

PIKEVILLE/PIKE COUNTY/ELKHORN CITY
JOINT PLANNING COMMISSION
OCTOBER 11, 2005
MINUTES

BILL BLACKBURN:

We have with us Bob Grant and he's here with David Pike's firm representing Cingular Wireless. You've got the floor, Bob. Oh, wait a minute, I guess I better swear you in. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

BOB GRANT:

I do.

BILL BLACKBURN:

Very good.

BOB GRANT:

I want to thank you gentlemen for having me here this evening. As I said before we began, my name is Bob Grant. I'm an attorney with Pike Legal Group; I work for David Pike. I think many of you know him. He wanted to be here and couldn't make it so he asked me to fill in for him. I'll do my best to fill in his shoes but as you know he's an excellent speaker and has big shoes to fill. We have a proposal here before you for a 340 ft. self

supporting tower construction at 2546 US 23 South, Cingular's name for this site is Shelbiana. As you folks probably are well aware of, this is the fourth site that we've had here before you. The other three you have already approved. This is part of Cingular's plan to network to improve services in your community. As far as those other three sites, we have a site Cingular calls Zebulon and that site is located at US 119 and Burning Fork Road. That site is already on the air and is fully functional at this time. The second site Cingular calls Elkhorn City and we anticipate having that one fully functional and on the air any day now ;and in fact it may already be on the air; last I heard it was going to be any day now. The third site is a site that Cingular calls West Pikeville. That site was located at 424 Weddington Branch Road. We ran into some problems with that site, some mining issues, mineral rights issues came up on that site and we spent a great deal of time trying to work that out. In all honesty it looks like we're going to have to abandon that site and move elsewhere because the delays in getting that site up and running are going to be extensive. Instead of, what we've done there is that we're going to put in a temp site near a temp tower so that we can get service in that area. If you've ever attended one of David's training sessions or if he's covered

it in prior meetings, these things work, these sites work like a honeycomb, and so if it's a problem to us that we ran into those mineral rights issues and it's a problem to quality of service in your community that we've run into that and so that's why we want to bring in a temp site there, but as far as this particular site is concerned, the proposal that we have before you, it's on property that's owned by Jerri and Patrick McPeak. I believe that the current use for this property is, is that there's a mining operation there. We're going to locate this facility on an unused portion of that mountaintop. We've given all the public notice for this application required by your regulations and we have submitted on this site very extensive uniform application. I don't know if any of you have seen that, but KRS 100 requires very extensive ___?___ and you're required to use due diligence, and we have complied with all the requirements. Other than that if you have any questions, I'll be happy to answer them. Looks like there's no one here to speak in opposition of this project. We find that's a good thing; it attests to we have a number of really good people who work these sites and work very hard to locate these sites in an area away from residential structures as much as possible in the areas where we're unlikely to run into opposition.

BILL BLACKBURN:

Do you have any questions for Bob?

DAVID SANDERS:

Now this temporary facility at North Mayo Trail, I guess you're calling this West Pikeville, is located where specifically? You're saying near Weddington's Branch, but you're showing it on the Weddington's Branch side. Is that in the vicinity of where the Daniel Boone Inn is? Can you tell me where it's located?

BOB GRANT:

Well, I hope I didn't confuse you, the application before us is the Shelbiana site.

JOHN ELLIOTT:

He's bringing the motion we tabled last time because they didn't have anybody to represent them.

DAVID SANDERS:

Right.

JOHN ELLIOTT:

On the Shelbiana, and then I guess they're going to also going to be...

DAVID SANDERS:

And at the Shelbiana site we previously looked at which is located in, whatever that address is on South Mayo Trail but then you mentioned the temporary site.

BOB GRANT:

Exactly. We- you folks had approved earlier a site that you called West Pikeville. That site was located at 424 Weddington Branch Road. That was the site that you may recall some folks appeared and brought it to everybody's attention that there were some mineral issues involved there. We're going to move that and locate a temporary site here now at 150 Weddington Branch Road; and I haven't worked on that project I just had it in my notes here that we were going to do that. I hope that will give you some idea. Of course it will be a temporary structure. There won't be any permanent foundation. I assume we will be locating a site for a permanent site and will be back before you to get that site approved.

DAVID SANDERS:

Is- I guess, we're really getting into a different issue from the public hearing in talking about the temporary site, but since you brought it up, I guess it's a question. The temporary site is a 180 foot single pole structure, is that correct? That's what the letter from David Pike indicates, is that correct?

