

**City Council Regular Session
September 23, 2019**

The City Council of the City of Elizabeth City met in regular session on Monday, September 23, 2019 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Bettie Parker
Councilman Kem Spence
Councilman Johnnie Walton
Councilman Billy Caudle
Mayor Pro Tem Rickey King
Councilwoman Anita Hummer
Councilman Darius Horton
Councilwoman Jeannie Young
Councilman Gabriel Adkins

MEMBERS ABSENT: None

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Chief of Police Eddie Buffaloe
Deputy Chief of Police James Avens
Finance Director Suzanne Tungate
Assistant Finance Director Evelyn Benton
Interim Electric Department Superintendent Bob Vannoy
Electric Department Foreman Jason Value
Load Management Specialist Ricky Albertson
Assistant City Manager Angela Cole
Human Resources Director Montique McClary
Interim Fire Chief Chris Carver
ECDI Director Debbie Malenfant
Public Utilities Director Amanda Boone
Parks and Recreation Superintendent Jeff Simpson
Grants Management Administrator Jon Hawley
IT Director Matthew Simpson
Interim City Clerk April Onley

The City Council regular session was called to order by Mayor Bettie Parker at 7:00 p.m. Mayor Parker welcomed everyone to the meeting and recognized Councilman Kem Spence to give the invocation, after which Mayor Parker led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Parker requested the Council's pleasure regarding approval of the prepared agenda.

Motion was made by Mayor Pro Tem Rickey King, seconded by Councilwoman Jeannie Young to approve the agenda with any necessary adjustments.

Councilman Horton requested that an item be added to the Regular Agenda for Police Recognition, becoming 11(c).

Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

2. Statement of Disclosure:

The City Clerk read the Statement of Disclosure. No conflict of interest disclosures regarding items listed on the agenda were made.

3. Presentation:

a. Alpha Delta Kappa Month:

Mayor Parker welcomed presentation recipient Wanda Fletcher to the podium and read the following proclamation into the record:

PROCLAMATION

International Alpha Delta Kappa Month

October 2019

WHEREAS, Alpha Delta Kappa, an International Honorary Sorority for Women Educators, is observing Alpha Delta Kappa Month during the month of October; and

WHEREAS, women in education constitute a great portion of the nation's working force, and are constantly striving to serve their communities and nation in educational, cultural, and charitable programs leading to harmony, happiness and peace among all people; and

WHEREAS, Alpha Delta Kappa is dedicated to educational excellence, leadership, altruism and world understanding, and recognizes outstanding women educators who are actively engaged in teaching, administration or in some specialized field of the teaching profession; and

WHEREAS, the local Gamma Iota Chapter of Alpha Delta Kappa is engaged in promoting education and charitable projects and activities, sponsoring scholarships, and furthering and maintaining worthy standards in the field of education on the local and state level.

NOW, THEREFORE, I, Bettie J. Parker, Mayor of the City of Elizabeth City, do hereby proclaim the month of October 2019 as "*International Alpha Delta Kappa Month*" in Elizabeth City; and I further encourage all citizens to join me in saluting this organization for its fine record of service to our community.

PROCLAIMED, this the 23rd day of September 2019.

Bettie J. Parker
Mayor

Attest:

April D. Onley
City Clerk

b. Public Power Week;

Mayor Parker asked that Interim Electric Superintendent Bob Vannoy join her at the podium to receive the proclamation.

**PROCLAMATION
PUBLIC POWER WEEK IN ELIZABETH CITY
OCTOBER 6-12, 2019**

WHEREAS, the City of Elizabeth City provides reliable electricity to its citizens;
and

WHEREAS, the citizens of Elizabeth City are consumers and owners of their public power system and exercise local control over utility operations and policies; and

WHEREAS, our employees are neighbors serving neighbors; and

WHEREAS, our electric system is a community asset that contributes to the well-being of citizens by providing safe and reliable power, excellent local customer service and economic development opportunities; and

WHEREAS, our community is one of more than 70 public power cities and towns in North Carolina and more than 2,000 public power systems in the United States.

NOW THEREFORE, I Bettie J. Parker, Mayor of the City of Elizabeth City hereby proclaim October 6th through October 12th, 2019 as Public Power Week in an effort to promote public power and to thank those who work in Elizabeth City to provide the best possible electric service for our citizens.

ADOPTED, this the 23rd day of September, 2019.

Bettie J. Parker
Mayor

April D. Onley
City Clerk

c. Presentation of the GFOA:

Mayor Parker recognized Assistant Finance Director Evelyn Benton to join her at the podium. Mayor Parker presented Mrs. Benton with a plaque received from the Government Finance Officers Association, which she received for her work on the CAFR.

