

Worksession
February 8, 2010
Municipal Center

- Call to Order The Champlin City Council met in a Worksession and was called to order by Mayor Mark Uglem at 6:00 p.m.
- Roll Call Present were Mayor Mark Uglem, Councilmembers Eric Johnson, Julia Whalen, ArMand Nelson and Greg Payer.
- Absent: none.
- City Staff Attending: City Administrator Bret Heitkamp, City Clerk Roberta Colotti, Community Development Director John Cox, City Planner Scott Schulte, Parks Facilities Manager Dan Masloski and City Attorney Darrell Jensen.
- Approval of Agenda Motion by Councilmember Whalen and seconded by Councilmember Nelson to approve the agenda for the February 8, 2010 Worksession as presented. Voting in favor: Mayor Uglem, Councilmembers Payer, Nelson, Johnson and Whalen. Voting against: none, whereupon said motion passed this 8th day of February, 2010.
- Cell Towers The Community Development Director stated that Clearwire Corp. has expressed an interest in locating an antenna on Water Tower No. 1 and building a wireless communications tower at Andrews Park. Clearwire is building a high speed wireless internet network in this region. Staff is negotiating the water tower lease, and is introducing their Andrews Park request to measure the Council's interest.
- The City Planner stated that the City adopted a Wireless Telecommunications Policy in 1998. The policy guides zoning regulations and antenna and tower requests on City owned property. The policy meets the requirements of the Telecommunications Act of 1996 and sets minimum design standards for antennas and towers. With respect to parks, the policy states that the antennas and towers may conflict with certain parks, especially conservation areas. The policy suggests antennas or towers be considered only in larger public parks after a recommendation of the Parks & Recreation Commission.
- The City Planner stated that the telecommunications policy and zoning ordinance permits towers on government, school, utility and institutional properties and allows them as conditional uses on protected residential property or properties having a residential zoning and/or land use. The policy also sets performance standards regulating height, setback, lighting and design. The policy also requires collocation, where possible.
- The City Planner stated that in May of 2007 the City Council denied a conditional use permit (CUP) request by T-Mobile to construct a 100' high cell tower in Andrews Park. The CUP was denied on the basis that T-Mobile had not secured a lease with the City. T-Mobile and Clearwire have an interest in building a tower in Andrews Park to meet a service gap. The City's policy encourages the construction of a collocation pole accommodating at least two users. Such a pole would need to be 100' to 120' high. A Clearwire only tower could be shorter.
- The City Planner stated that there are a number of possible design solutions to address the issues raised during the T-Mobile discussion. There are towers that serve as a light pole, or are disguised as a flag pole or a bell tower. He stated that staff favors a canister style tower that hides the antennae inside the pole. The tower type is sleeker and less obtrusive.
- The City Planner stated that regarding fencing and buildings, it is becoming more common for telecommunications companies to build their facilities without fences and to upgrade their buildings to avoid the aesthetics and safety issues. If approved, both conditions would be recommended.
- The Community Development Director stated that the City leases space on Water Tower No. 1 to eight communications companies, including six cell phone companies. While water tower lease rates can vary

due to a number of factors, recent leases are running around \$24,000 a year. Champlin does not lease a cell tower site, however, some neighboring cities do. The City of Brooklyn Park leases three park sites for towers (100' to 120' tall towers) which generate \$18,000 a year each, plus \$3,000 for additional users. The City of Andover issues tower licenses in their parks. The license fees vary depending on height and number of users and range from \$5,000 to \$18,000 each per year. The tower is owned by the City of Andover.

The Community Development Director stated that presently antennae lease proceeds go to the general fund. Given the concerns raised by Andrews Park neighbors and park system users, the Council could consider dedicating some or all of the proceeds to park system improvements or to Andrew's park.

The Community Development Director stated that there are three main options for the Council to consider this evening.

1. Work with Clearwire on an Andrews park collocation tower (possibly T-Mobile) with a canister-style design, and upgraded building and no fence. It is anticipated that the tower would be 100' to 120' high.
2. Work with Clearwire on a single user tower in Andrews Park with a canister-style design, and upgraded building and no fence. It is anticipated the tower would be 100' tall.
3. Do not work with either party on a tower proposal and consider a policy to prohibit wireless communication towers in City parks.

