



City of Lucas
Planning and Zoning Commission
Video Conference Regular Meeting
September 10, 2020
7:00 PM
City Hall – 665 Country Club Road – Lucas, Texas
MINUTES

Call to Order

Chairman Keer called the video conference meeting to order at 7:00 pm. It was determined that a quorum was present, and the Pledge of Allegiance was recited.

Due to the absence of a regular member, alternate member Dusty Kuykendall served as a voting member.

Commissioners Present:

Chairman David Keer
Vice Chairman Tim Johnson
Commissioner Peggy Rusterholtz
Commissioner Tommy Tolson
Alternate Commissioner Dusty Kuykendall

Staff Present:

Development Services Director Joe Hilbourn
City Manager Joni Clarke
City Secretary Stacy Henderson
City Attorney Courtney Morris

Commissioners Absent:

Commissioner Joe Williams
Alternate Commissioner Adam Sussman

City Council Liaison:

Mayor Jim Olk

Regular Agenda

1. **Consider approval of the minutes of the August 13, 2020 Planning and Zoning Commission meeting.**

MOTION: A motion was made by Commissioner Rusterholtz, seconded by Commissioner Tolson to approve the minutes as presented. The motion passed unanimously by a 5 to 0 vote.

Chairman Keer moved to Agenda Item No. 3.

3. **Discuss and provide direction to staff regarding amending the City's Code of Ordinances, Chapter 14 Zoning, Article 14.04 Supplementary Regulations, by adding Division 12 Personal Broadband Antenna and Support Structures.**

Development Services Director Joe Hilbourn gave a presentation discussing FCC regulations and explained that the request was brought forward to consider permitting the installation of wireless antenna support structures in residential zoning districts as currently they were not allowed by the City's Code of Ordinances. Mr. Hilbourn noted that several applications had been received for personal broadband antenna towers, and staff has been using a section of the code related to amateur radio tower requirements; however, a more appropriate process and clarification should be considered.

Mr. Hilbourn stated that staff was seeking direction from the Planning and Zoning Commission on whether to move forward with regulations for private personal broadband antenna and support structure requirements for both clarity and to comply with Section 332(c)(7) of the Communications Act.

Chairman Keer read into the record emails that had been received regarding this request from the following individuals:

- Matt Stroud
- Chad Stock
- Laura Howard
- Ryan and Betty Jacob
- Joseph Wilson
- Brenda Rizos
- Dana Crigger

The following individuals spoke during the video conference meeting:

- Matt Greenwald spoke in favor of providing alternate means to have internet service.
- John Mejia spoke in favor of allowing the towers.
- Mike Blasko spoke in favor of having other resources available for internet service.
- Mike Jarboe spoke in favor of having other resources available for internet service and allowing the tower height to exceed 55 feet.
- Bryan Howard was not in favor of having additional towers throughout residential neighborhoods.
- Paul Rathgeb noted that commercial operators should not work under the ham radio definition and was in favor of providing an alternative for residents to receive faster internet.
- Josh Mercer, Big Wave Wireless, discussed the process for tower installation and equipment associated with the towers. The permitting application with the City was discussed and the FCC regulations that are associated with tower installation and operating requirements. Mr. Mercer said he was not in favor of limiting height to 55 feet.
- Shane Noack discussed how towers placed in residential areas could be used for commercial devices and become unsightly.
- Audrey Young spoke regarding the City creating a policy before a problem had been identified.
- Laura Howard discussed how permitting towers under the HAM radio code section was not appropriate and long-term solutions were needed.

Staff reviewed with the Commission proposed code requirements for the application and installation of personal broadband antennas in a residential area.

The Commission discussed tower structures in residential areas and safety standards surrounding the tower installation. They also discussed with the City Attorney FCC rules for over-the-air-reception devices (OTARD) noting that the City could regulate the tower structure, but the antenna could not be regulated.

The Commission asked about regulating the tower for broadband use to only one user: thereby eliminating a commercial type use from happening.

City Attorney Courtney Morris noted that OTARD rules did not provide a clear definition for commercial use and she would need to gather additional information to understand what was considered commercial.

The Commission discussed whether zoning in a residential district should allow a personal broadband tower structure to be erected and the impacts to surrounding property owners.