4. Comments from the Public:

Mayor Parker inquired of the Clerk whether there were persons present who wished to speak during the public comment period. Upon the Clerk's reply that there were two, Mayor Parker asked that they be called in order to the podium to address the Council.

Selma White – 108 West Cypress Street, Elizabeth City, NC- Mrs. White greeted the Council and explained that she was the owner of Stella's convenience store on Greenleaf Street. She stated that she was attempting to address the issue of her home and store being on non-conforming properties. Mrs. White advised that she had approached the Board of Adjustment in 1999 seeking a variance and was subsequently denied. Within the last several years, she had asked the Planning Department if there was a possibility of her receiving a text amendment to add "residential/commercial." She asked the Council to assist her in light of her extended work on the matter with no resolution.

Councilman Adkins asked the Mayor if he could question Mrs. White before she returned to her seat. The Mayor noted that the Council would be required to suspend its rules of procedure in order to do so.

Motion was made by Councilman Johnnie Walton, seconded by Councilman Darius Horton to suspend the rules of procedure. Those voting in favor of the

motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

Councilman Adkins asked for City Manager Olson if the text amendment was truly something that could be done to separate Mrs. White's business from her personal residence. Mr. Olson stated that the problem was that two structures were on one lot; if they would be split, it would result in two non-conforming lots, which was a violation of City code. Mr. Olson added that he didn't know if a text amendment would rectify the issue. He noted that the route she needed to travel with the Board of Adjustment/Zoning had been traveled and disallowed.

Assistant Manager Cole added that, regarding the variance, unless things had substantially changed, there would be no possibility of Mrs. White receiving another chance at a variance. She pointed out that there was no other recourse other than the text amendment, but it may not be possible because changing it to some degree could cause a significant problem based on the UDO and City Code. City Manager Olson interjected that this was a case that was much more complex due to the fact that it had been more of less "grandfathered in."

Mrs. Cole apologized to Mrs. White for the staff turnover in the Planning Department. She stated that she would be the contact person for the case from now on. Mrs. Cole explained to the Council that they could not overturn the Board of Adjustment's ruling as they were a separate board, quasi-judicial in nature, and it was necessarily to "not cloud the waters."

Councilman Spence asked that City staff investigate the matter and reach out to Mrs. White as soon as possible. Councilman Walton concurred with Councilman Spence and asked that, "if you make mistakes, make it in her favor. People can do pretty much what they want to do. I'm not saying to do anything illegal, but don't lock that person in ... Don't let that store hold her back. We've got to be able to separate some kind of way. We should be able to do that legally."

Mrs. White said that a surveyor told her three months prior that there wouldn't be an issue to separate the properties. She noted that she had visited the Planning Department earlier today and the setbacks didn't appear to be a problem, from what she was told.

Mrs. Cole reiterated that the lot was non-conforming and allowed in as it was grandfathered; an attempt at splitting the lots could exacerbate the issue. She advised the Council that she would revisit the case and set a time to meet with Mrs. White as soon as possible, but she could only come as close as state law and land use allowed. Councilman Horton asked if she would report back to the Council, and Mrs. Cole responded that she would.

Keith Rivers – 104 Grandview Drive, Elizabeth City, NC – Mr. Rivers greeted the Council and invited each of them to the public library for the NC Justice Center Tax and Budget breakdown.

5. Public Hearings:

a. Hold a Public Hearing – AIA Infrastructure and Resolution:

Mayor Parker recognized City Manager Olson for an overview of the topic before calling the hearing to order. Mr. Olson stated that the Asset and Inventory Grant had already been awarded in the amount of \$150,000 to assess the water system in 2018; and was seeking to receive another in 2019 in the same amount.

Mayor Parker called the public hearing to order and inquired whether there were persons present who wished to speak on the topic. Upon the Clerk's response that there were none, Mayor Parker closed the public hearing.

Motion was made by Mayor Pro Tem King, seconded by Councilwoman Young to authorize submission of an AIA Grant for the 2019-2020 funding cycle and to adopt the resolution. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

**RESOLUTION # 2019-09-10
Approving the 2019 City of Elizabeth City Asset Management Plan
Water and Wastewater Systems**

WHEREAS, City staff has made a comprehensive effort to compile available information into a single document that presents an inventory and conditional assessment of the City's water and wastewater systems infrastructure; and

WHEREAS, the plan, as designed, will be updated regularly and will serve the City well as a management guideline for the operation and maintenance of the City's water and wastewater systems; and

WHEREAS, this plan was presented to the City Council of Elizabeth City during the regular meeting held on September 23, 2019 for Councilmembers review, comment and consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY that the City of Elizabeth City Asset Management Plan for Water and Wastewater Systems is hereby approved this date by the City Council of the City of Elizabeth City.

