for a Zoning Text Amendment to the Taylorsville Municipal Code, Wireless Telecommunication Facilities, Section 13.11.230. (Stephanie Shelman/Deputy City Attorney) |
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2.1  6:05 PM **Ms. Shelman** presented this item. The City Attorney's Office is proposing an additional text amendment to the Taylorsville Municipal Code, 13.11.230, Wireless Telecommunication Facilities. The amendment adds provisions which require a provider to (1) prove financial solvency to complete its project(s); and (2) provide and maintain a list of approved, licensed contractors and subcontractors whom the provider has authorized to apply for and acquire permits to construct the provider's project(s). **Ms. Shelman** provided background for this proposal saying that the Planning Department asked the City Attorney to review a proposed amendment to Section 13.11.230 – Wireless Telecommunication Facilities, before it went to the City Council. The City Attorney decided that would be the perfect opportunity to add some additional amendments to that Code based on what is being experienced in the City. Those two amendments are: (1) To require in all future franchise agreements that the applicant provides documentation showing that they are financially solvent and can complete the project as proposed and continue to

maintain them. That could be done through a letter from a CPA, accountant, auditor, etc., or any other generally accepted practice to prove solvency. That will be a part of the actual franchise agreement. (2) There will also be a requirement for applicants to provide and maintain an updated list of pre-approved contractors and sub-contractors that they intend to use to install their project. One recurring problem in the City is that people are applying for a permit and the City doesn't know for whom they are doing the work. There is a lot of confusion right now, especially with the small cells where one person comes in and gets the franchise agreement and another person ends up completing the work. Therefore, the City is going to require the applicants to provide a list of who they intend do that work so that when they do apply for a permit City Staff can simply look at that list and if the person is on that list approve it. If they are not on the list, approval will not be given.

2.2 **FINDINGS:**

- 2.2.1 This application was initiated by the City Attorney's Office.
- 2.2.2 Staff is proposing changes to 13.11.230(C).
- 2.2.3 A text amendment to the Taylorsville Municipal Code must be approved or denied by the City Council.

2.3 **STAFF RECOMMENDATION:** Staff recommends a positive recommendation to the City Council for a text amendment to the Taylorsville Municipal Code Wireless Telecommunications Facilities Section 13.11.2230.

2.4 **DISCUSSION:**

2.4.1 **Commissioner Wendel** asked about bonding and wanted to know what prompted that requirement.  6:07 PM **Ms. Shelman** advised that the bond is issued to ensure that they complete the project they start. For instance, if they run out of money before completing the project and abandon it mid-construction, the bond covers the City, so the project can be completed by other sources.

2.4.2 **Commissioner Burggraaf** said that relative to the bond, he had originally thought that it was about removal of the equipment in the event the company went out of business. That the bond would be in place to secure the cost of removal as opposed to finishing the project. The discussion tonight triggered the question of what the duration of the bond would be.  **Ms. Shelman** said the bond would be issued for a certain amount of time, which she believed it to be one or two years. **Ms. Price** added that this is a bond through the franchise agreement and she did not remember the exact length of time decided upon. **Ms. Shelman** said that it was either one or two years. **Commissioner Burggraaf** commented that then it really is for construction. **Ms. Shelman** said that was correct. **Ms. Price** added that there had been discussion during the first text amendment potentially doing some sort of bond to be held that would provide an opportunity to finish the project if they did abandon the equipment. The discussion was that legally by State law the City could not hold the bond for a significant length of time such as 10 to 20 years, which would have been prohibitive to maintain. She noted that when an applicant comes in to do work within the right-of-way, for example one company currently has bonded under the franchise agreement and then have sub-contractors coming in who are posting additional bonds under their company to pull an encroachment permit and do work within the right-of-way. These are protectives that are in place to cover any damage to the right-of-way. **Commissioner Burggraaf** asked if there were a reason to make it "at the City's discretion" as opposed to just requiring it across the board. His reason for that question is he is concerned that provision might not be applied unequally, which at some point would cause litigation action. **Ms. Shelman** said that every applicant seeking a franchise agreement will be required to post a bond. **Commissioner Burggraaf** said what he was talking about was, Exhibit A – C (Franchise Agreement), paragraph 2 (Bond), " at the City's/~~own~~ sole discretion the City may require" ... That gave him concern that this would be a discretionary decision that could potentially be interpreted as being applied unevenly, depending on who the applicant is. That if a bond is ever challenged at some point that could be used against the City. **Ms. Shelman** said they would look at the language but everyone will be required to post a bond and it is the City's discretion how much that bond will be. It will generally be applicable the same way for every project based on their engineer's estimate. **Commissioner Burggraaf** felt that language should be fixed because as it sits now it says it is a discretionary

