



**CITY OF WORTHINGTON
Worthington City Council Minutes**

June 11, 2018

6550 N. High Street
Worthington, Ohio
43085

CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, June 11, 2018, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Municipal Building, 6550 North High Street, Worthington, Ohio. President Michael called the meeting to order at or about 7:30 PM.

ROLL CALL

Members Present: Rachael R. Dorothy, Douglas Foust, Beth Kowalczyk, Scott Myers David Robinson, Douglas K. Smith, and Bonnie D. Michael

Member(s) Absent:

Also present: City Manager Matthew Greeson, Assistant City Manager Robyn Stewart, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire & EMS John Bailot, Clerk of Council D. Kay Thress

There were three visitors present.

PLEDGE OF ALLEGIANCE

President Michael invited all to stand and join in reciting the Pledge of Allegiance to the flag.

REPORTS OF CITY OFFICIALS

Discussion Item(s)

- Small Cell Technology in the City's Right of Way

Mr. Greeson thanked members for the opportunity to talk about Small Cell Technology. This is a classic Committee of the Whole topic as it is an important topic in the life of the City that staff would like to present in a workshop format because we need your questions and input. Assistant City Manager Robyn Stewart and Lindsay Miller of ICE Miller, who

is outside counsel for us and other communities on this topic will be the primary presenters tonight. Ms. Stewart, Mr. Lindsey and representatives from our Service & Engineering Department and other departments have been working diligently since the state law passed to prepare the materials that members will be reviewing this evening. He complimented them for their very hard work in trying to respond to the imposing deadlines that have been before us on this issue. He invited Ms. Stewart to present.

Ms. Stewart stated that the draft of the Small Cell Technology in the Right of Way document that she will overview tonight was included in the agenda packet. It is a pretty technical issue with many concepts involved. There are also many nuances in federal and state law that we have to work within. Unless you are particularly interested in this topic it may not be the most exciting to delve into so we know it can be a little tedious to get through. However it is an important topic as this technology is something that is coming and in some cases already installed around the region and we expect to see many more. It is tied to wireless carriers and the cell service and the ability to handle all of the data demand, the expectations for speed and access, and the connectivity that our residents and businesses are interested in achieving. So we know this is an important service and that people in Worthington are going to want to have access to it but we also know that it is important to think through how it is rolled out and what we are going to see and experience in our right of way. That is really the heart behind why we are talking about this issue tonight.

Ms. Stewart began her PowerPoint presentation with some background on the topic.

Small Cell Technology

- Used by cellular phone carriers to enhance the coverage and capacity of their services
- Antenna that fits in an enclosure not more than 6 cubic feet in volume
- Associated equipment cumulatively not more than 28 cubic feet in volume
- Height may be up to 40 feet tall
 - In some areas, City can limit new poles to 35 feet
 - Attachments to existing poles can be limited to no more than 5 additional feet

Ms. Stewart added that in talking with people associated with the industry, many believe that as this technology evolves the size of the equipment may get even smaller while still obtaining the same objectives.

Mr. Robinson asked if the enclosure is to be six cubic feet in volume as opposed to the antenna itself. Ms. Stewart replied that it is the antenna and the associated equipment needs to fit within something that is six cubic feet in volume.

When asked by Ms. Dorothy about how tall City poles are, Mr. Whited replied that most utility poles are about 30 to 35 feet. Mast arms are slightly less than that in most cases.

Examples of small cell equipment on poles:



Ms. Stewart shared that the reason this is being presented now is because we have a new state law that resulted from negotiations between a group of individuals and entities representing Cities that negotiated with the major wireless carriers from the industry around the deployment of this and language in the state law.

State Law

- Recently passed HB 478 set new state law regarding the deployment of small cell technology in municipal right of way
- New law goes into effect at the end of July
- Cities are required to permit small cell facilities installed by one of the four major cell phone companies in the right of way
- Within the constraints of federal and state law, cities can establish design guidelines to influence and manage the small cell facilities

Mr. Stewart invited Lindsay Miller to provide a sense of the legal environment in which we work and also some of the background of how we got here with the state law.