ADOPTED, this the 23rd day of September 2019.

Bettie J. Parker
Mayor

Attest:

April Onley
City Clerk

b. Hold a Public Hearing – TA 01-19 Wireless Communications

Assistant Manager Cole presented the text amendment, which was presented for approval by the City Council. She advised the Council that there would be an attached consistency statement that would require approval following the public hearing as well.

Mayor Parker called the public hearing to order and inquired if there were persons present who wished to speak on the topic. Upon the Clerk's response that there were none, Mayor Parker closed the public hearing.

Motion was made by Mayor Pro Tem King, seconded by Councilwoman Young to adopt the consistency statement for the ordinance and text amendment updating the UDO. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

The City Council of the City of Elizabeth City finds the action to amend the text in Article 12, Section 12-2.1 of the Unified Development Ordinance is not inconsistent with the Pasquotank County, Elizabeth City Advanced Core Land Use Plan based on the following policies:

D. Elizabeth City Natural Hazard Areas Policies

- Policy 2: The City shall continue to require development and redevelopment within special flood hazard areas to meet the standards of the National Flood Insurance Program and the City's Flood Hazard District Overlay. Particular attention should be given to water and wastewater systems located in areas of special flood hazards to insure that the systems are designed to minimize or eliminate floodwater infiltration
- Policy 6: New public facilities and structures, as well as improvements to existing public structures and facilities, shall be located and designed to mitigate natural hazards. When placement in a natural hazard area is unavoidable, compliance with the National Flood Insurance Program and the City's Flood Hazard District Overlay shall be required

(A) **Intent**

- (1) The intent of this ordinance is to provide for the installation, modification, operation, and maintenance of wireless communication facilities on public and private property consistent with the State and Federal law while ensuring public safety, minimizing the visual effects of communication facilities on public streetscapes, protecting public views, and otherwise avoiding and mitigating the visual impacts of communication facilities on the community.
- (2) Communication facilities shall utilize the least obtrusive available technology in order to reduce or minimize the number of communication facilities in the City and minimize their visual impact on the community.
- (3) The City encourages the location and co-location of communication facilities equipment on existing structures and buildings thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures.
- (4) The provisions of this ordinance are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting telecommunication services. This ordinance shall be applied to providers, operators, and maintainers of telecommunication services regardless of whether authorized by or subject to State or Federal regulations. This ordinance shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecommunication services.
- (5) The provisions of this section shall be applicable to all lands and waters within the City Limits and within the Extraterritorial Jurisdiction of the City of Elizabeth City, including but not limited to City, County, State, and Federal rights-of-way.

(B) **Definitions**

- (1) Abandonment: Communication facility which is not used for active communication purposes, transmission, or relay for a period exceeding 180 consecutive days.
- (2) Accessory Equipment: Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment such as power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures. Term does not include antennas
- (3) Antenna: Communications equipment that transmits, receives, or transmits and receives radio signals used in the provision of all types of wireless communications services.
- (4) Base Station: A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics
- (5) City Utility Pole: A pole owned by the City in the City right-of-way that provides electric power, lighting, traffic control, or a similar function.
- (6) Co-location: The placement, installation, or replacement of wireless facilities on existing structures including utility poles, towers, buildings, or other structures capable of structurally supporting the attachments of wireless facilities in compliance with applicable codes. The term co-location does not include the installation of new wireless support structures including new utility poles, or new City utility poles.
- (7) Communication Facilities, Facility: The set of equipment and network components including wires and cables and associated facilities used by a communications service provider to provide a communication service. The term includes utility pole, City pole, or wireless support structure, if any, associated with the wireless communication service.
 - (a) Short communication facilities are facilities up to and equal to 60 feet in height including the antenna.
 - (b) Tall communication facilities are facilities that are over 60 feet **to a maximum of 199 feet** in height including the antenna.
- (8) Communication Service: Cable service; information service; telecommunications service; or wireless services as defined in US Code.

