

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, January 9, 2015, with Vice Chairperson Virginia Cooper, and members Dana Pittman and Tom Harper present, Emily Geertz and George Alt were absent. Jodee Stepleton, Zoning Administrator and Dixie Seitz, Office Administrator was also in attendance.

Others present for this hearing: Jeff Riggan, David Riggan, Gary R. Allison, Nancy Snyder Shoppa, and A. F. Haskins.

Virginia Cooper: I will open this public hearing for the Zoning Commission. There are three members present. I will ask if there are any changes to the minutes? If not, can I have a motion to approve the minutes?

Tom Harper: So moved.

Virginia Cooper: Is there a second?

Dana Pittman: Second.

Virginia Cooper: Okay, all in favor please say Aye (3) Opposed (0) Absent (Geertz and Alt). Okay, since there are only three members present, I have to tell you that you would need a unanimous vote to pass this request favorably on to the Board of Supervisors. You can either go ahead with the request today or ask that it be tabled until the next meeting when we may or may not have a full board. It's up to you. What would you like to do?

Gary Allison: I think we will wait for a full board.

Virginia Cooper: Okay, that's fine. And the other party? Are you wanting to wait?

Jodee Stepleton: You also need to realize that there are no guarantees that next month it will be a full board also.

Gary Allison: Yeah, I understand. It would be better with four or five.

Jodee Stepleton: I agree with you, I just wanted to make sure that you know that we might not have five members here next month.

Virginia Cooper: True, but very seldom do we only have three, and really very seldom do we have only four.

Steve Kundel: I think we will wait too.

Virginia Cooper: Okay so both parties have chosen to table the requests until the next meeting when hopefully we will have a full board here. Okay they have been tabled. When is the next meeting?

Dixie Seitz: It would be February 6<sup>th</sup>.

Virginia Cooper: Okay, thank you and sorry to keep you waiting.

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Virginia Cooper: Okay, we will move on with the cell tower ordinance.

Jodee Stepleton: Okay, cell tower ordinance and I am sorry – this is about as rough as it could get. I was copying and pasting other ordinances from other counties. So as soon as I sent that out – I thought Dana is going to have a cow! (laughter)

Virginia Cooper: So we can just keep this until next time, right?

Jodee Stepleton: How about if we just walk through this and we can change or comment on anything that you think needs changing.

Virginia Cooper: Okay.

Jodee Stepleton: I can redraft it and then send it back out and then we can attack it again after that.

Virginia Cooper: Right, because they do have the originals that we are looking at now that they can compare with and say – well I don't like what they did. Okay, good.

Jodee Stepleton: Yeah, most definitely.

Virginia Cooper: So for the title – do we want the broadest to work from?

Tom Harper: I think the broadest.

Jodee Stepleton: Yeah, I would say broadest too.

Virginia Cooper: Okay, so what's the difference between facilities and antenna?

Jodee Stepleton: I think some of the other jurisdictions may be looking at more of the structures that are underneath the tower.

Tom Harper: Well the facilities, are you concerned with the little bitty house that sits there with the equipment in it?

Jodee Stepleton: Yeah, and that's what I am wondering where they came up with the word facility.

Tom Harper: Yeah, because some of them are just a cabinet on it and some have a little building or a shelter.

Virginia Cooper: So facilities would be the broadest then? Because facilities would include an antenna and a tower but an antenna and tower does not include a physical building.

Jodee Stepleton: Correct. So we are looking at the Communication Tower and Facilities Ordinance?

Virginia Cooper: Well I'm assuming that an antenna would be included in a tower?

Dana Pittman: Well not necessarily.

Jodee Stepleton: Well look at definitions under tower.

Tom Harper: Maybe it should be Telecommunication Tower, Antennas and Facilities Ordinance.

Virginia Cooper: Yeah, and then we are covered.

Jodee Stepleton: Okay.

Tom Harper: Well like a satellite that can be on a building, it doesn't have to be on a tower.

Jodee Stepleton: Right like the lattice antenna that Night Owl just put in – that was a lattice antenna. So you are correct, it should probably include all three.