Ms. Miller shared that there are numerous states around the country that already have or are considering some form of small cell legislation. In the fall of 2016 we were among the first because private industry (the four main cell carriers: AT&T, Verizon, Sprint and T Mobile) and the tower companies and the wireless entities (CTIA) worked with the Ohio state legislature to pass what was Senate Bill 331. That bill was highly restrictive on what cities could do in terms of the placement, the aesthetics and the fees they could charge for small cell facilities. Although the bill was passed, it resulted in litigation. Five law suits were filed across the state of Ohio. There were fifty plaintiffs in Franklin County. ICE Miller represented those plaintiffs and we were successful in Franklin County. That led to the bill being renegotiated, which turned into House Bill 478. That will is different because it was done in negotiation with private industry. The cities that were involved in the suit sat down with the carriers and we renegotiated legislation that passed both chambers in

the spring of 2018. The bill was signed by the governor and goes into effect August 1st. That bill does account for some of the federal guidelines that are already in place regarding small cells so that we don't have to continually refer back to one or the other.

Ms. Stewart reported that she is going to go through the concepts that are in the draft Design Guidelines. There is a great deal of information here. She plans to move through them fairly quickly but if members have questions, she encouraged them to let her know so that they can be discussed. Staff is not asking for a vote tonight as we are still receiving comments from the industry because we are curious as to their reaction since they know this technology better than we do. We wanted to understand their reactions to what we are suggesting in the Design Guidelines and how that might impact roll out in our community. We also want to be able to take Council comments as well as any public comments into account when developing additional legislation. While they are still developing, given the timeline for having this in place, staff wanted to begin briefing members on this topic.

Ms. Stewart noted that these guidelines relate specifically to the City's right of way. In addressing Ms. Michael's question about the use of City owned facilities, Ms. Stewart stated that they do not fall within this because they are not right of way, however we can choose to make those available if they would serve a purpose.

Draft Design Guidelines

- Developed by considering:
 - New state law
 - Examples from other cities, in and outside Ohio
 - Characteristics of Worthington
 - Advice from legal counsel

There are Thirteen Sections in the Guidelines as follows:

Section I: Purpose

- Guidelines relate to siting, construction, installation, collocation, modification, relocation, operation and removal of small cell technology
- Goals:
 - Uniform standards and criteria
 - Enhance deployment of the technology to benefit residents, businesses and visitors
 - Preserve Worthington's character
 - Ensure compliance with health and safety regulations
 - Comply with applicable state and federal laws

When asked by Mr. Robinson how many towers we are talking about, Ms. Stewart replied that we do not know how many will be needed. There are four carriers that are not required to be on the same pole. Under federal law we can't just prohibit them from serving an

area. We can influence some of what they do and in some ways have some control under state law but in many ways it is trying to influence and negotiate on the roll out of them. The companies are not revealing their full plans and she doesn't think they know their full plans. They see this technology as critical for the roll out of 5G but they are all still working through how they are going to roll out 5G technology.

Mr. Robinson wondered what tower covers what geographical area. Ms. Stewart shared that Verizon has already reached out and started an informal conversations about wanting to install some in our community. She gets the sense that height makes a difference, how far up they can get and then whether they need omni directional, in all directions or whether they have something more direction oriented because of some specific need they are trying to address in a certain situation. So she doesn't know that one can say a small cell facility is going to cover an "x" amount of area. Ms. Miller agreed that the exact geographic coverage is unknown at this point. What is going on is the concept of densification. The analogy that is used is that of a flashlight. If you hold a flashlight above the ground, the higher you go the wider the light but the dimmer the beam becomes. What these small cell facilities need in order to provide 5G service are infrastructure that are closer together to maintain signal strength. It is as if the light of the flashlight stays bold the entire time because of the wavelength that it travels on. That is why it is different from macro towers which have a wider coverage umbrella but is not as strong a signal strength. Because we are not quite there with 5G yet, we don't know but the infrastructure that providers are trying to get out within communities is to prepare for this coming 5G revolution.

Section II: Definitions

- Many of the definitions mirror those in state law
- *Small Cell Facility*: Antenna and associated wireless equipment that meet sizes specified in state law
- *Wireless Support Structure*: Pole, including street light pole, traffic signal pole, utility pole and a 15' or taller sign pole
- *Collocation*: Install, mount, maintain, modify, operate or replace wireless facilities on a support structure
- *Toll*: Pause or delay in the required time period

Section III: Requirement to Comply

- Placement or modification of small cell facility and/or wireless support structure shall comply with these guidelines
- Operators and permittees must comply with the City's Right of Way Regulations (Codified Ordinances Chapter 949)

Section IV: Application

Ms. Stewart commented that this section is actually longer than what is highlighted below as it outlines all of the requirements for application materials. She wasn't going to cover all of that this evening but would be happy to address questions. She noted that staff may pull the application section out of the guidelines and make it a separate document.