- (9) Communication Service Provider: A cable operator; a provider of information service; a telecommunications carrier; or a wireless provider as defined in US Code.
- (10) Eligible Facilities Request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- (11) Equipment enclosure, fenced equipment compound: An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.
- (12) Height: The distance from the ground to the top of the support structure or the top of the antenna and/or wireless facility, whichever is greater.
- (13) Micro wireless facility: A wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna no longer than 11 inches.
- (14) New Utility Pole: A new pole in a location greater than four feet from an existing pole that is to be replaced. Does not include a replacement of an existing pole
- (15) Primary Power Pole: A utility pole which carries power from the substations to pole-mounted transformers. The primary circuit may be single-phase or three-phase, and typically operates at 12 kilovolts.
- (16) Public Right-of-Way: Includes the rights-of-way for City, County, State, or Federal roads.
- (17) **Radio Frequency (RF) Emissions: Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment.**
- (18) **Radio Frequency Interference (RFI): Any electromagnetic radiation or other communications signal that causes reception or transmission interference with another electromagnetic or communications signal.**
- (19) Replacement Utility Pole: A pole that replacements an existing utility pole.
- (20) Search ring: The area within which a wireless facility must be located in order to meet service objectives of the wireless communication service provider using the wireless facility or wireless support structure.
- (21) Secondary Power Pole: A utility pole which carries power that is fed by a stepdown transformer and typically operates at 600 volts or less.
- (22) Single-family Zoning District: Refers to the following residential zoning districts: R-6, R-8, R-10, R-15, RMH, and PDR. The term shall not include any other districts which may or may not allow single-family residential uses but are intended primarily for other uses, such as the Office and Institutional District (O&I), the Apartment District (AD), the Causeway Mixed Use District (CMU), and the Central Business District (CB).
- (23) Small Wireless Facility: A wireless facility that meets both of the following qualifications:
- (a) Each antenna is located inside an enclosure of no more than six cubic feet, or in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
 - (b) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this section, the following types of ancillary equipment are not included in the calculation of the equipment volume: electric meters, concealment elements, grounding equipment, power transformer, telecommunication demarcations boxes, ground-based enclosures, switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.
- (24) Stealth or Stealth Facility: means any communications facility, wireless support structure, or antenna that is integrated as an architectural feature of a structure or that is designed to camouflage or conceal the presence of the communications facility, wireless support structure, or antenna so that the telecommunications facility, wireless support structure, or antenna is less visually obtrusive and not readily apparent to a casual observer.
- (25) Substantial Modification: The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical

dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below.

- (a) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
 - (b) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
 - (c) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- (26) Support Structure, Wireless Support Structure, Tower: Any structure, including a utility or light pole, monopole, lattice or guyed tower, excluding water towers, that is designed to support or capable of supporting equipment for receiving or transmitting a wireless signal. Tower includes one or more antennas attached to a support structure and related equipment but does not include an amateur radio antenna or a radio or TV tower for non-commercial use.
- (27) Tower: See Support Structure
- (28) Utility pole: A structure designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.
- (29) Wireless facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:
- (a) The structure or improvements on, under, within, or adjacent to which the equipment is co-located.
 - (b) Wireline backhaul facilities.
 - (c) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(C) Types of Communication Facilities

- (1) Short Communication Facilities - Height of support structure and antenna up to and equal to 60 feet in height and include:
 - (a) New wireless facilities on an existing support structure (co-location); or
 - (b) New wireless facilities on a replacement, support structure. No new support structures are permitted within the public rights-of-way which do not replace an existing utility pole or streetlight. Non-stealth wireless facilities are not permitted to locate on an existing or replacement utility or streetlight pole.
 - (c) New wireless facilities on a new structure shall only be allowed outside of the public right-of-way.
- (2) Tall Communication Facilities - Height of Structure and antenna that are over 60 feet tall **to a maximum height of 199 feet** and include;
 - (a) New wireless facilities on an existing support structure (co-location); or
 - (b) New wireless facilities and new or replacement support structure.
 - (c) Tall communication facilities require the issuance of a Special Use Permit.
- (3) Exempt Facilities

The following are exempt from the provisions of this section.

- (a) Amateur ham radio antennas, as long as:

- i. Operator is licensed by FCC;
 - ii. Maximum height of 70’;
 - iii. Freestanding antenna shall be located to the rear of the principal structure, and 10-foot setback from any property line; and
 - iv. An antenna attached to the principal structure shall be located on a side or rear elevation of the structure.
- (b) Micro wireless facilities suspended on cables between existing utility poles.
 - (c) Satellite dish measuring 40 inches or less in diameter
 - (d) Public Safety facilities which are designed to blend with the existing structure or pole.
 - (e) Temporary commercial communication facility for use during a declared state of emergency. These facilities shall be removed or made to comply with the design standards within 60 days after the end of the state of emergency
 - (f) Routine maintenance, or in-kind facilities replacement of the same, or smaller size, or for micro wireless facilities.
 - (g) A small wireless facility located entirely inside a visually opaque structure.