Referencing the January 9, 2010 article in the Star Tribune "Brooklyn Park first to benefit as WiMax moves in", Mayor Uglem asked what impact this new service would have on the City of Champlin

The Community Development Director stated that WiMax is an internet service provided by Clearwire. They are starting in Brooklyn Park and are looking to locate in Champlin. The study they have shared with staff shows how the Andrews Park site would fill a service gap.

Councilmember Johnson asked what elements of the zoning ordinance, policy or approval process is governed by federal laws.

The Community Development Director stated that we can not discriminate between users through the zoning ordinance.

The City Attorney stated that the City can not adopt regulations that would result in a blanket exclusion of cell towers. The city can set standards in the zoning code but must allow for this type of use.

The Community Development Director added that the City does have control over the decision to lease sites within the park system.

The City Attorney stated that the City could have a problem if we charged \$100,000 for one lease and a significantly smaller fee for a different carrier's lease.

Mayor Uglem commented that the decision on whether to locate cell towers in parks or not is one many other cities have had to make. He asked if there were any technical weaknesses to the canister-style design.

Councilmember Whalen stated that the flag design option would actually draw attention towards the pole instead of camouflaging it.

The City Administrator questioned the height at which a pole would need to be marked with a red light for aircraft.

The Community Development Director stated the height regulation would need to be researched.

The Parks Facilities Manager stated that the tallest pole in Andrews Park is 70'

Councilmember Johnson asked how the different heights would look in the park.

The City Administrator presented an example on the site drawing.

Councilmember Nelson stated that he is concerned about the public comments the Parks & Recreation Commission received when this issue was considered as part of the T-Mobile application. At that time some of the concerns centered on fencing. However, the public was clear in their opposition.

The City Administrator referenced the February 3, 2010 Star Tribune article "Andover has its say on Internet towers" in which the City of Andover considered permitting cell towers in their parks. While the article expressed a sentiment that parks are not for sale, he knows our current budget and how dedicated park funds could benefit our park system.

Councilmember Johnson stated that the concerns expressed at the time of the T-Mobile application fell into two categories; aesthetics and health concerns. The aesthetics are in the eye of the beholder, but the health concerns can be addressed with further information.

The City Planner stated that it has been suggested that the City require an annual readout at the base of the tower to make sure it is staying within federal guidelines.

Councilmember Johnson asked how far the proposed pole was from any residential property.

The City Planner estimated the distance between the pole and residential property to be between 300' and 500'.

Mayor Uglem asked if radiation was what was being measured.

The City Planner said, yes, essentially they were measuring radiation. He noted that the cell phone consultant retained by the City, has reported that a cell phone user would likely receive more radiation from their cell phone itself than a person would from the tower.

The City Attorney stated that if there are federal guidelines for radiation levels, the City could not establish a different level of measurement.

Councilmember Whalen asked if the park & ride site, which was show on the map as being within the acceptable areas, has been pursued.

The Community Development Director said he was not aware of any discussions regarding this site. He stated that site would be closer to residential homes than the proposed Andrews park site.

The City Attorney stated that as part of the CUP application the applicant will be required to show that they have considered other sites besides the parks.

Councilmember Payer stated that while the parks are not for sale, there is a dire need for park funding. While he has never had a resident say they would like to see a cell tower constructed in a park, he has had a number say they would not want one located there. He commented that it is interesting that the Council would spend time and resources to protect the DNR open space, yet we would consider this option for our parks. The residents have expressed a desire to keep the temporary ice rinks open, which were closed due to a lack of funding. However, he does not think this will be a financial boon to the City.

Councilmember Whalen addressed the aesthetic differences between the park & ride site and Andrew's park. She would recommend the park & ride site.

Mayor Uglem asked if the park & ride site would meet the need of the companies to fill the service gap.

The Community Development Director stated that 1 ¼ miles is the distance companies like to have between towers. It is also important for the towers to be able to talk to each other.

The City Attorney stated that if the Council were to prohibit towers in the parks the City would need to document the conditions for denial.

The City Planner stated that if the City Council does not want to allow towers in the parks, they should amend the City Policy.

Councilmember Payer asked who would own the cell tower pole.

The Community Development Director stated that is negotiable.

Councilmember Payer stated that it would be advantageous for the City to own the pole in the event the provider went bankrupt. The City could take care of the maintenance.

The City Administrator stated that the City has agreements with the current water tower lease holders outlining their responsibility to dismantle their equipment in the event of bankruptcy.

Mayor Uglem asked if other cities require a bond to cover the cost of removal.

The Community Development Director stated that he would need to research that.