When asked by Mr. Robinson if we are able to vary the application fee, Ms. Stewart replied that the \$250 is the most that we can charge under state law. We can charge less but not more. She clarified that the fee can be charged for each facility that is installed at a maximum of \$250 per application. Ms. Miller added that there is also an annual fee of \$200 if they collocate on City infrastructure in the right of way.

When asked by Ms. Dorothy how the City will find out if they abandoned anything, Ms. Stewart replied that language has been included in the guidelines around abandonment. If they are abandoned they have to be removed after a certain timeframe but realistically it will be very difficult absent them telling us they have abandoned them.

- Pre-application Conference is required
- Application materials and requirements are spelled out in the guidelines
- Application Fee: \$250 per small cell facility
- Timeline for Review
 - As required by state law:
 - 90 days for collocation, replacement or modification of a small cell facility
 - 120 days to construct, modify or replace a wireless support structure
- Tolling of Timeline
 - City will comply with tolling under state law:
 - Mutually agreed
 - Incomplete application
 - More than 15 requests within 30 days

Section V: Locations

- Most Preferable Locations
 - Industrial Areas
 - Highway Rights of Way
 - Retail & Commercial Areas
- Strong Preference for Collocation
- Least Preferable Locations
 - Residential Areas
 - Parks
 - Historic District
 - Architectural Review District

Mr. Robinson commented in thinking about ways to incentivize them to locate in these areas, he asked what flexibility we have to constrict the maximum height. Can we offer them a higher pole if they were to locate in an industrial area or not? Ms. Stewart replied that the City does have the ability to offer higher poles. We have indicated in our guidelines what state law requires us to do, which is the 40 feet except in some areas it is 35 feet or 5 feet above the existing pole they are using. If they find that they have low service and they need to address their service in Old Worthington, putting something out in the industrial area isn't going to help them serve Old Worthington as they will not get that kind of coverage from it. We recognize that we can't prohibit them from serving an area under federal law. We have to allow them in but we have kind of said if these are in the areas where you can achieve your service objectives, these are our preferences.

When asked by Mr. Robinson if there is any possibility of coordinating with the schools, Ms. Stewart agreed that we can work with them although that is not right of way so it doesn't fall within this state law. But we can try to offer up alternative locations or alternate property particularly if it is publicly owned and see if it would work for them.

- Order of Preference for Wireless Support Structures
 - Existing Utility Poles

Ms. Stewart noted that there are numerous AEP poles along S. High St. If those would work for their small cell facility, we would like for them to evaluate those first. There are some limitations to attaching closely to electric lines, particularly if they have higher powered electric lines as they could create some interference with their signal. But we would like for them to first consider the privately utility poles.

- Non-Ornamental Municipal Service Poles
- New Poles
- Ornamental Municipal Service Poles
- Sign Poles (15 feet or taller)

Ms. Stewart noted that City staff doesn't believe we have any sign poles over 15 feet in the City right of way that are municipally owned so we don't think they will be an option.

Section VI: Alternate Locations

- City can propose an alternate location for a new wireless support structure within
 - 100 feet of the proposed location, or
 - A distance equivalent to the width of the right of way, whichever is greater
- Operator shall use the alternate location if operator has right to use on reasonable terms and conditions and there are not technical limits or additional costs

Section VII: Placement

Ms. Stewart stated that she has a great deal of information outlined on these slides for Section VII and will not touch on all of it but if members have questions as she goes through the information let her know.