(D) **Where Permitted**

- (1) Stealth communication facilities up to a height of 40 feet tall – All zoning districts
- (2) Communication facilities between a height of 40 and 60 feet lacking stealth techniques only in R-15, I-1 and I-2.
- (3) Communication Facilities a height of 60 feet **to a maximum of 199 feet** tall and taller – only in R-15, I-1, and I-2. These communication facilities require the issuance of a Special Use Permit.
- (4) Exempt Facilities – All zoning districts.
- (5) In the street rights-of-way, only replacement utility and streetlight poles will be permitted. Use of existing primary power/utility poles for wireless facilities is prohibited.
- (6) New wireless support structures shall be prohibited on or within public rights-of-way within 100 feet of single family, **with the exception of the R-15 district**, zoning districts and locally regulated historic districts (Downtown and West Main Street) unless the applicant provides clear and convincing evidence demonstrating that:
 - (a) A new facility as proposed is necessary;
 - (b) The intended area of service cannot be served from outside the district;
 - (c) No existing or previously approved facility can reasonably be used to serve the intended area;
 - (d) Co-location outside of the street rights-of-way has been pursued and is not feasibly possible; and
 - (e) Prohibiting the new facility would result in a significant gap in service.

(E) **Co-location**

The City requires the co-location of new antennas in the public right-of-way on existing structures up to 60 feet in height. On structures over 60 feet in height, the City requires the co-location of new antennas and facilities to be on existing structures. The co-location shall be the least visually intrusive while maintaining equipment functionally.

(1) **Siting Hierarchy Preferences**

The following list indicates the City’s preferences for wireless communication facility locations in descending order of preference:

- (a) Stealth co-location on an existing stealth wireless support structure/building;
- (b) Stealth co-location on an existing building/support structure;
- (c) New, or replacement, stealth support structure;
- (d) Non-stealth communication facility on an existing building/support structure;
- (e) New, or replacement, freestanding non-stealth support structure (monopole); and

(f) New freestanding non-stealth towers (lattice-type)

These preferences are intended as guidance for development of an application for communications facilities. If the proposed site is not for the highest priority listed above, then a detailed explanation and justification must be provided to explain why a site of a higher priority designation will not be adequate. The applicant must satisfactorily demonstrate the reason(s) why the proposed site should be permitted, and the hardship that would be incurred by the applicant if the location was not approved as proposed. Financial reasons shall not be allowed to be considered as a hardship.

- (2) **For non-substantial modifications** the co-location installation of the communication facility shall commence **be completed and a Certificate of Completion issued by the City** within six months from the permit issuance date **of the approval letter** and shall be activated for use within one year. **The service provider is to notify the City of the facilities activation date.** Facilities not activated within one year of the permit issuance date shall be deemed abandoned and shall be removed **from the support structure** at no cost to the City.

For substantial modifications, and new tower construction, the co-location installation or construction of the communication facility shall commence within one year from the date of the approval letter and shall be activated for use within two years. A Certificate of Completion shall be issued by the City once the construction has been completed. Facilities not activated within one year of the permit issuance date shall be deemed abandoned and shall be removed from the support structure at no cost to the City.

- (3) All accessory equipment to the communication facility shall be located either underground or inside the wireless support building/support structure.
- (4) Once a communication facility has been inactive for more than 180 days (six months) it shall be considered abandoned and the facility shall be removed in its entirety at the owner's cost.
- (5) Co-location on a previously approved support structure is permitted without an additional Special Use Permit provided that all conditions of the previously approved permit are within compliance.
- (6) Co-location on a building or substantial structure, such as a water tower, shall not require the issuance of a Special Use Permit, but all other applicable provisions shall be met and approved by the Zoning Administrator. The Zoning Administrator may require the issuance of a Special Use Permit if there is reason to doubt as to whether a given proposal is in compliance with the intent of this ordinance.
- (7) To encourage shared use of tall wireless support structures, no new tall communication facility shall be allowed to locate within one mile of an existing or proposed communication facility unless written documentation is submitted that co-location is not possible due to one or more of the following reasons:

- (a) The proposed equipment would exceed the structural capacity of the existing tower and it cannot be reinforced at a reasonable cost to accommodate the proposed equipment; or
- (b) The equipment currently on the structure is not compatible with the proposed equipment and/or could cause radio frequency interference with existing or proposed equipment which cannot be prevented at a cost deemed by the City to be reasonable; or
- (c) Adequate space on the existing or proposed communication facility is not physically available for the existing equipment and/or planned equipment by the present user; or
- (d) If there is an existing tall communication facility (including built or permitted and not yet constructed) within the applicant's search ring, the applicant shall prove that their proposed facilities cannot be feasibly accommodated on said existing structure.