Councilmember Payer stated that without a bond, the request for removal would die in bankruptcy court.

Councilmember Nelson asked if the proposed Clearwire tower needs to be 100' tall.

The City Planner stated that they are requesting a 125' tall pole. However, the City's consultant has not yet reviewed this request.

Councilmember Payer stated that neither Verizon nor Sprint needs a monopole. Do we know what AT&T needs?

The City Planner stated staff looked at several custom poles and in the City of Brooklyn Park one of the poles was owned by AT&T.

Mayor Uglem stated that he has a list of question that he would like answered before continuing this discussion.

1. Should a bond be required to cover the cost to remove the equipment?
2. Height at which a pole requires a red light to alert aircrafts.
3. Federal safety standards and monitoring requirements.
4. Options for a design that would be compatible with the parks.
5. Best ownership agreement (City or company).

Councilmember Payer asked what the height of the tree line was in Andrews Park.

The City Planner estimated the tree line in Andrews Park to be between 50' and 60' tall.

Mayor Uglem stated that he would like to see Clearwire pursue the park & ride site before the Andrews Park site.

Councilmember Payer stated that he has some concern that the park & ride site might be moved in the future.

The Community Development Director stated that there has been some discussion of moving the park & ride site, but no time frame has been provided.

Councilmember Johnson stated that while the City has the option to lease the park site, it does not control the park & ride site, would the City then have any control over this being the approved site?

The City Planner stated that the City will control this location approval through the CUP process.

Councilmember Johnson asked if the City has established conditions for approval in the CUP and they

meet those, on what basis the City could deny the request.

The City Attorney stated that if the company meets the conditions of the CUP the City can not deny the request.

Councilmember Johnson stated that he does not see the lease agreement as meaning that the parks are for sale; he sees this as another revenue source for the parks. The provider is offering another high speed internet option for our residents. The Council needs to balance the concerns of the neighborhood located along the park and the needs of the entire community.

Councilmember Whalen stated that the neighbors along Andrews Park have accepted a lot regarding the park and one more thing in the park is a big deal.

Councilmember Payer agreed that this is important to the residents. He noted that the cell tower would benefit those across the highway but would impact those near the site.

Mayor Uglem stated that this evening is strictly a Worksession and the Council is not being asked to take action tonight. He added that there is a lot of research work to be done before the Council can make a final decision.

The City Planner stated that he did not want to set a false expectation regarding the research work to be done, as some of the questions had been answered.

Mayor Uglem asked about the bond requirement.

The City Planner stated that if the tower is located on City land we can require a bond and set the amount.

The City Planner stated that some of the details the Council wants worked out create a “chicken & egg” question as they might be better negotiated after the decision whether to allow cell towers in the parks is made.

The Community Development Director stated that he will speak with Clearwire about the park & ride site.

Councilmember Whalen asked if the current proposal is for one provider or two.

Mayor Uglem stated that at this time only one provider has approached the City.

Councilmember Payer questioned the anti-discrimination requirements as they relate to the lease terms.

The City Attorney stated that the City can not set different standards for different carriers.

Councilmember Payer asked if you can set different prices for park land vs. water tower locations and if staff would agree that the park land had more value than the water tower.

The City Administrator stated that there is more value to the park land; however, it is a fine line where investment meets ability to pay the lease and be profitable.

Councilmember Payer asked how it would equate if a second user paid less.

The Community Development Director stated that in Brooklyn Park the first carrier paid \$18,000 and the second paid \$13,000. In Andover the City owns the pole and the carriers each pay \$5,000.

Councilmember Payer stated that he would not be interested in a \$5,000 lease payment.

Mayor Uglem stated that the debate tonight is not about money, it is about zoning and other issues. It is about the core question, “is it an appropriate use of our parks”.

The City Administrator stated that the City needs to balance the competing needs of the residents as we are receiving an increased number of calls from residents requesting a choice in providers.

The City Administrator stated that staff will prepare the information requested by the Council and bring this item back for consideration at a future meeting, likely at a COW.

The Community Development Director stated that staff could prepare two models based on Brooklyn Park and Andover, to demonstrate who gets what under each scenario.

The City Planner stated that he believes the answer to the question on the height at which a red light is required for aircraft is 200'.

Councilmember Payer requested a report of the lease agreements that other cities have in place.

Adjourn

The Champlin City Council adjourned the Worksession at 6:50 p.m.

Mark W. Uglem, Mayor

Attest:

Roberta Colotti, CMC, City Clerk