BOB GRANT:

Yes, that's what the letter indicates, that's correct.

DAVID SANDERS:

Well, again, onto the definition of temporary, what does Cingular consider to be temporary?

BOB GRANT:

We follow...

DAVID SANDERS:

Do you have a time frame for temporary?

BOB GRANT:

We follow the same definition that the Kentucky Public Service Commission does. As you all know up until 2001 the Kentucky Public Service Commission had exclusive jurisdiction over cell tower construction, and their definition was real simple, and that is, there is no permanent foundation. Now sometimes what we do is, we use what we call cows, that is a cell tower on wheels, and we'll bring those in, for example, to Keeneland sometimes or we'll bring them into Churchill Downs for the Derby or to the Super Bowl or something of that sort. They roll it in on a truck, the tower telescopes out from the top of the truck and it's just there for a few hours or a few days. This particular, and then they anchor it, they loosen the anchor and they drive the truck off. This one will be here a little longer; it will be there until we are able to locate another site. We're looking diligently for one now. We

want to get a site up and running, a permanent site as soon as possible. The answer to your question is, I think what you're probably asking is, how long are we going to be there? I don't know that answer to that right now, but it won't be there permanently. We will be back with another application putting another structure in and somewhere within that area, that site search. Did that answer your question?

DAVID SANDERS:

I think it does. You know, I don't know if it gives me any great level of comfort in the sense that you have a pole structure that's going to be fully visible along 23. It's going to look differently, and I guess if it's a pole structure, I'm envisioning some linear structure of some sort that's going to have guide wires on it that's going to hold it in the air, and it's not going to be at all similar to the other towers that we see in and around the county.

BOB GRANT:

I haven't seen the plans for that. I can tell you that the poles generally look like the light poles and they are what we use in urban areas, in places like we're building in Lexington and Louisville, and we use those because they have, because they do look like light poles,

they blend in better than the other structures. The downfall of those structures is there is a very significant limitation on how tall they can be. In- For the most part our engineering requirements for this area requires structures that are 320 feet tall, _____ taller structure, this is stopgap. I mean, this isn't going to completely resolve the service issues in this area, but it will help, it's a temporary solution; what we need is a taller structure in that area.

DAVID SANDERS:

That's fine, thank you.

BILL BLACKBURN:

Any other questions from the commission? Just to bring Layne up to date, we went ahead and started with the public hearing. This is Bob Grant, he's with David Pike's firm in Louisville. He's here to discuss the tower we talked about at the last meeting and also we've been discussing a temporary tower that they may use down at Weddington Branch that we approved several meetings ago. Any other questions from the commission? I think one thing, Dave, I don't want to put words into his mouth, correct me if I'm wrong, it may have been going at that too, is, if not, I'm going to ask this, we want to do things correct and according to statute and I don't know really if it's in our

power to approve or get tacit approval to the temporary tower at a different site. I guess we'd probably have Rusty have to look at that before we even hinted at an okay for that. I wouldn't want it to be thought or implied because you just gave us notice of the temporary tower that we gave tacit approval on it. I think we would want to take definite action on that one way or the other, according to whatever the statute is.

BOB GRANT:

The reason why we haven't given you a formal application like we have done on the others but the temp tower, is that under the statute it's a temporary facility. It doesn't require any formal application. It really doesn't require your review, so we send those out as a courtesy to let you know what's going on, particularly since you already approved a facility in that area and I'm sure you were interested in knowing what the status of that facility is.

JOHN ELLIOTT:

Are you referring to the regs that we set up individually for this county?

BOB GRANT:

I'm talking about the state statute.

DAVID SANDERS:

And again the site at 424 Weddington Branch was approved contingent upon Cingular being able to resolve the mineral issues because that was clearly an issue prior to the site selection and it was also an issue after the site selection. So, and that was why that became an issue because Cingular, I don't think, adequately addressed that concern in eastern Kentucky realizing that there are mineral rights in this area and so, anyway, that said, I think you recognize that and you're now looking at another location or are looking for alternate locations.

BOB GRANT:

We recognize that and we recognize that at this point that we cannot construct a facility at that location.

LAYNE TACKETT:

Where were you going to put the temporary one?

BOB GRANT:

The temporary is going to be near there, it's going to be at location 150 Weddington Branch Road. The original site which you approved was at 424 Weddington Branch Road.