Virginia Cooper: Okay, and as far as the definition of telecommunication, what could that mean?

Dana Pittman: Well under the definition it says... the exchange of information across a distance.

Virginia Cooper: Right, but communication is everything. I mean, that is really broad. Do we want to be able to use that for everything?

Tom Harper: No, I don't think that we should put tele in there because that narrows it down. I mean someone could argue that they are not putting up a telecommunications line.

Dana Pittman: Right, that it's not telecommunications.

Virginia Cooper: But will this ordinance ever need to cover anything besides telecommunication? I mean as things open up...

Dana Pittman: We wouldn't know. I think the broader would work.

Jodee Stepleton: So you are saying just communication tower, antenna and facilities ordinance?

Virginia Cooper: Yeah, communication is broader. So we are looking at Communication Tower, Antenna and Facilities Ordinance.

Tom Harper: Yeah and I think that a definition of communication concerns all formats, voice, video, data.

Jodee Stepleton: I will look for a definition of communication.

Tom Harper: There are a lot of places out there that wouldn't be covered, you know, like the telemeter. They are usually low to the ground or sitting on the side of a building and they are not...they wouldn't be covered by this because of their height. But at least that is an example of communications.

Virginia Cooper: So then the next one should read, an ordinance regulating the placement of towers, antennas and facilities.

Jodee Stepleton: Do you think it should say communication towers?

Virginia Cooper: Yes.

Jodee Stepleton: Okay. I will carry the towers, antennas and facilities wording all throughout that it has telecommunication, okay?

Virginia Cooper: Okay.

Jodee Stepleton: Now on the statement of intent, everything in red is from other jurisdictions. If you don't want to go into all of that...

Tom Harper: I would have to think about it, but I think that that would fit the intent.

Dana Pittman: Yeah it's got some things in here that I think are necessary.

Tom Harper: Like the joint use.

Dana Pittman: It says that the adverse impacts on the community are minimized.

Virginia Cooper: I like it, yes.

Tom Harper: Yeah and I think that we all know that all cell towers have to fit within ... or any microwave tower they have to fit within a range for their operation.

Jodee Stepleton: Right.

Tom Harper: They are limited to how far they can move, they generally can move 100, 200, 500 or 1,000 feet maybe.

Virginia Cooper: And I would on each of those six points and the paragraph proceeding, I would add....make sure that it's stated... like where it states the location of towers in non-residential areas... I would say location of towers, antennas and facilities on every single one of them.

Jodee Stepleton: Now the only problem is you just...there is a residential area that you just approved one, an antenna, because it is not as invasive as a tower. You know?

Virginia Cooper: Okay.

Jodee Stepleton: That was my biggest question with that, is that you are looking for non-residential areas but you just approved that one in a residential area because that's the area that there was nothing else available.

Tom Harper: Right.

Dixie Seitz: That was the Board of Adjustment that allowed it.

Jodee Stepleton: Oh, excuse me, you are right, it was Board of Adjustment. But it was just approved and it was in a residential area.

Dana Pittman: Was that the guy that was here last month?

Jodee Stepleton: Yeah from Night Owl.

Tom Harper: But that's why it was approved because there was no other option.

Jodee Stepleton: Exactly but this is just saying that it encourages you not to allow it, it doesn't say that you can't.

Tom Harper: Right, like if all other options have been exhausted than it could be allowed.

Dana Pittman: On number four you could even say to encourage the location of towers, antennas and facilities...broaden that a little, just in case something comes up. Like you say, maybe it's the only spot that you can put it but, you can say encourage.

Jodee Stepleton: Okay. The definitions I tweaked from what I was seeing from other ordinances are there. On height, is that a word?

Dana Pittman: Where is that?

Tom Harper: It's a word, but I don't know what it is.

Dana Pittman: Yeah, I didn't know, that was a strange one.

Jodee Stepleton: I will circle it and look it up.

Virginia Cooper: Yeah, if it is a word we want to know what it means, you know?

Jodee Stepleton: We might have to add that to the definition.

