

The City of Lake Forest
Plan Commission
Proceedings of the July 11, 2018 Meeting

A meeting of the Lake Forest Plan Commission was held on Wednesday, July 11, 2018, at 6:30 p.m., at City Hall, 220 E. Deerpath, Lake Forest, Illinois.

Commission members present: Chairman Kehr and Commissioners Michael Freeman, Monica Ruggles, Guy Berg, Susan Athenson and Remo Picchietti

Commissioners absent: None (one position vacant)

Staff present: Catherine Czerniak, Director of Community Development

1. Introduction of Commissioners and staff and review of meeting procedures.

Chairman Kehr asked the members of the Commission and staff to introduce themselves and reviewed the meeting procedures followed by the Commission.

2. Recognition of Past Plan Commission Chairman Michael Ley.

Chairman Kehr recognized Michael Ley for his years of service as a member and as Chairman of the Plan Commission. She reviewed some of the petitioners that came before the Commission under his tenure and presented him with a plaque of appreciation.

Mr. Ley thanked the Commission and the community for the opportunity to serve and expressed his appreciation and admiration to those he served with on the Commission.

3. Consideration of the minutes of the April 11, 2018 and May 9, 2018 meetings.

The minutes of the April 11, 2018 Plan Commission meeting were approved as submitted.

The minutes of the May 9, 2018 Plan Commission meeting were approved as submitted.

4. Public Hearing and Action: Consideration of amendments relating to Small Wireless Facilities. Amendments are proposed to Chapter 159, Zoning, and Chapter 98, Streets and Sidewalks.

Presented by: City staff

Chairman Kehr asked the Commission to declare any conflicts of interest or Ex Parte contacts. Hearing none, she asked staff to introduce the agenda item.

Ms. Czerniak introduced the agenda item noting that the proposed Code amendments pertaining to small wireless facilities are in response to recent legislation that pre-empted the ability of municipalities to regulate these facilities through a zoning process. She noted that the legislation authorizes small wireless facilities as permitted uses. She noted that while the legislation was making its way through the approval process, the Illinois Municipal League (IML) took a proactive approach and reached out to municipalities in the area and after a series of working sessions and seminars, produced a model ordinance for municipalities to use as a guide for local Code amendments. She stated that the amendments presented to the Commission rely heavily on the work completed by the IML since the model ordinance went through an extensive legal review. She stated that Lake Forest has a history of encouraging wireless providers to build out small wireless facilities in the community, rather than erect more cell towers. She stated that the legislation may give the City more leverage to push providers in that direction since small wireless facilities must be allowed. She noted that before new towers are permitted, providers will need to prove that smaller facilities are not workable to serve a particular area. She stated that the full text of the Public Act resulting from the legislation was included in the Commission's packet. She stated that although the facilities are permitted from a zoning perspective, municipalities may establish administrative review procedures and some regulations over the facilities. She stated that the proposed amendments presented to the Commission establish such procedures. She stated that if administrative procedures are not established, the facilities could, in some cases, be installed without permits and without notice to the City. She stated that the procedures as proposed require a permit to be obtained and give the City some ability to regulate the facilities with respect to location, separation distance and height, and allow the City to charge a fee for a review. She clarified that municipalities are not required to establish procedures. She stated however that as a follow up to the legislation, the Council directed that administrative procedures be established and directed the matter to the Plan Commission to conduct a public hearing as required for amendments to the Zoning provisions in the Code. She invited questions from the Commission.

Chairman Kehr invited questions or comments from the Commission.

Commissioner Ruggles stated that the literature provided was well written and clear.

In response to questions from Commissioner Picchiatti, Ms. Czerniak clarified that the Plan Commission's charge is to hold a public hearing on the proposed amendments and forward a recommendation to the City Council. She stated that amendments are proposed to two Chapters in the Code. She stated that an amendment to the Zoning Code is proposed simply to include a reference to the administrative procedures that will regulate small wireless facilities which are proposed to be added to Chapter 98. She added that the substantive amendments which establish the administrative procedures are proposed in Chapter 98, Streets and Sidewalks, because the legislation that was passed does not allow regulation of the facilities as a zoning matter. She noted that Chapter 98 regulates City rights-of-way which is

where most of the small wireless facilities are likely to be located making it a logical place for the administrative procedures.

Commissioner Berg reviewed the changes that occurred on the former Barat site when Old Main was demolished. He explained that wireless antennas were concealed on the chimneys of Old Main. He stated that the new cell tower that was installed on the site to accommodate the antennas that were formerly in the chimneys was unfortunate in his opinion.

In response to questions from Commissioner Berg, Ms. Czerniak clarified that the proposed amendments do not change the current Code provisions which regulate where cell towers and monopoles are permitted and establish the review process that is required depending on the location and characteristics of the new pole. She noted that a portion of the former Barat Campus was and is today a permitted location for wireless antenna and monopoles. She added that before the new monopole was permitted on the former Barat site, there was considerable due diligence done to explore possible locations in the vicinity for a new monopole with an eye to minimizing visibility. She noted that unfortunately, any tower or monopole will be seen from some perspective adding that is why the City has supported smaller facilities in lieu of new poles or towers. She stated that the Code amendments now proposed address micro and small wireless facilities, not large antenna and towers. She stated that the micro and small facilities are not currently adequately addressed in the Code. She stated that the proposed amendments do not require small wireless facilities to be reviewed by either the Building Review Board or Historic Preservation Commission.