If documentation shows that a co-location is not reasonably feasible a co-location report shall be submitted by the applicant describing the existing towers, or other support structures over 60 feet in height, within a three-mile **one-mile** radius, including the height of the structures, the number of existing users, height available for co-locations and if there are any structural deficiencies with the existing structures.

- (8) All support structures, except exempt facilities, shall be structurally certified by a registered North Carolina structural engineer to be in accordance with all local, state, and federal structural requirements for loads and stresses, including wind and ice loads and stresses and including, but not limited to, the most recently adopted version of all applicable ANSI guidelines. The report shall describe the capacity of the structure regarding the number of users that can be supported on the structure. Short structures shall have sufficient structural integrity to accommodate at least two additional

providers with equipment comparable to the initial carrier. Tall structures shall accommodate at least five additional providers. Any such certification shall be accompanied by a detailed structural report, including all calculations.

The owner of the communication facility shall submit a letter of intent to the City committing the owner to negotiate in good faith for the shared use of the proposed structure by other communication service providers in the future. Where a new support structure is proposed, and sufficient reasons for a new tower exist and the tower will not be designed to accommodate other future users, documentation justifying the proposal shall be required.

- (9) No wireless facility support structure shall be precluded by reason of its exclusive rights, contracts, or otherwise from co-location of its facilities on any other service provider's support structure.
- (10) Attachments to Existing Structures Other Than Tall Communication Towers
 - (a) Attachments to Buildings: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible, all antennas shall be flush mounted on the surface without increasing the height of the building or structure. Attachments to the side and rear building elevations are preferred. New or reconstructed steeples, bell towers, clock towers, chimneys, or similar appurtenances that enhance the architecture of the building shall be encouraged. All attachments and exposed cabling shall use stealth techniques to match the color and texture of the building in a manner to make the facility as visually inconspicuous and undetectable as possible. Locating the equipment inside the building or an architectural appurtenance is preferred. If the antenna is proposed to be not flush mounted, or as near to flush mounted as is possible, it must be proven that such mounting would prohibit, or serve to prohibit, the provision of more than 50% of the service, or to be technologically impractical.
 - (b) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank shall only be permitted if the applicant can prove that to locate elsewhere less visually intrusive on the tank will prohibit or have the effect of prohibiting the provision of more than 50% of the service or that to do so would be technologically impractical.

(F) Standards for Communication Facilities

- (1) Provide a structural analysis prepared by a registered North Carolina structural engineer. The analysis shall address the number of providers that the structure is able capable to support.
- (2) At the discretion of the Zoning Administrator, an application may require the issuance of a Special Use Permit if there is any doubt as to whether a proposal is in compliance with the intent of this section.

(3) Requirements

- (a) A small communication facility/support structure must replace a pre-existing secondary utility pole, streetlight, or parking lot light and be located:
 - i. Within two feet of the base of the pre-existing pole and at the same distance from the curb line, or edge of pavement/travel lane, as the pre-existing pole in a public right-of-way;
 - ii. At least 10 feet from an existing building;
 - iii. Outside of the roadway clear zone as determined by the Public Utilities Director;
- (b) Use of existing primary power/utility poles for wireless facilities is prohibited.
- (c) A pre-existing streetlight or parking light pole must be removed within 10 days after power is activated to the replacement facility and a pre-existing utility pole must be removed within 180 days after a replacement utility pole is installed.
- (d) The communication facility/support structure must be the same color as the nearest existing pole unless

adjacent to the local and West Main St. historic districts.

