

**CELLULAR COMMUNICATIONS
ADVISORY COMMITTEE
UNAPPROVED MINUTES**

Facilitator: Dr. Navita James, University of South Florida
Facilitator: Dr. David Payne, University of South Florida

Recap of Meeting on July 13, 2011 at 5:00 p.m.
County Center

Members

The following Cellular Communications Advisory Committee members were present:

Laura Belflower	Will Bissett	Michael Brooks
Richard Davis	Carrie Grimail	Dr. Tom Mason
Manny Perotin	Michael Rothenberg	David Smith
Lee Vaughn	Denise Verrill	Dr. Tom Weller
Lisa Williams		

The CCAC meeting was brought to order at 5:05 pm by Navita James, USF Facilitator who welcomed everyone to the meeting.

The first order of business was the approval of the May 25, 2011, minutes. No additions or corrections were requested and **a motion to approve was made, seconded and passed unanimously.**

The next order of business was the approval of the June 15, 2011, minutes. A motion to approve the minutes was made and seconded. A change was requested on Page 2, Item 7.g. to change “*monopole tower*” to “*guide tower*” and to make a new category “h” stating that monopole towers are the safest of all towers. Staff was asked to review the record of the meeting to confirm the change and to make the change accordingly.

A further change was requested in the third paragraph from the bottom on Page 2, to remove “*stated*” and insert “*suggested*” in the paragraph that begins “Dr. Payne stated....”. **A motion to approve the amended minutes was made, seconded and passed unanimously.**

The next item of business is the Agenda. A motion was made and seconded to accept the agenda as presented. Discussion arose regarding the documents submitted by Mr. Rothenburg and Ms. Belflower. The committee agreed to begin discussions with item III on the agenda, and the documents provided by Mr. Rothenburg and Ms. Belflower would then become item IV. The remaining items on the agenda would move down one number, i.e., the original IV would become V, etc. **The order of the agenda was approved as amended.**

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The committee was reminded of a non-binding vote taken at the June 15, 2011, meeting that endorsed increasing the residential setbacks, although no specific manner and degree of increase was discussed. The motion passed by a vote of 5-4.

Mr. Rothenburg put forth a motion to *“call for a setback of 150% of height on land either zoned or used and that terminology is used within the context of the language of the rule.”*

The justification for the increase to 150% is that some school buildings are used as hurricane shelters and need to be outside the fall zone of adjacent towers.

The motion was seconded and Dr. James called for discussion. A clarification was requested and the proposed language was amended to read *“is adjacent to the front, rear or side yard of residentially zoned property developed or developable for residential use and/or schools, the minimum setback from the property line abutting residential and/or school property shall be 150% of the tower height”*. A further amendment was made to delete *“to the front, rear or side yard”* with no objections noted. A recommendation to delete the reference to schools was made and accepted by the maker of the motion.

Following the discussion, another amendment to the motion was made stating *“adjacent to residentially zoned property, which is developed or developable for residential use, the minimum setback from the property line abutting said residential property shall be 150% of the tower height”*. The amended motion was seconded.

Discussion on the motion followed regarding changes to the current regulations on the distance of the tower from abutting residentially zoned properties and not the distance between school building and towers.

A recommendation was made to withdraw the motion and to make three separate motions (yards, schools and 150% of tower height) to achieve a clean vote on all three issues. The maker of the motion did not accept the recommendation and asked to move forward on the original motion.

The committee moved to discuss the percentage of tower height to apply to setbacks. Committee members voiced opinions ranging from the current regulations, 150% of the tower height, the current regulations for other types of tall structures (1:3), to 1,500 feet. Ms. Belflower stated that the justification for the 150% setback was for emergency shelters, however, since the setback does not apply to buildings on the property, this removes the shelters from the discussion. Ms. Belflower stated that the only issue is aesthetics and there is no indication that 150% tower height setbacks will improve aesthetics or safety.

Another member noted that the 150% setback would take away some risk from the adjacent property owners who have no control over having a tower placed on adjacent properties. Safety is a core issue and should not be diminished.

Ms. Belflower clarified that she stated that if towers are moved away from the residential property lines, they are moved to the interior of the property, where most of the development occurs. She does not feel that a 150% setback has been justified, especially with the safety features required of towers today.

A request for clarification was requested on the issue to be voted on. The response was that if a property is surrounded by residentially zoned property, the tower would have to be placed 150% of the tower height away from the boundaries of each residentially zoned property. Dr. James called for a vote on the motion, however, the language was not precise enough and concern was expressed that the language would not be what the committee is attempting to achieve without adding additional language requiring setbacks from buildings as well as zoning district boundaries. As currently stated, a tower could be placed adjacent to an apartment building. It was noted that apartment buildings are not considered residential zoning.

Several concerns arose, including the location of tower sites, especially in urbanized areas, where commercial zoning is an ideal location for towers and the initiative of the federal government to expand the broadband coverage. In regard to the location of tower sites, members noted that in past instances, the city and county put together maps showing the effects of setbacks on available sites prior to making changes to the regulations. These members felt they would be uncomfortable voting for a change to the current regulations without having that detailed information for review prior to voting to change the regulations.