- Should not obstruct, impede or hinder usual travel or public safety
- Should not obstruct legal use of right of way by other utilities
- Must have concealed cable connections, antenna mounts and other hardware
 - Service lines undergrounded whenever feasible
 - Excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole except within an approved enclosure
 - Above ground conduit on wood poles must be as small as possible and finished in zinc, aluminum or stainless steel or colored to match those finishes
- Placed, as much as possible, in line with other utility features
- Ambient noise suppression may be required if likely to impact adjacent residences or businesses
- Ground Mounted Equipment
 - Maximize line of sight at street corners and intersections
 - Cabinet or shroud must contain all equipment other than antenna
 - Cables & conduits routed directly through metal pole & undergrounded between pole and ground-mounted cabinet
- Pole Mounted Equipment
 - Installed as flush to pole as possible, protruding no more than 2'
 - Installed at least 8' above ground (16' if necessary to protect the public and vehicular traffic)
 - On metal poles: strapped with steel banding strips, colored to match the pole
 - On wood poles: bolted or strapped with steel banding strips
 - All equipment other than antenna must be concealed in an equipment cage colored to match the pole, if metal, or brushed aluminum, if wood pole
 - Electric service: When a meter is necessary, shall use smallest, least intrusive meter available
- Undergrounded Equipment Vaults
 - May be required in some areas
- Existing wireless support structures
 - Antenna may be collocated at the top, but shall not increase height by more than 5'
- New wireless support structures
 - Overall height limited to 40'

- Or 35’ in areas with no utility poles taller than 30’ and maximum allowable height for building construction is 35’ in height
- Discourage more than one per block
- Won’t approve more than one per 250’ on each side of street unless prevents wireless service
- Competing requests: priority given to first request received
- Align, as much as possible, with centerlines of existing poles
- May require metal pole rather than wood pole based on location – No new wood poles in Architectural Review District
- Specify footings & foundations for new poles
- New metal poles must be hot-dip galvanized steel or other corrosion-resistant material and painted black
- City may require functional streetlights or brackets for flower planters, flags and/or banners
- City-Owned Wireless Support Structures
 - Require a load analysis
 - May not use City’s power source
 - Must not interfere with the existing uses on the pole
 - Installation on sign poles limited to poles 15’ or taller
 - City may reserve space for future public safety or transportation uses documents in an approved plan

Ms. Dorothy, going back to the bullet on sound asked what kind of sound will we hear from these facilities? Ms. Stewart replied that macro sites can have significant sounds because of the generators associated with them. These will have a much lower sound profile and in some case may not have much of any sound. Ms. Miller agreed. She noted that a small cell facility located near her home does not seem to emit any sound. That is not to say that they couldn’t but it would be significantly lower than any macro site.

Ms. Dorothy just wanted to make sure we have enough language in there that we can require noise suppression if necessary. She is not sure the current language is strong enough that something can be done if we have a noise issue. Ms. Stewart replied that some of that would be dictated by state law. We have authority to have requirements around color and aesthetics features. There are other areas where we have less authority and we are really just trying to influence. Ms. Miller shared that noise falls under welfare of the public and we can look at restrictions on sound. She added that there has been a great deal of discussion with industry trying to understand the technology. She thinks it is a question we can pose directly in terms of what the sound levels will be. She thinks the language can probably be strengthened if need be.

When asked by Mr. Myers if we can require to collocate with more than one carrier, Ms. Stewart replied no. She sensed that they were pretty adamant that they did not want to be forced to collocate with one of their competitors. In response to Mr. Myers’ question about whether we can require screening on ground mounted equipment, Ms. Stewart replied that falls under aesthetics and there is language around screening and concealment in the

guidelines. We certainly can influence and in some instances require screening. Mr. Myers shared that we require homeowners to screen their air conditioners. We should be allowed to have our private entities screen their boxes.

Section VIII: Undergrounding

- City may deny requests for areas where City has required all structures and facilities other than those owned by the City to be placed underground or elsewhere in the right of way or a utility easement.
- Applicant may request a waiver if it is unable to achieve its service objective elsewhere in the right of way, in a utility easement or other location made available by the City at reasonable rates, fees and terms

Mr. Myers asked if that means we can keep them off of the Village Green. Ms. Stewart replied that the Village Green is right of way so we have pretty strong language in the guidelines around the Village Green. But if they can't achieve their service objective by not being on the Village Green or on that right of way, then we can't exclude them.

Ms. Michael stated that she believes this is a case where state law is in conflict with local law because our Charter states that nothing can be on the Village Green without six of the seven Council members voting in favor to do so. She questions how this can be done. Ms. Stewart reported there being language in these guidelines around the Village Green section that indicates that we will even be open to having their placement on other City property in the area in order to avoid having them on our Village Green. Those locations include our parking lots, our buildings like the Griswold and the Kilbourne building. We are not required under state law to offer those but the staff had viewed it as an alternative to placing them on the Village Green.