decision. He felt what Ms. Shelman just said that everybody will be required to post a bond should be included and eliminate the “discretionary” language. **Ms. Price** said to Ms. Shelman the other thing that could be addressed is the language relative to the “engineer’s estimate”, saying that might not be suitable to determine the franchise bond amount. **Ms. Shelman** said that the bond included in the franchise agreement is a performance bond, so it is based on the engineer’s estimate of what it would cost to install their project. **Commissioner Burggraaf** said that wasn’t articulated in this particular portion. **Ms. Shelman** said it is included in the language of the franchise agreement. **Commissioner Burggraaf** was okay with that as being a negotiated term. However, felt that in this ordinance he still would like the “discretionary” reference eliminated and just say a bond will be required. **Commissioner Quigley**  said he concurred with Commissioner Burggraaf relative to that because even the last sentence in that same paragraph says, “*if* bonding is required”....and he had heard Ms. Shelman say that bonding *will* be required. He agreed that as it reads now it is a discretionary and not a required option. **Commissioner Burggraaf** said that he would like it to state that a bond will be required. **Ms. Shelman** said that she would make that change.

2.4.3 **Commissioner Scholes** referred to Section 1a, where it discusses financial solvency, the last line says that we are going to use “practices of the industry to prove financial solvency”. Her concern with that is the practices of industry in New York or California would be much more expensive than it is in Utah. Therefore, she wondered if that shouldn’t just refer to what is applicable locally. **Ms. Shelman** said that could be done that way. **Commissioner Barbieri** asked Commissioner Scholes to articulate her preference for wordage for that. **Commissioner Scholes** said it could just say, “*practices of the local industries to prove financial solvency*”. **Ms. Shelman** was agreeable with that.

2.4.4 **Commissioner Burggraaf** directed a question to Staff on that same paragraph asking what the standard would be to determine solvency. **Commissioner Barbieri** answered that saying it is a standard form that a financial firm or CPA fills out because they know the applicant’s books. When the City requires something like that then the CPA firm is signing off on it, which makes them responsible for content. **Ms. Shelman** said that the intent of this is for them to reassure the City that they can complete what they start. For example, if the project costs \$10,000 the CPA just needs to certify that they have \$10,000 to cover it. **Commissioner Barbieri** then asked if that meant the City is requesting that from an outside source verifying that they have that available or is it a request for the City to be able to see their bank account. **Ms. Shelman** said options were given such as they can provide a copy of their financial statement but do not have to open their bank account to the City. Another acceptable option is a letter from their CPA or any other means which proves they have the financial solvency for completion of the project. That determination is made by the City on a case-by-case basis because each project is different, with a different cost association thereto. The goal is to not have a company coming in, going through the franchise agreement, permitting process and digging up the street and then find out the company is not legitimate. Then the City would be left holding the bag with no bond. If an applicant provides documentation with which the City is not comfortable additional documentation will be requested. The process is intended to be broad, so that the options are workable for the applicant. **Commissioner Barbieri** asked then what would the applicant be asked to bring in. **Ms. Shelman** said the City would ask for the financial statement, etc., as previously stated. **Commissioner Barbieri** said she was okay with that.

2.4.5  **Ms. Price** said one thing the City is trying to address is there have been numerous requests received by City Staff from the telecommunications people and there needs to be parameters in place to deal with that to fully protect the City. **Commissioner Barbieri** said she favored making it a little more strict and add exact parameters as to how they prove financial solvency.

2.4.6 **Commissioner Burggraaf** felt this was an unusual scenario trying to encapsulate contract terms within an ordinance. Sometimes they are parallel but in this case, the “*sole discretion*” reference in paragraph 1a works because they are talking about verifying financial solvency but it is not a comfortable comment to put in the paragraph regarding the Bond. The question he had was making sure there are specific parameters

as to how to quantify someone being financially solvent. Admittedly he said he is not a financial person and did not know what the industry standard is for proving solvency.