DAVID SANDERS:

I've looked at the map and it's hard to tell, it appears as though it's going to near, at or near the

Daniel Boone Inn, that's that area up...

LAYNE TACKETT:

Are you familiar with that area?

BOB GRANT:

No, and I apologize, I have not worked on that application and I'm not familiar with it in any great detail. The only reason I brought it up tonight is because I wanted to let you know what we were doing to get these sites that you've been approving up and running so that you would have improved services as soon as possible.

DAVID SANDERS:

And personally I appreciate that because that was one of our concerns before is we were making or had made numerous approvals and had not seen construction occur. And now I think you've lessened my concern with the Weddington Branch site and you've also lessened my concern with the Elkhorn City site, so.

BOB GRANT:

Part of the problem we have in the area is the cost of constructing the access roads and if we want to get up on top of the mountain there's plenty of high spaces around here but there's not plenty of access roads to these high spaces. And it costs us a great deal to construct that and sometimes it makes a whole project cost prohibitive and

we want to improve your service. So what our people look for is some site where there's an existing access road and maybe we might extend a little bit to get where we need to be. That's why a site like this particular site that we're looking at it's before you tonight, that's at the McPeak, there's a McPeak mining operation there, my recollection is there's an existing road already in place that we're going to work off of.

JOHN ELLIOTT:

Talking about the Shelbiana site?

BOB GRANT:

Shelbiana site, I'm sorry, we jumped around with these other sites.

BILL BLACKBURN:

Any other comments or questions from the commission? I might make the recommendation along the, because I don't know officially if that will be handled under the agenda or not, on the temporary site, Bob, we're with you all as far as we want these things up as soon as possible to help the cellular, we're all for that, look forward to enhanced cellular service, but we do want to do things the right way; which I know you'll appreciate that in your position; and you said according to state statute then there's nothing to preclude you all from going ahead and

doing the temporary site, is that your position on that?

BOB GRANT:

That's correct. When we deploy temporary sites we always give notice, let folks know what we're doing and then that's the procedure we follow all across the state.

LAYNE TACKETT:

How long do you plan on having that in place?

BOB GRANT:

Well, that was asked earlier, we want it down as soon as possible.

LAYNE TACKETT:

What will take its place when you take it down?

BOB GRANT:

What will take its place is, and I don't have that file in front of me but I would assume it will be a structure similar to what we have before you now; and that would be something in the neighborhood of 300, depending on the elevation of the site we find, something around 300 to 340 feet.

LAYNE TACKETT:

But you're talking about something in that area, that specific area?

BOB GRANT:

Yes, because of the wave of radio frequency

technology works we have to search the area so that these towers can talk to one another in an efficient manner.

LAYNE TACKETT:

If this will be suitable for a temporary why couldn't we go ahead and put it in permanent?

BOB GRANT:

My recollection is that, what little bit I know about this temporary site is that it's down at a lower elevation and it's not a very good site to solve the service needs. It's purely a stopgap; it will help but it won't fix the problem that we're having in this area. We need to get at a higher elevation with a taller structure will do it.

LAYNE TACKETT:

How tall will this structure be?

BOB GRANT:

The temporary one?

LAYNE TACKETT:

Uh-huh.

BOB GRANT:

190 feet.

LAYNE TACKETT:

190?

BOB GRANT:

190, yes, from what I understand.

BILL BLACKBURN:

If the temporary tower went up and there were, there was a problem, say from citizens, that's pretty near the airport, by the way. If it went up and there were any problems and they would be coming back to us, why didn't you all do your job and make sure this was done and according to the book and so forth, so that's one of my, you know, concerns, we are looking after the public. If, you might want to check with Rusty Davis too, who is the city attorney, and he's familiar with the regs and our local regs that were adopted. I think they were pretty much after the model of the state statutes, but you might want to check with him to make sure you're in compliance there and so forth.

BOB GRANT:

I will certainly do that, I can tell you that as a standard operating procedure, we don't go before any jurisdiction without first ascertaining that you have regs and what they are and you can be certain we do everything that we can to keep in compliance with those. But we will give Rusty Davis a call.

KAREN HARRIS:

Bill, I just have one question, have you received the approval, temporary approval from the Aviation

of Kentucky?