Mr. Foust shared that if possible, he would still like to know more about the range of these small cell towers. Mr. Myers agreed that it would be nice to know more about the technology itself. He asked if the technology is even ready to roll out as 5G isn't here yet; it is just in development. Mr. Lindsey explained that the concept of 5G is simply a concept. It is the next generation that has yet to be developed. Even when we talked to industry representatives at the local level, they don't know what it is going to be. Carriers will utilize this law to enhance their 4G capability. This is gap fill for the current system. They will want towers where they have coverage issues or capacity issues. Verizon has already spoken with staff on this topic. Mr. Myers concluded that these facilities will work with 4G technology as well. Mr. Lindsey agreed. This allows facilities on a pole in a city's right of way. There is nothing in the legislation that says it can only be used for 5G.

Mr. Lindsey remarked that on the question of the range, we really don't know what the 5G range will or won't be. It is essentially line of sight technology so the higher up the more you get. But as Ms. Miller alluded to, the focus of the beam is important. So while they won't tell us how many we might have, it is certainly not inconceivable that at some point in time it could be one per block. We have set forth a 250' preferred distance between support structures. The fact that they asked about and questioned a distance of whether

300 or 250 suggests they are at least wanting the flexibility of locating them even closer than that.

Ms. Miller added that there are certain instances in which we can also require them to replace our poles with a pole that looks however we want it to look but also incorporates their small cell technology. So that is also an option in certain instances. Ms. Michael concluded that we could ask them to install a “Worthington pole” to which Ms. Miller agreed.

Ms. Stewart shared that because of the sensitivity of the Village Green staff has also talked about the traffic signals at SR-161 and High and possibly collocating on poles that are already there.

Section IX: Aesthetic Requirements

- Concealment
 - Prefer new wireless support structures be camouflaged except in industrial areas
 - Small cell facilities must be concealed as much as possible in an equipment cabinet
 - Equipment enclosures shall be as small as possible
 - May include landscaping and/or strategic placement
 - Underground vaults shall minimize disruption to street trees

Ms. Michael noted that the City is spending thousands of dollars on our wayfinding signage and part of that looks at pole color. She asked if we can require the pole to be a certain color to match the other poles. Ms. Stewart and Ms. Miller both replied yes.

- Colors
 - Match the background of any wireless support structure the facilities are located upon
 - Conduit on wood poles: zinc, aluminum, or stainless steel or colored to match those metal finishes
 - Ground mounted cabinets: brushed aluminum
- Signage: Operator shall post its name, location identification, and emergency telephone number using a sign not more than 4” x 6” on the cabinet or at the base of the pole
- No illumination except in compliance with state or federal regulations or if integral to camouflaging strategy
- No unnecessary equipment manufacturer decals or advertisements
- Passive cooling systems in residential areas. When fan needed, low noise profile fan.

Ms. Stewart added that the group would go back and review the noise section.

Section X: Aesthetic Requirements

- Old Worthington
 - When collocating on ornamental black traffic signals, preferred spot is on pole without street signs, at top of vertical pole, immediately below the finial

When asked by Mr. Robinson how tall the traffic signal pole is on the right, Mr. Whited replied that they are 18' to 25'. Mr. Robinson then asked if one of these companies would be able to extend the installation 35' into the air. Ms. Stewart replied that they can only add 5' onto an existing poles. We encouraged them to look at the poles without the street signs as that is the location in which we would prefer the cell be attached.



- Strongly discourage use of ornamental green streetlights
 - Use only if no other options exist
 - Light fixture must be located at the top of the pole
 - May not interfere with attachment of flags, hanging planters and/or banners

When asked by Mr. Foust if the cell provider would have the option to approach the owner of that building and install half way back on their roof, Ms. Stewart replied that they could ask but her sense is that they are not crazy about negotiating and having multiple separate agreements with individual property owners. It is much simpler for them to come into the right of way and deal with one city rather than multiple property owners.

- New wireless support structures more than 20' in height, shall match the design of the ornamental black traffic signals
- New wireless support structures less than 20' in height shall match the ornamental green streetlights
- Along High Street between Village Green Drive South and South Street, operators should look to the rear of properties
 - City will consider requests to locate on other municipal property such as parking lots in this area
- New Support Structures Outside of Old Worthington
 - High Street, Granville Road, Wilson Bridge Road, Old Wilson Bridge Road
 - Match ornamental black poles at High Street and Wilson Bridge Road

When asked by Ms. Michael if we are just requiring the poles to be painted black or are they to be a black pole with the texture of the other poles at those locations. Ms. Stewart

replied that they have to be that pole. We will be providing that name and model number.