Commissioner Freeman explained that the purpose of the Statue is to limit the ability of municipalities to place additional burdens on wireless companies if they want to use small wireless facilities. He stated that although he was not on the Commission during the discussions about Barat Campus, he is aware that a great deal of work went into considering how to accommodate the antenna that were located on top of Old Main. He stated that during his time on the Commission, discussions occurred about the Wireless Overlay District which is already in the Code. He stated that a representative, a lobbyist, for the wireless companies came before the Commission to discuss the need for an additional tower or monopole in the community. He stated that the Commission challenged the need for a new tower and questioned why smaller, lower antenna or facilities could not provide for the coverage enhancements planned. He agreed that although small wireless facilities would be allowed without a requirement for Board or Commission review as now proposed, by streamlining the process and making it easier for companies to install small facilities, the push for new towers may be decreased.

Chairman Kehr agreed noting that the ability to co-locate antenna on existing facilities, utility poles and structures, in a streamlined manner, could encourage buildout of these types of systems.

Commissioner Berg suggested that more specificity be added to the proposed language to give the staff the ability to send a proposal to the Historic Preservation Commission. He stated that ability could make staff negotiations with petitioners easier.

Commissioner Freeman stated that the Public Act states that nothing in the Act is intended to limit the authority of a municipality to enforce historic preservation in conformance with State regulations. He noted that the proposed amendment as presented repeats that language providing the opportunity for staff to refer proposed facilities to the Historic Preservation Commission if something objectionable is proposed.

Ms. Czerniak confirmed that any proposals within the historic districts that are determined to be objectionable will be referred to the Historic Preservation Commission. She clarified that any new towers that may be proposed would be governed by the existing Code language that established the wireless overlay districts.

Commissioner Freeman suggested that the reference to public safety in the amendments proposed to Chapter 98, 132 B1(b) be deleted. He pointed out that the Act allows for space reservation broadly by municipalities rather than just limiting space reservation on poles for public safety purposes.

Commissioner Athenson stated that she shares the concerns expressed by Commissioner Berg about allowing new wireless facilities in the historic districts without appropriate review. She stated that it would be helpful to have information on what the facilities look like to understand the potential impact. She stated that if facilities are proposed that could negatively impact the historic district, they should be reviewed by the Historic Preservation Commission.

In response to a question from Commissioner Athenson, Commissioner Freeman stated that based on the language proposed, no new utility poles would be permitted in areas where the undergrounding of utilities was required.

Commissioner Athenson noted that rights-of way are normally in front of homes and include the parkway she noted however, in neighborhoods like hers, the utility poles are in the back yards of homes. She questioned whether wireless facilities could be installed without notice to neighbors on ComEd poles. She noted a typo on page 6 of the proposed amendments.

In response to questions from Commissioner Athenson, Ms. Czerniak stated that currently, there are some small wireless facilities, small boxes or antenna on utility poles and that equipment is probably not noticed by most people. She stated that an antenna can extend 10 feet above an existing pole and a new pole can be up to 45 feet above ground level. She confirmed that a variance could be requested to go beyond what is permitted by the Code, but a public review process would be

required and the normal standards for a variance, including a demonstration of hardship, would need to be met.

Commissioner Freeman clarified that the legislation is intended to limit the City's ability to regulate small wireless providers. He added that the proposed Code amendments are intended to do what is allowed to minimize risk to the City knowing that the State legislature has mandated that the facilities be allowed.

In response to questions from the Commission, Ms. Czerniak confirmed that the City Council will be considering establishing fees for the review and permitting of small wireless facilities.

Commissioner Freeman pointed out that the legislation sets an upper limit on the amount that can be charged.

Commissioner Athenson suggested that the Commission recommend that the Code language be reviewed after a year to determine how it is working.

In response to questions from Commissioner Athenson, Ms. Czerniak stated that neighbors can certainly call the City with concerns about any work they see occurring. She noted that if, after investigating, the City determines that the installation of the wireless facilities is proceeding consistent with the approved plans and permits that have been issued, work will be allowed to proceed. She stated that as with any project, if work is proceeding without required permits, or in a manner that is not consistent with the approved plans, work will be stopped.

In response to comments from other Commissioners, Commissioner Freeman noted that the providers have an ongoing duty to maintain the facilities and remove them if they are no longer used. He also noted that an annual fee is charged for location on City structures. He pointed out that in his reading of the Statute, there is an opportunity for review by the Historic Preservation Commission, in accordance with the Code provisions relating to historic districts. He stated that in his opinion, the language as written provides the ability to address the concerns and accomplish the goals Commissioner Berg and Athenson identified.

Chairman Kehr reiterated that the City may not regulate the wireless facilities in a manner inconsistent with the State Statute. She stated that the amendments as proposed appear to very closely follow the Public Act.

In response to questions from Commissioner Athenson, Ms. Czerniak confirmed that the City has the ability to require landscaping to screen equipment located on the ground.

Chairman Kehr invited public comment, hearing none, she invited a motion.

Commissioner Freeman made a motion to recommend approval of the amendments to Chapters 159 and 98 as presented by staff with revisions as requested by the Commission relating to reserving space for the City broadly, not just for public safety, and the typos identified by the Commission. He added that further consideration should be given to the language relating to review by the Historic Preservation Commission adding that in his opinion, the language adequately provides the opportunity for review.

The motion was seconded by Commissioner Berg and approved by a 6 to 0 vote.

Commissioner Athenson questioned whether it would be appropriate for the Commission to receive a report on small wireless facilities and the effectiveness of the administrative process after a 12-month period.

Commissioner Freeman accepted the amendment to the motion to include a recommendation that a review of small wireless installations and the permitting process be conducted after 12-months.

The motion was approved by a vote of 6 to 0.

5. Additional public comment on non-agenda items

There was no testimony presented on non-agenda items.

6. Additional information from staff.

There was no additional information presented by staff.

The meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Catherine Czerniak
Director of Community Development