2.4.7 **Ms. Price** asked Ms. Shelman if financial solvency is included in the franchise agreement and **Ms. Shelman** said it was not, that this is something new and will apply to all future franchise agreements. **Ms. Price** asked her if it made sense to have it spelled out more in the franchise agreement than in an ordinance. **Ms. Shelman** said she had discussed that with the City Attorney and he prefers that to be in the ordinance itself and not the franchise agreement. **Ms. Price** asked her if they would be more comfortable if the Planning Commission wants Staff to spell things out a little bit further to have it in the ordinance or the franchise agreement. **Ms. Shelman** said that was up to the Community Development Department and the Legal Department will do it either way. The franchise agreement is naturally going to be more detailed than the ordinance but in an ordinance it is best to have the happy median where it is not too strict but not too lenient so the applicant knows what is expected of them. **Commissioner Burggraaf** said the paragraph does that in that it gives them leniency for proving solvency. As long as there is a common understanding for what to do to prove solvency and if Staff is comfortable in enforcing this provision for establishing solvency, he was comfortable with it. He said he was comfortable with it if the Legal Department is saying it is sufficiently specific and puts them on notice and allows for additional detail in the franchise agreement. 

2.5 **Commissioner Barbieri** opened the meeting up for a public hearing.  6:25 PM Because no one came forward, she closed the public hearing and opened it up for discussion or a motion by the Planning Commission.

2.6 **MOTION:**  6:25 PM **Commissioner Burggraaf** – I move that we make a positive recommendation to the City Council for a zoning text amendment to the Taylorsville Municipal Code – Wireless Telecommunications Facilities, Section 13.11.230, File #2219, as presented, with the following modifications: In Part C, Paragraph 1, subparagraph a, the word “local” is added to the last line prior to “industry” and that in Part C, Paragraph 2, the Legal Department will re-word that to make bonding a requirement as opposed to a discretionary option imposed by the City.
SECOND: Commissioner Wendel
Commissioner Barbieri – All those in favor of sending a positive recommendation to the City Council for a zoning text amendment to the Taylorsville Municipal Code – Wireless Telecommunications Facilities, Section 13.11.230 with the Findings plus the two modifications made by Commissioner Burggraaf please signify. 
VOTE: All Commissioners present voted in favor. Motion passes unanimously.

PLANNING COMMISSION POLICIES AND PROCEDURES AMENDMENT

3. Recommendation to the City Council Regarding Amending the Taylorsville Planning Commission Policies and Procedures. (Angela Price/Senior Planner)
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 6:28 PM

3.1 **Ms. Price** presented this item saying it was introduced at the last meeting asking for a review. Tonight’s discussion will be about changes recommended.

3.1.1 **Commissioner Quigley** asked why this amendment was being requested and was informed by **Ms. Price** that Staff periodically looks at the bylaws and these have not been updated since 2010 and felt it was a good time to do so.  6:28 PM A couple of needed changes are that the Commission now does roll call votes and there is no longer a Board of Adjustment for appeals. That along with a few other minor changes.

Mr. McGrath said there was no driving force to do this rewrite right now but was a request from **Commissioner Barbieri** to do so. **Commissioner Barbieri** advised no one feels anything is broken but periodically things do change and she just wanted this looked at. **Commissioner Quigley** said he concurred with the reasons, just wanted clarification. **Ms. Price** said she had received updates suggested by **Commissioner Burggraaf**, which she will include.

3.1.2 **Commissioner Wendel** said that she had recently gone through this process with another board on which she sits. A few of those board members wanted something that gave new board members a sense of direction in that they wanted to portray what a Commissioner should expect in that role, what level of commitment exists, if there is a minimum attendance standard, a disciplinary process, etc. That seemed to her to be quite different than what was proposed for this Commission. **Commissioner Barbieri** added that how Commissioners are appointed now is different than in the past.

3.1.3 **Commissioner Peterson** asked Commission Burggraaf what changes he had submitted, to which he replied that his were in regard to State Code and City Ordinance references being needed to be updated. Otherwise he felt the bylaws were very standard for a governing board.