- Olentangy River Road, Linworth Road, Huntley Road, Proprietors Road, Schrock Road
 - May be wood or metal
- Residential Areas
 - Should be located at a corner, intersection or along a lot line
 - Should be located in the yard location where other overhead utilities are located unless not technically feasible

Mr. Myers shared that he has a City light pole located in his yard and there is an easement. It is his property but it is subject to an easement given to AEP to run their power line pole. He asked what the status is of that light pole. Ms. Stewart replied that our preference would be to locate on the private utility poles. Since it is in an easement instead of a right of way she would look to the two attorneys for comment. Mr. Myers contends that it is a public pole in his yard and the only reason it is there is because he has granted an easement but he has not granted an easement to Verizon or Sprint. He asked if they could locate on a pole like that because that is the way many neighborhood poles are. Mr. Lindsey replied that it comes down to the definition. The state's statute of the public way, which includes public easement, the question becomes is that a public easement granted to the municipality or one granted otherwise to a public utility and he doesn't have that definition right in front of him. It would come down to the question of how the state defined it. The state was very willing to allow this industry to utilize the public right of way. It is now a question of what did they define to be included in that. Mr. Myers stated that he didn't necessarily need an answer but was curious.

- Village Green
 - Small cell facilities and/or new support structures should not be located here
 - City will consider requests for location on other municipal property in this area

Section XI: Installation and Inspection

- After permit granted, shall complete within 180 days
 - May be extended, but not beyond 360 days after permit issuance

Ms. Michael stated that if something is granted, is there a period of time in which they begin and end construction. She would hate to see something that has half of a pole sitting around for a year. Ms. Stewart replied they have 180 days from the time the permit is issued so it is not counted from the time they begin the installation. That can be extended under certain situations but it is not to exceed 360 days. Mr. Lindsey added that the half pole issue is always about the transferring of existing, usually wired, telecommunication providers off of the AEP pole onto the new pole.

Ms. Miller shared that there is not a start timeline that is prescribed under state law but she doesn't think that it would be unreasonable for the city of Worthington to include some sort of metric in terms of how quickly they would like construction to start. Ms. Stewart concluded that in addition to when they have to complete, we would add when they have to start.

- Applicant must obtain a Right of Way Work Permit
- Streets, alleys and other public places where work is done must be left in as good condition or repair as before such work commences and to reasonable satisfaction of City

Section XII: Interference with Operations

- Small cell facility shall not interfere with the public safety radio system or traffic signals
 - Operator must eliminate any interference that occurs

Section XIII: Removal, Replacement, Maintenance, Repair

- Replacement of Municipal-Owned Support Structure
 - City may require replacement or modification at operator's cost if necessary for collocation
 - Replacement must accommodate space reserved for future public safety or transportation uses
- Removal or Relocation for City Project
 - Operator shall remove and relocate at operator's sole expense to accommodate construction of a City public improvement project
 - If not done within 120 days of City's notice, City may remove at operator's expense

Mr. Foust asked if that would include if that pole goes away, say if utility lines were buried. Ms. Stewart replied that if it is an area that wasn't underground but is going underground, she thinks the state law said that the undergrounded area has to be designated 30 days before they apply. Ms. Miller agreed that the area has to be designated for undergrounding but it is not just from the date of designation, it is actually from the date all utilities have actually been required to move underground.

Ms. Michael knows that when Ville Charmante was developed it is all underground wire. If there is going to be the development of something like UMCH property, if we have an underground utility requirement then whenever that is developed that is when the undergrounding would go. Mr. Lindsey replied that the state law requires that we designate those areas for which undergrounding is required but those areas have to be everything underground. The designation of that has to be in advance of their making application. So the timing of when you designate and when they make application runs into the potential problem of them making application prior to the designation.

Ms. Michael questioned whether poles/cell facilities were permanent. If by chance Verizon installs a facility in the middle of the UMCH property and then later it is decided that the entire UMCH property is going to be underground for all utilities, does the Verizon pole remain forever or is there a chance that during redevelopment it could go away. Mr. Lindsey invited Ms. Miller to address how the state statute might deal with that. Ms. Miller stated that she would recommend that if there is an area that has the potential of saying that all utilities have to go underground and actually requiring them to go underground, then putting that in some sort of writing as soon as possible is important because as is indicated, it is from the date of application. So if hypothetically on August 1st Verizon or another provider came in and applied for an area that has not be designated for undergrounding nor moved everything underground, they could potentially have an argument that they could stay above ground.