Tom Harper: Which county did that come from?

Jodee Stepleton: I'm not sure.

Tom Harper: I would say if it's Johnson it's probably right, but there's no guarantee.

Jodee Stepleton: Okay, should I look for a definition for facilities also?

Virginia Cooper: Yes.

Tom Harper: Uh huh.

Virginia Cooper: Yeah, I'm assuming that it means a physical building of some type or a structure.

Jodee Stepleton: Yeah and I will go back and look for that definition too.

Dana Pittman: Appurtenance is an accessory or other item associated with a particular activity or style of living. Yeah, we might want to look at that a little further.

Jodee Stepleton: Yep, we can do that. Okay, zoning districts. The original ordinance done by Randy Milder in 2002 did not allow towers in some districts. We discussed allowing all zoning districts to have the towers. (changed tapes)

Virginia Cooper: Yes.

Tom Harper: Okay, under Section 5 it says the last sentence, Towers that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure. That's just stating that if they are going to locate this in an area that is non-conforming use, that we don't consider that non-conforming use as part of the process. Is that correct? I'm just trying to think of an example of a non-conforming use. Maybe a mobile home park that's located in a C-2 Commercial zoning and they want to put an antenna up or a tower in there, is it saying that we are not going to consider their non-conforming use as a reason to deny the placement of a tower.

Jodee Stepleton: Well I was reading it as the tower is already there and antennas that are going to be installed...we're saying that even if the tower was not permitted that allowing an antenna to go on that tower is okay. That's how I am reading it to say.

Tom Harper: Right, so we are not going to consider the non-conforming use and make them go ...

Jodee Stepleton: Yeah we are not going to make them go backwards to get the tower approved before we let them put another antenna on it.

Virginia Cooper: Can we change the verbiage on that to reflect that so that we are all on the same page?

Jodee Stepleton: Yeah, just for clarification.

Dana Pittman: Yeah, I mean it makes sense hearing that.

Tom Harper: Okay, say a tower is out in the county and it has a gazillion antennas on it and they want to put one more on there, they are going to have to come in front of us to get permission on that. But if they don't have the setback already on that tower already, than we don't consider that.

Jodee Stepleton: Right.

Tom Harper: Okay.

Virginia Cooper: Yeah, good question.

Jodee Stepleton: In that case though what happens on the design of that tower... the tower may be designed to only have 14 antennas, that would be the structural issue.

Tom Harper: Yeah, they are still going to have to show us. Because the structure would not be a non-conforming use, the placement of it would be the non-conforming use. I mean, I guess the structure could be a non-conforming use because it was never permitted before, now these are all going to be grandfathered in.

Dana Pittman: But you would look to make sure that it could hold that number of antennas.

Dixie Seitz: So how are we going to do that? I mean, right now when a company wants to add an antenna to an existing tower we just require them to purchase a permit. So are we going to have to have them prove to us that it is able to hold additional antennas?

Virginia Cooper: Yeah, because we wouldn't know if that tower can support just one more if it is at its maximum or not.

Tom Harper: Yeah, it's just that we are not going to impose upon them to move that tower because it's not set back where it should be according to this ordinance. But for public safety we need to know that it will support the weight of an additional antenna.

Dana Pittman: Yeah, because it's not the weight of the antenna, it's when it's up there in the air and the wind.

Virginia Cooper: Right.

Jodee Stepleton: And obviously there are other counties that have these ordinances asking for the structural integrity of these towers. So it's not like we are just pulling it out of the air.

Virginia Cooper: No, and I bet there are towers that are probably maxed or close to maxed out and we aren't going to know that, unless they tell us.

Dana Pittman: Yeah, it could even just be the placement of the antenna. I mean if you stick it at the top you would be catching more wind than maybe down at the bottom or half way up.

Virginia Cooper: Right.

Jodee Stepleton: Well I will tweak this to what we have discussed and then we'll come back after next month's meeting and maybe look at it again and if anything else needs to be tweaked, than a month after that we could possibly have it on the board's agenda. Thank you for coming.

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