Discussion arose regarding the setbacks in other jurisdictions and it was noted that at least 70% of those jurisdictions have setbacks greater than 150% of the tower height. Ms. Belflower noted that Orange County has a variance system by which the setback amount can be reduced through the variance process.

After further discussion, Dr. James called for a vote on the motion. The motion is to amend LDC Section 6.11.29.D.2.A. to read as follows:

“Adjacent to ~~the rear or side yard~~ of residentially zoned property, which is developed or developable for residential use, the minimum setback from the property line abutting said residential property shall be ~~one foot for every three feet~~ 150% of the structure height”.

The motion passed by a vote of 7-6.

Adam Gormly of the County Attorney’s Office advised the facilitators that this will be the last meeting of the Cellular Communications Advisory Committee.

Dr. James also noted for the record that an e-mail was sent to Peggy Sewell, Administrative Specialist for Development Services, by Jim Porter, stating he had a conflict with the meeting and would not be able to attend. He also stated that he objects to the two proposals forwarded to the committee members on July 13, and there had not been adequate discussion to support the proposals. Dr. James clarified that he was not speaking specifically to setbacks, but other items

in the proposals from Mr. Rothenburg and Ms. Belflower. Dr. James noted that no vote was recorded for Mr. Porter in the vote count.

The next item for discussion was cell towers adjacent to school buildings. A motion was made to have “a 150% setback from a tower to any habitable structure”. The motion was amended to read:

“Setbacks from a WCSS and residential property, school buildings and day care facilities shall be 150% of the tower height”

The motion was seconded and discussion ensued. Dr. James called for the vote and the motion failed by a vote 6-6. Discussion arose regarding several issues and Mr. Perotin advised the committee that he would support the motion.

The vote was amended to 7-6 in support of the motion.

The next issue up for discussion is the WCSS Towers on School Properties.

Laura Belflower made a motion “to remove subsection 3 from LDC 6.11.29.(D) 3.B. 3 -WCSS and Schools; and subsection 7 (6.11.29.(D)3.B.7.)”. The motion also included changing D.3.b.4 into two new sections to become the new 3.and 4., and clarifying the new 5. to read as follows:

3. WCSS and Schools

~~New WCSS to be located on the campus of a school shall be reviewed as a Special Use pursuant to Section 10.02.00 and Section 6.11.29 D.3.b.1. above regarding completeness review shall apply.~~

- ~~i. The WCSS must be designed and built as a camouflaged WCSS unless the following additional criteria are met:~~
 - ~~a. The WCSS is smaller than 36 inches in diameter at the narrowest point on the WCSS; and~~
 - ~~b. The WCSS is designed to house at least three wireless carriers; and~~
 - ~~c. The setback from residentially zoned property is at least one (1) foot for every four (4) feet of structure height.~~
 - ~~d. All cables are placed internal to the WCSS but the antennae may be external.~~
- ~~4. All other proposed WCSS shall be reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply.~~
- ~~4. The table below identifies the zoning districts in which specific camouflage structure types are presumed compatible. If an alternative design to those identified below is desired, the request shall be reviewed pursuant to Section 10.02.00 as a Special Use, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply.~~
- ~~5. The Administrator shall grant or deny each properly completed application for collocation reviewed pursuant to Section 10.01.00, except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply, but in no case later than 45 business days after the application is determined to be properly completed. [MOVED] Failure to grant or deny a properly completed application for a WCSS within the timeframes designated for review 90 business~~

days renders the application automatically approved and the applicant may proceed with ~~placement of the new tower~~ the next level of review without interference or penalty.

The motion was seconded by Lisa Williams and passed unanimously.

A motion was then made to amend LDC Section 6.11.29.(D)3.B. to read as follows:

b. Review Process

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1. Completeness Review

- All applications for WCSS are deemed submitted or resubmitted on the date the application is received by the Administrator
- If the application is not completed in compliance with the submittal requirements of this Code, the Administrator shall so notify the applicant in writing, indicating, with specificity, any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed.
- If the Administrator fails to notify the applicant in writing that the application is not completed in compliance with the submittal requirements of this Code within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed complete, properly submitted and review shall continue.
- Once an application is complete, ~~corrected either by submission of the additional information, or it is considered complete by the lack of comments from local government agencies that it is incomplete with the 20 business day time frame, then the review shall move forward and a decision must be rendered within the normal time frames of review, as outlined in Sec. 10.02.02.C of this Code.~~

~~Failure to grant or deny a properly completed application within the timeframes designated for review renders the application automatically approved and the applicant may proceed with placement of the new tower without interference or penalty.~~ 2. The following New WCSS shall be reviewed as a Special Use pursuant to Section 10.02.00, ~~except that Section 6.11.29.D.3.b.1 above regarding application completeness review shall apply in the following circumstances:~~