- Removal Required for Safety & Imminent Danger
 - City can require operator to disconnect, remove or relocate if City reasonably determines necessary to protect public health, safety, welfare or City property or operator failed to obtain applicable licenses, permits and certifications
 - City may immediately disconnect, remove or relocate if City Manager reasonably determines an imminent danger to the public
- Removal/Abandonment of Facilities
 - Operator must remove abandoned facilities within earlier of 60 days of abandonment or within 60 days of written notice by City
 - Work permit required for removal
 - City may allow the wireless support structure to remain in the right of way and coordinate transfer of ownership to the City
- Restoration
 - Operator shall repair any damage to right of way, facilities and/or property of any third party within 10 calendar days of removal or relocation

General Provisions

- As-Build Maps and Records
 - Operator must maintain accurate maps and records
 - Operator must provide a cumulative inventory within 30 days of City's request
- Generally Applicable Health & Safety Regulations
 - All small cell facilities and wireless support structures must maintain compliance
- Tree Maintenance
 - Operator must obtain written permission from City before trimming trees
 - On private property, Operator must obtain written permission from property owner
 - City may supervise the trimming

- Graffiti
 - Must be removed not later than 14 calendar days from notice
- Minor Technical Exceptions
 - City may grant deviations when need arises from circumstances outside applicant’s control
- Waivers
 - If applicant asserts strict compliance with these guidelines effectively prohibits the provision of personal wireless service, City may grant exemption

Next Steps

- Staff has shared these draft guidelines with industry representatives and is considering their comments
- Staff will prepare legislation to be brought back to City Council for consideration

Ms. Stewart shared that members will see a couple of different forms. One, we are looking at some enabling legislation in the code. We are thinking of bringing the guidelines back to be adopted by Resolution by City Council. As mentioned earlier, the application language may be shifted to an application packet. Staff is contemplating whether that is something that we could grant authority to the City Manager or the Director of Service and Engineering in terms of spelling out what is required on the application forms. That is what we are looking at all with the intent of having this effective by the end of July in advance of the state law going into effect.

Mr. Robinson asked if we will be able to identify which company erects and owns which towers. Ms. Stewart replied that provided they get a permit, which they are not allowed to install without one, yes we will know which company installs where. In fact we have been talking with Mr. Whited’s staff about tracking that in the GIS system because when you get into our application section, we want to see in their application materials other small cell facilities that are in the vicinity of where they are proposing to be. One of the comments we received from the industry is, well how do we know if there is stealth technology used and you can’t just identify by readily looking, how will they know where their competitors facilities are because that is not necessarily something they voluntarily share with each other. If we are tracking that in our GIS system, it should be a pretty good record of where things are located. Mr. Robinson commented that an average citizen looking at a pole will not be able to tell whose it is. Ms. Stewart replied that there should be a little not to exceed 4” x 6” sign on it that has the emergency contact information as well as the company. We have specified that to go on the equipment cabinet. If at some point in the future they don’t need the equipment cabinet, we said it should go on the base of the pole.

Mr. Robinson shared that he is not inured to these violations of home rule like some of his senior colleagues here but he finds this to be a grotesque violation of the principal of self-determination. If the technology is so compelling, he would think voters and elected officials would be falling over themselves to invite this into their communities. The idea

the towers can be erected in our historic district along N. High St. where we have spent a lot of money to bury wires and so forth, he finds outrageous. Mr. Myers commented that this is the same old story. He has been fighting this since he came on Council.

Ms. Michael shared that she is sad. It is better than what 331 was but it still disrespects home rule and the ability of communities to be able to plan for their own good. She did thank the people from COMMA (Central Ohio Mayor Managers Association) and the cities who worked as hard as they could with the industry to try to bring a compromise bill because this is significantly better than 331.

Mr. Lindsey expressed his appreciation for the efforts of Ms. Miller's colleague, Greg Dunn, who is a Worthington resident and longtime telecommunication advisor to the City who fought hard to try to get some of these provisions in that allow us some ability to at least effect some aspects of the installation.