The Commission discussed height requirements noting that other towers within the City were 80 to 125 feet high and suggested that the 55-foot height requirement may be too low.

The Commission discussed the placement of towers in front yards, and Ms. Morris noted that according to the FCC, the City could not limit placement in the front yard if placement was needed for line of sight.

Commissioner Rusterholtz displayed pictures to the Commission of towers currently located within residential areas.

The Commission discussed the permitting process and Commissioner Tolson suggested the language be changed to refer to a Texas licensed engineer rather than a registered engineer.

The Commission was in agreement to change the allowable height from 55 feet to 80 feet and asked the City Attorney to provide clarification regarding proposed language in Section 14.04.442 (f) that currently states "No leasing space on an antenna support structure for commercial purposes. Antenna support structures are intended for personal use and may not be leased for commercial purposes."

The City Attorney agreed to provide additional clarification and bring back for discussion at the next meeting.

2. Discuss and provide direction to staff regarding amending the City's Code of Ordinances, Chapter 10 Stormwater Design Manual (Section J) and Chapter 14 Zoning, Article 14.04 Supplementary Regulations, Section 14.04.038 Driveways, to address driveway culvert installation and design criteria.

Commissioner Tolson summarized the proposed amendments to the stormwater design manual to address the use of gravel driveways, culvert pipe diameter, culvert design for private driveways, and allowable aggregate materials for gravel paved driveways. Commissioner Tolson also summarized proposed changes to the Code of Ordinances, Section 14.04.038 that addressed culvert maintenance by property owners allowing for unimpeded flow to the culvert pipe at all times.

The Commission was in agreement with the proposed amendments.

City Attorney Courtney Morris reviewed language with Commissioner Tolson regarding the proposed amendments for clarification.

The Stormwater Design Manual, Chapter 10, Section J, second paragraph shall be updated to read as follows:

Design of culverts shall include the determination of upstream backwater conditions as well as downstream velocities and flooding conditions. Consideration shall be given to the discharge velocity from culverts with the limitation that culvert pipe diameter shall be a minimum 18 inches. A headwall is required at exposed ends. Under private driveways, permanent culverts (those with reinforced concrete, asphalt, or AASHTO #3 gravel paving over the culvert) and temporary culverts (those without paving over the culvert) shall be constructed with reinforced concrete or minimum 16 gauge galvanized corrugated steel pipe. Temporary culverts and driveways must be removed within 18 months of permit issuance and the open channel reconstructed to its original design. Under public roads reinforced concrete culverts are required. Permanent culvert design for private driveways shall include minimum embedment of Class B+ per the North Central Texas Council of Governments (NCTCOG) design manual drawing 3020 dated October 2004.

The Code of Ordinances, Chapter 14, Section 14.04.038 was also amended and reads as follows:

- (a) The driveway entry radius must not overlap the common property lines as projected to the street.
- (b) Driveway culverts must be sized for each specific application. For new development, culvert size and material will be specified on the civil construction plans for each lot. For all other applications, the culvert size and material will be specified by the city at the time of the building permit or at the time a drive entry is required by the property owner. Culvert pipe material shall be either reinforced concrete or 16 gauge galvanized corrugated steel.

Culvert Material (1)	Minimum Inside Diameter	Minimum Extension (2)	Concrete Header Required
Reinforced concrete	18"	36"	No
Galvanized corrugated steel	18"	N/A	Yes (3)

- 1) Embedment of Class B+ or better per NCTCOG design manual drawing 3020 dated October 2004 required for all permanent culvert installations.
 - 2) Minimum extension beyond the edge of the driveway. If a header is used, no extension is required.
 - 3) No header is required for temporary culverts
- (c) All culverts shall be maintained by property owner to allow unimpeded flow through the culvert pipe at all times.

There was no formal action taken on this item. The proposed amendments would be brought back to the Commission for public hearings before the proposed amendments would be brought before to the City Council for consideration.

Executive Session Agenda

4. Executive Session.

An Executive Session was not held at this meeting.

5. Adjournment.

MOTION: A motion was made by Vice Chairman Johnson, seconded by Chairman Keer to adjourn the meeting at 9:26 pm. The motion passed unanimously by a 5 to 0 vote.



David Keer, Chairman



Stacy Henderson, City Secretary