- Any WCSS proposed to be located on property owned by any municipality, county, school, or state entity;
- All WCSS proposed to be located in RSC, RDC, RMC and residential PD and IPD zoning districts; and,
- All WCSS proposed to be located in CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses; ~~and,~~
- WCSS 100 to 200 feet in height proposed to be located in the ASC-1 and AS-1 districts; ~~and,~~

- WCSS 100 to 200 feet in height proposed to be located within 250 feet of the ASC-1, AS-1, RSC, RMC, RDC and residential PD and IPD zoning districts; and,
- WCSS 100 to 200 feet in height proposed to be located within 250 feet of CPV, BMS, UAC and TND districts permitting residential uses, excluding parcels developed with office or commercial uses.

The motion was seconded and passed unanimously.

A motion was made to amend the variance ordinance **to grant a variance of no less than the height of the tower from the property line (100% setback minimum)**. The motion was seconded and discussion ensued regarding the ability to make changes to the variance process without a code change. A legal issue was also raised and the issue was tabled due to lack of sufficient information to make a decision.

Ms. Belflower moved that **“The Board direct staff to look at the question of how the provisions governing cell towers are waived and varied, as well as how variances are granted, relative to how other uses are treated, and to look closely at the issues of waivers and variances relative to cell tower regulations.”**

The motion was seconded and passed unanimously.

Discussion arose regarding requiring carriers to collocate on existing towers when available and not allowing a new tower unless it can be proved the carrier cannot locate on an existing tower. A motion was made to amend the language of Land Development Code Section 6.11.29.E. to read as follows:

E. “A new WCSS shall not be approved unless it can be documented by the applicant, to the satisfaction of the Administrator, that ~~there is a need for the new WCSS which cannot be met by~~ the proposed WCA cannot be placed on an existing or approved WCSS, on a public structure, or on some other appropriate structure. Factors that ~~can~~ must be considered in this determination will include, ~~but not be limited to~~ one or more of the following:”

- 1. New WCA(s) would exceed the structural capacity of existing and approved WCSS/other appropriate structures, considering existing and planned use of those WCSS /structures, and existing and approved towers/structures cannot be reinforced to accommodate new WCA(s) at a reasonable cost.**
- 2. New WCA(s) would cause Radio Frequency (RF) interference which cannot be prevented at a reasonable cost.**
- 3. Existing or approved WCSS’s do not have sufficient space on which new WCA(s) can be placed or are not located so as to allow new WCA(s) to function effectively and reasonably in parity with other similar equipment in place or approved.**
- 4. There are no existing structures of sufficient height in the area on which to locate a WCA.**

5. **Other reasons that make it impractical to place the equipment planned by the applicant on existing and approved towers or other appropriate structures or the leased property.**

Reasonable cost shall be defined as the point up to which the cost, including any leasing agreement, of collocation exceeds what would be the cost for the applicant to construct a new WCSS. Construction costs shall not only include costs associated with the actual construction of a new WCSS (including building permits), but also those costs that would be incurred by the applicant in order to secure either a permit, if required for the construction of a new WCSS.

“Documentation shall be submitted to the Administrator at the time of permit application and shall contain, at a minimum, ~~if applicable,~~ a signed statement from appropriate accredited experts, including but not limited to a radio frequency engineer and/or a structural engineer, outlining the reasons as to why the proposed WCA cannot be located on an existing or approved structure. Appropriate support material for verification by staff or an outside expert shall be included.

Also, in Section E, Paragraph 3 shall be amended to read as follows:

Hillsborough County may obtain the services of an outside expert to review such support material for compliance with paragraphs 1-4 above or other reviews for compliance with this Code. The costs for this review shall be borne by the applicant.

The amendment was accepted by the maker of the motion and the motion passed by a vote of 12 to 1.

Discussion arose regarding lobbying the Board of County Commissioners for the recommendations provided by the committee and about official disbandment of the committee. The committee agreed that on the two motions where the vote was 7-6, the final report would include the actual vote and the minority opinion on the issues. A final report will be prepared and distributed to the members for their review and comment. Members will be allowed to submit individual comments only. Adam Gormly of the County Attorney’s Office confirmed that in order to submit a “minority” report, the committee would be required to meet “in the sunshine”.

A motion was made “to allow the committee to stay in effect until August 1, 2011, to allow a final report to be prepared by the facilitators and to allow individuals to submit a response to the facilitators five (5) days before the end of July. No additional meetings will be held during that period. The committee will request the Board of County Commissioners provide staff support until the committee is disbanded. A meeting would be held to allow the committee to adopt the final report and to make any corrections to the report. No discussion would be allowed on any issues previously discussed by the committee”.

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Following discussion, **the committee agreed to postpone the final meeting until either August 17th or August 24. The date will be determined by polling the members for their availability to attend the meetings. The amended motion was seconded; however, no vote was taken.**

There being no further business, the meeting was adjourned at 7:45 p.m.