Mr. Robinson asked if anyone knows how our elected officials voted on this legislation. Ms. Michael reported that Senator Kunze voted in favor of it. Mr. Greeson reported that Representative Duffey voted against the original bill. He thinks they all voted in favor of the final compromise bill because the cities worked with the industry. Ms. Michael added that the voting in favor of 331 was just unbelievable and it came in lame duck session.

Mr. Myers shared some history of the issue that involved Judge Frye and the single subject argument, which we won. He thinks this is the best we could get and please vote it off before it gets worse.

Ms. Miller reported that Representative Duffey was actually listed as a co-sponsor on House Bill 478 as were many local representatives because of the reasons that have been mentioned here. It was seen as a compromise between municipalities and industry and the concern that was just raised. The single subject issue about bestiality and small cells being in one bill would simple be remedied and that new legislation would come through in short order as it did in lame duck. So this was the attempt to reach somewhat of a middle ground. She asked to make a comment on how much time and effort and diligence and thought members of the city of Worthington staff have put into protecting as much of the aesthetics for this community as they can under the law. Ms. Michael added her thank you to all who worked on it.

Mr. Greeson added that internally Mr. Brown, Mr. Whited, Rob Wetmore, and Mr. Lindsey all served on a committee led by Ms. Stewart. In recent months it has been a weekly endeavor to come up with what members went through tonight. He added his compliments for their effort. Ms. Stewart believes they had eight to ten weeks of meetings to develop this document.

Policy Item(s)

- Liquor Permit Transfer – Blarney Stone Investments LLC

Mr. Greeson remarked that this item was added to this agenda because of a timeline for answering these notices.

Mr. Myers commented that in light of the award that was given out last week he would make a motion.

MOTION Mr. Myers moved, Mr. Foust seconded a motion to not request a hearing on the liquor permit transfer request by Blarney Stone Investments LLC.

There being no additional comments, the motion carried unanimously by a voice vote.

Mr. Greeson shared the following items:

- A Memorandum was distributed this evening and he requested that members review it in preparation for discussion, probably next week.
- Parks Director Darren Hurley has requested a few minutes to touch on some information he distributed regarding our Bike and Pedestrian Master Planning process that is launching soon.
- He requests a quick Executive Session to discuss security plans.

Mr. Hurley reported that he placed a Memo at members' places this evening to provide a heads up of the Master Planning process for bike and pedestrian activity that has been going on for a little bit. We have been under contract and staff has been engaging with our primary consultant, Blue Zones LLC in kind of an organizational fashion trying to get the process outlined and underway. This week, in town we will have our first in person visit with representatives of the company. He outlined the plans for their visit and added that he just wanted to let members know that there will be some activity in town this week. It will be a little more behind the scenes but that process is getting up and running. Ms. Michael stated that it sounds exciting.

REPORT OF COUNCIL MEMBERS

Mr. Smith requested that Board and Commission appointments be added to the Executive Session.

Mr. Myers asked for feedback on the LimeBike roll out. He reported there being numerous bicycles in neighborhoods for an extended period of time, which was one of our concerns when the pilot project was approved.

Ms. Dorothy wanted to make sure that members received an invitation to the Cemetery Board open house at the Ozem Gardner property on Monday before our Council meeting. That is just a walk thru of the property. Tuesday is an open house when they will be providing information and receiving feedback from the public. She also thanked everyone on staff for a great Gary Smith Classic. Ms. Kowalczyk echoed Ms. Dorothy's thanks to staff.

EXECUTIVE SESSION

MOTION Mr. Smith made a motion that was seconded by Mr. Foust to meet in Executive Session to discuss security arrangements and Board and Commission appointments.

The motion carried by unanimously by a roll call vote:

Yes 7 Robinson, Kowalczyk, Dorothy, Myers, Foust, Smith, and Michael

No 0

Council recessed at 8:46 p.m. from the Regular meeting session.

MOTION Ms. Dorothy made a motion, seconded by Mr. Smith to return to open session at 9:00 p.m.

The motion carried unanimously by a voice vote.

ADJOURNMENT

MOTION Mr. Robinson made a motion, seconded by Mr. Myers to adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 9:00 p.m.

/s/ D. Kay Thress
Clerk of Council

*APPROVED by the City Council, this
18th day of June, 2018.*

/s/ Bonnie D. Michael
Council President