- (e) The communication facility/support structure shall not have exposed wiring.
- (f) Any accessory equipment used to functionally support the antennas on a replacement utility or streetlight poles must be installed in the support structure or underground with its top flush with or below the existing grade.
- (g) Equipment cabinets shall not be permitted above grade within the street rights-of-way. Equipment cabinets outside of the right-of-way shall use camouflage or stealth techniques to or blend with the surrounding environment in a manner to make the cabinet as visually inconspicuous and undetectable as possible.
- (h) The communication facility/support structure must include a replacement streetlight, or parking lot light, if a light existed on the pre-existing pole. Light fixtures shall be located at a height comparable to the existing fixture and nearby surrounding fixtures.
- (i) The design of a replacement communication facility/support structure located in a public right-of-way, including the footing and replacement of a streetlight, must be approved by the Public Utilities Director.
- (j) Each owner of a pole or support structure or the owner of an antenna attached to a communication facility/support structure must maintain the antenna and the associated equipment attached to, and abutting, the structure in a safe condition, and remove graffiti, including stickers, and repair damage. The cleanup and repair work shall be completed within two weeks of notification from the City.
- (k) When the communication facility is inactive for more than 180 consecutive days the wireless facility including support structure must be removed at the cost of the owner. If the support structure includes a streetlight, traffic light, or other utility service, only the wireless facilities shall be removed. The Public Utilities or Electric Department must be consulted at least 30 days prior to the removal.
- (l) **A copy of the Radio Frequency Emission Certification, which shall include the Radio Frequency Emissions Analysis Report Evaluation of Human Exposure Potential to Non-Ionizing Emissions shall be submitted with the application. Telecommunication facilities, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.**

(3) **(4) Height**

- (a) The height of the wireless support structure, including any attached antennas and equipment, must not exceed:
 - i. For streetlights, the height of the existing pole that is being replaced. The light fixture shall be placed at a height comparable to the surrounding fixtures.
 - ii. For utility poles and parking lot lights, the height of the pre-existing utility or surrounding poles, or parking light poles.
 - iii. In single family zoning districts, **except in the R-15 district,** the maximum pole height is 20 feet.

iv. For towers, the maximum height shall be 199 feet.

(4) (5) Single Family District Standards (Excluding R-15 District)

- (a) Co-location of small wireless communication facilities are prohibited on land used for single family residences or vacant land that is zoned for single family development, unless such co-location is a replacement of an existing light with a light capable of including a co-located, stealth (concealed) small wireless facility. The height of the pole and light fixture shall be comparable to the height of the existing fixture and pole.
- (b) The minimum setback distance of a new or replacement short support structure/pole from any residential structure shall be at least 150% of the pole height and the structure shall not be located directly in front of any residential structure located in a single-family zoning district. The preferred location would be along the rear or side property lines. The minimum setback distance shall be measured from the facility installation to the nearest point of a single-family dwelling located in a single-family zoning district.
- (c) Along streets and within residential subdivisions where there are no existing utility poles (all underground utilities), stealth wireless facilities may be attached to streetlights in the public or private right-of-way. Approval from the owner of the light pole and an encroachment agreement must be submitted.
- (d) Accessory equipment for facilities placed on light poles shall be located underground, inside the pole, and/or inside the pole base.
- (e) New streetlight poles may not be erected in a single-family residential area solely for wireless communication equipment attachment unless the applicant has demonstrated it cannot reasonably provide service by:
 - i. Installing poles outside of the residential area;
 - ii. Attaching equipment to existing poles within the rights-of-way;
 - iii. Installing poles in a right-of-way not contiguous to parcels used for single family residential purposes; or
 - iv. Installing poles in a right-of-way contiguous to reverse frontage parcels.
- (f) All applications for replacement poles within a right-of-way in single family residential neighborhoods shall be in compliance with City of Elizabeth City Utility Right-of-Way Policy, as the policy may be amended from time to time.
- (g) The height, of replacement streetlight including concealed antenna shall be comparable to the height of nearby existing streetlights. At least 10 business days prior to submitting an application, the applicant shall complete each of the following pre-submission requirements:
 - i. All property owners within 500 feet of proposed streetlight pole installations, measured along the public right-of-way, shall be notified of the community meeting via a door hanger or direct mailing; and
 - ii. Host a community meeting not less than 14 days after initial notice to present in reasonable detail the proposed plan of installation, including facility

- descriptions, locations, relevant screening, and aesthetic characteristics;
- iii. Receive and consider for a period of 15 days after the community meeting any comments or proposed alternative locations and designs submitted by the public;
 - iv. A summary of the neighborhood meeting shall be submitted with the application. At a minimum, the report should state the method of notification; time, date, and location of the meeting; list of property owners contacted; roster of persons in attendance at the community meeting; a summary of the issues discussed; and a description of any changes made as a result of the meeting.