BOB GRANT:

I don't know. I haven't been, as I've been explaining, I haven't been working on that site. We would absolutely not deploy any structure without prior approval. My recollection is though that under 200 feet, anything under 200 feet is exempt from that, but I'm just working from memory on that. But I will follow up on, we certainly have FAA approval for this.

BILL BLACKBURN:

Any other questions or comments? Did you all, were you all here regarding the towers or to speak to that?

GEARLDEAN BRANHAM:

I came to find out something about it.

BILL BLACKBURN:

Okay, we can address you right now in the public hearing and then go into the regular meeting.

GEARLDEAN BRANHAM:

I don't know much about it.

BILL BLACKBURN:

Will you stand please and be sworn, if you're going to speak at all? Ma'am are you here for that as well? Alright, Geralene, if you will, just stand up and take an oath if you're going to be speaking or taking a part of

this; we're required to do that.

GEARLDEAN BRANHAM:

I'm not sure I'm qualified to do that. All I can say is my only comment is that I came to learn, to find out what is happening and how it relates to...

BILL BLACKBURN:

Okay, so you're not going to be speaking to pro or for it?

GEARLDEAN BRANHAM:

No, not at this point, not that I...

BILL BLACKBURN:

Well, if you should decide then we'll swear you, how's that?

GEARLDEAN BRANHAM:

Because I don't know what's happening. I just received a letter, certified mail and...

BILL BLACKBURN:

Got your attention?

GEARLDEAN BRANHAM:

Yeah.

BILL BLACKBURN:

It was related to the tower at Shelbiana?

GEARLDEAN BRANHAM:

Yes, it is.

BILL BLACKBURN:

Alright. Any other, anyone else to speak here at the public hearing? If not then we'll move into our regular meeting. We'll call this meeting to order and I'll ask for the clerk to call the roll.

JUDY COLEMAN:

John Elliott - "Here"
Rick Gortney - "Here"
David Sanders - "Here"
Layne Tackett - "Here"
Bill Blackburn - "Here"

BILL BLACKBURN:

First thing on the agenda is the approval of the minutes from August 9, 2005 meeting. Did everyone have a chance to review those minutes? Any questions, comments about the minutes as you received them? If there is no objection they'll stand approved as printed and received. Move on to the treasurer's report, that comes from Rick Gortney, our treasurer and official throwee. If you have anything to throw tonight, throw it at him. Rick will have our treasury report.

RICK GORTNEY:

Okay, we had a beginning balance of \$5,521.68. Our only expense this month was to Ms. Coleman for our taking of the minutes which was \$239.00, which leaves us a balance of \$5,282.68. We're still in the black.

BILL BLACKBURN:

Very good. Any questions or comments about the treasurer's report as has been stated by Rick? There is none? If there's no objection, the treasurer's report will stand approved as stated. Move on now to the fourth item on the agenda, considering necessary action regarding application for construction of the cell tower by New Cingular Wireless and Bob Grant's here to discuss that.

JOHN ELLIOTT:

Looks to me like we have two issues and one of them was tabled from last month, Shelbiana and the other's the one that we're going to be considering here, correct?

BILL BLACKBURN:

Yes, it was tabled and that's what we're bringing back before the floor. Alright, that item is on the floor. Is there any other discussion, questions? Bob, you might just for Geralene's sake give a- I don't believe she was here for most of the public hearing; just give a little review of what's going on up at Shelbiana.

BOB GRANT:

I'm sorry you missed it earlier.

GEARLDEAN BRANHAM:

I have a question. How does it relate to me?

BOB GRANT:

Well the reason why you got the letter, certified letter, is that state law requires us to send notice of intent to construct a cell tower to anyone who lives within 500 feet or whose property it adjoins, property that the tower is going to be on. This tower's going to be located on property that's owned by Jerry and Patricia McPeak. It's a very large, large tract of land, so what we have here is we're notifying a number of people who live a considerable distance from where this structure is going to be. Do you know the McPeak's?

GEARLDEAN BRANHAM:

I know the name.

BOB GRANT:

That's the reason why you got the letter. The proposal is for a 340 foot tower that Cingular Wireless will be locating its antennas on to improve service to folks in the community. Is there anything else?

GEARLDEAN BRANHAM:

Is there anything else related?

BOB GRANT:

That's pretty much it in a nutshell.

LAYNE TACKETT:

How long will it take you to get this one

built?