3.1.4 **Ms. Price** asked if there needed to be a motion regarding an amendment or table this in order for Staff to include suggested received this evening. At this point there is no formal application. Staff could work the suggestions heard this evening and come back with updated bylaws for motion. **Mr. McGrath** said there is nothing pressing in this matter and if the Commission wants Staff to make the changes and bring the final version back to the Commission for approval that will be fine.

3.1.5 **Ms. Price** went over some of the suggestions: Changing how Commissioners are appointed, regarding code citations and appeal authority. She asked if the Commissioners wanted to add some of the items suggested by Commissioner Wendel as well. **Commissioner Burggraaf** saw no need for that. **Commissioner Barbieri** felt there should be language in there should someone be injured or unable to attend, etc. **Mr. McGrath** said it would be more appropriate to say something along the lines if someone is unable to fulfill their duties then the Planning Commission can make a recommendation to the City Council in that regard because it is the City Council who makes the appointments. The Planning Commission does not have the authority to remove someone from the Commission but could make that recommendation to the City Council. **Commissioner Burggraaf** suggested making a reference that rather than someone being absent from a meeting, phrase it as an unexcused absence. Commissioners agreed with that interpretation, with **Commissioner Wendel** saying she felt that previously discussed method by the other board was meant to just keep active people active. They wanted a process by which it didn't make the Chairperson or Director uncomfortable with that type of decision. **Commissioner Quigley** felt having the Alternate position in place alleviates that problem here.

3.1.6 **Ms. Price** asked if Staff was still providing binders for new planning commissioners and **Mr. McGrath** said that binder has evolved into a CD, which no one uses anymore, so Staff is working on putting a Planning Commissioner's site on the new web page containing that information. **Ms. Price** said that Staff will bring the bylaws back to the Commission with the changes discussed this evening.

4. Taylorsville Project Update. (Mark McGrath/Director of Community Development)

 6:43 PM

4.1 **Mr. McGrath** presented this item. He gave updates and answered questions regarding a few high-profile projects in progress.  6:45 PM

4.1.1 **The Performing Arts Center** (located on the City Center property). He showed images of how it will look and explained interior features, designs and functions. He advised this will be completed in October of

2020. He explained the open space concept and said Staff will finish the schematic design very soon to give to the City Council for approval. He answered questions relative to pedestrian traffic and continuation of the trail system through this site. He explained the landscaping design concept, saying that the same company that did the Hale Theater site in Sandy will be doing this one, so expectations for quality will be high. 
7:06 PM

4.1.2 **Redwood Road Beautification.**  7:07 PM **Mr. McGrath** explained that Phase II is now ready to proceed and will be essentially a continuation of Phase I south bound on Redwood Road. A design consultant has been hired and work will begin soon. One very popular feature is the burying of the power lines along that corridor.  7:18 PM

4.1.3 **R.C. Willey Site – 4700 South.**  7:18 PM **Mr. McGrath** said they had struggled for a long time to find someone to develop the site. The property owner/developer has been very difficult to work with. 
7:20 PM Staff didn't get everything they wanted on this site but it is an improvement over when R.C. Willey had the site.

4.1.4 **Condominium Projects.** **Mr. McGrath** showed images of the progression of the projects at Muirhouse Condos, southeast of the R.C. Willey site, Villages at Winchester on 1300 West and Summit Vista on 6200 South. Staff felt all three projects are progressing nicely and have contributed greatly to the City.

4.1.5 **Mid-Valley Bus Transit.**  7:39 PM **Mr. McGrath** advised this project is in the final engineering design process now. Construction due to begin in about two years. Along this line, discussion evolved around the long-range transportation plan for Taylorsville, which **Mr. McGrath** advised will be complicated and very expensive and is projected for construction to begin in the Fall.

4.1.6 **Sorenson Research Park.** **Mr. McGrath** discussed generally what is being planned to update the site.

4.2 **Mr. McGrath** said Staff is still trying to work out a book club meeting with Holladay City and would give further information to the Commission as it is received.  7:47 PM

CITY COUNCIL MEETING DISCUSSION: **Commissioner Peterson** gave his report for the City Council meeting he attended.

ADJOURNMENT: MOTION: By motion of **Commissioner Quigley**, the meeting was adjourned at 7:49 hours.

Respectfully submitted by:

Jean Gallegos, Admin Assistant/Recorder for the
Taylorsville City Planning Commission

Approved in meeting held on April 23, 2019.