BOB GRANT:

You know, if we would've had this, if we had not had this mix-up at the last meeting and David messed up the time and if we had been fortunate enough to receive approval at the last meeting it would probably be on the line right now. Cingular is anxious to get this one up and get it running; and now we're going to be anxious to do it before bad weather hits. So I would say there's a pretty good chance this will be up within another four to eight weeks would be my guess.

LAYNE TACKETT:

How much territory will that cover beyond that...

BOB GRANT:

You know, unfortunately, I'm not an RF engineer for me to answer that for certain, but generally speaking, structures of this size, we usually space these roughly five miles apart. Now it's different in an area of high concentrated usage. For example, in Louisville or Lexington, or even in a town like Pikeville, you start getting closer and closer together as you get more usage. That upsets logging capacity issues. What that means is that when you're calling during peak hours, peak hours

meaning you've got those free minutes and you want to make that free phone call, guess what, everybody else does too. So what you get sometimes is the same thing that we've gotten with the land line during an emergency, you get a busy signal, everybody jamming the line at the same time. I don't know what the spacing is for this area is, but I can tell you that the engineers that designed these four sites in conjunction with whatever else is already present to give them space so that we maximize the service to you. Any questions?

BILL BLACKBURN:

Any questions or comments for Bob? What's the will of the commission? Is there a motion to approve this?

JOHN ELLIOTT:

So moved.

BILL BLACKBURN:

John Elliott makes the motion. Is there a second?

DAVID SANDERS:

I second.

BILL BLACKBURN:

David Sanders seconds the motion. Any other discussion on the motion? If not, clerk, call the roll.

JUDY COLEMAN:

John Elliott - "Yes"
Rick Gortney - "Yes"
David Sanders - "Yes"
Layne Tackett - "Yes"
Bill Blackburn - "Yes"

BOB GRANT:

Thank you gentlemen. If there's nothing else I'm going to start that long drive back.

BILL BLACKBURN:

Bob, thank you, and you have a safe trip back. Next item on our agenda is to consider a letter of request from Gerald Robinette of Appalachian Wireless with regard to cell tower, a relocation at Phelps. Karen, do you want to maybe give them just a little background on that?

KAREN HARRIS:

There is, Appalachian Wireless has a cell tower located at Phelps and it's on a coal company's property and there's also a letter in your package from that coal company. They have revoked their lease to Appalachian Wireless and they want to go across the hill and locate another cell tower. Their question is whether or not they have to go through the application process or whether because it's a forced relocation through the coal company if they can just go ahead and relocate. My initial answer to them was no, they'd have to go through the application

process because of ...?... authority that they needed to get approval from and I have contacted the city attorney and he has agreed with that. I did contact Appalachian Wireless and informed them of that, however they chose to write a letter to the board to ask your opinion.

BILL BLACKBURN:

What's the will of the commission? You know the matter before you.

DAVID SANDERS:

First off, Bill, let me abstain from discussion on this. Appalachian Wireless is a client of ours and we've done numerous tower sites for them, as is the coal company that is involved in this tower relocation, so...

JOHN ELLIOTT:

You're in the middle?

DAVID SANDERS:

So my will is that I'm not going to discuss with you.

JOHN ELLIOTT:

Looks to me as if our city attorney's recommends it, recommendation, we, there's no way, we have to follow what he says.

BILL BLACKBURN:

Everyone pretty much in agreement with that?

Do you want to put that in the form of a motion?

JOHN ELLIOTT:

So move.

LAYNE TACKETT:

Second.

BILL BLACKBURN:

John Elliott moves that they do pay the fee and Layne Tackett seconds the motion. Any other discussion on the motion, submit their regular application for the new location. Clerk call the roll.

JUDY COLEMAN:

John Elliott - "Yes"
Rick Gortney - "Yes"
David Sanders - "I'll abstain"
Layne Tackett - "Yes"
Bill Blackburn - "Yes"

BILL BLACKBURN:

Any other business before us? I might just make a note that you might, Karen, if you will, make a note to mention to Rusty about this other temporary tower situation, just alert him to that fact, if you will. Any other business? Is there a motion for adjournment?

DAVID SANDERS:

So moved.

LAYNE TACKETT:

Everybody in favor stand up.

BILL BLACKBURN:

Everybody in favor stand up.

MEETING CONCLUDED

Joint Planning Commission - 10-11-05

Ben Halburn

DAVID SANDERS

Ben Grest for Cingular Wireless

David

Rich Bortner

Foyce Tackett

Heather Brunker

Betty C. Tackett