(5) **(6) Public Rights-of-Way Outside of Single Family Zoning Districts:**

- (a) An encroachment agreement must be issued by the Public Utilities Director before installation of any new pole in City rights-of-way.
- (b) Replacement support structures/poles shall not be constructed of wood. Metal, concrete or fiber materials are appropriate.
- (c) Co-locations will not be permitted on existing wood poles.
- (d) No freestanding wireless support structure constructed exclusively for wireless services shall be permitted within the City street rights-of-way or utility easements.
- (e) Any disturbance in street rights-of-way that would require relocation of poles and associated equipment, wires, and/or cables shall be the responsibility of the communications company installing the equipment.
- (f) Except in single family zoning districts, **excluding the R-15 district**, the maximum height of the pole including antenna is 40 feet, or the height of existing nearby utility poles, whichever is less. The Zoning Administrator or Public Utilities Director may refer an application to the Board of Adjustment for a final determination.
- (g) **After written notice to the applicant and/or owner, the City may require the relocation, at the applicant/owner's expense, of any telecommunication facility located in the public right-of-way, as necessary for maintenance or reconfiguration of the right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the City.**

(6) **(7) Setbacks**

The following setbacks do not apply to short support structures in single family zoning districts.

- (a) The minimum support structure setback from any property line shall be:
 - i. For non-stealth - Equal to the height of the support structure
 - ii. For stealth - Equal to one-half (1/2) the height of support structure **Equal to the height of the support structure;** or
 - iii. For a monopole support structure with a base diameter greater than or equal to one foot: equal to one-half of the height of the tower, provided that a professional engineer certifies that the structure has sufficient strength to withstand

hurricane-force winds of a velocity that have occurred, or can be expected to occur, in the area, and that should wind of greater velocity occur, the design of the structure is such as to bend rather than fall. This requirement shall not apply to communications equipment co-located on facilities within the public right-of-way (such as streetlights, telephone and utility poles) as long as other requirements of the ordinance are met.

- (b) The setback requirement may be reduced to one-third of the height of the proposed wireless support structure when a North Carolina registered professional engineer certifies that the structure's fall zone is equal to, or less than, the setback requested and that the structure is designed to collapse within the setback requested.
- (c) Enclosed structures and/or shelters used to contain radio or other equipment necessary for wireless communications shall be setback a minimum of 50 feet from all property lines and rights-of-ways. Where visual impact and public safety concerns will not be affected, the Zoning Administrator may reduce the setback to no less than 15 feet.
- (d) Communication facility sites in non-residential districts shall be located a minimum of 300 feet from a single family residential district. **The facilities shall maintain a minimum setback of 110% of the height of the structure from existing structures located within either the City or County jurisdictions.**
- (e) No new communication facility over 40 feet in height shall be constructed closer than the support structure's height from any public right-of-way.
- (f) Any communication facility that is to be attached to a building devoted to another use in such a manner that the staff finds that the communication facility will be effectively concealed or disguised shall observe the minimum setback and maximum height of the underlying zoning district where the facility is to be located.
- (g) Only an architecturally compatible communication facility shall be permissible in a locally regulated historic district (downtown or West Main Street) or on property on which a designated historic landmark is located. All accessory equipment shall be located either underground or inside the building/support structure. All communication facilities proposed in the locally regulated historic district shall be evaluated on a case by case basis to determine the compatibility of the proposed structure with the surrounding area. Any communication facility located in the locally regulated historic district (Downtown or West Main Street) shall be required to obtain a Certificate of Appropriateness as required by UDO Section 12—8.2(B).
- (h) The owners of easements and rights-of-way within communication facility setbacks must provide a letter of acknowledgment of the proposed facility's location.

(7) **(8) Signs**

- (a) No business signs, billboards, or other advertising shall be installed on the communication facility or security fencing with the exception of an identification sign.
- (b) The communication facility and/or equipment compound shall have an identification sign that contains the FCC registration

site, the name(s) of the owner(s) of the facility, the voltage, as well as emergency phone numbers and contact information for all parties responsible for maintenance. The sign shall not be larger than one square foot in size and be located in an inconspicuous or nearby location that would still be visible in an emergency.

(8) **(9) Screening**

For communication facilities with security fences, a minimum 10-foot-wide landscaped buffer shall be installed along the exterior side of the security fence and shall always be maintained by the communication facility owner. The vegetative screen shall consist of two staggered rows of evergreen trees such as Leyland Cypress, Tree Holly, Magnolia Grandiflora or Deodar Cedar with a maximum spacing of 25 feet on center, or spacing approved by the Zoning Administrator so as to best provide for opacity after five years. The minimum height at the time of planting for trees shall be six feet and they shall have an expected minimum maturity height of 35 feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight feet on center. Shrubs At the time of planting shall be a minimum of two feet high at planting and shall have a minimum expected maturity height of eight feet under normal growing conditions. The plants shall be installed and maintained by the communication facility owner. The requirements of this subsection shall be applicable to all proposed towers, unless existing vegetation is determined by the Zoning Administrator to provide a screen which is at least as effective as a planted screen. This requirement shall not apply to communications equipment co-located on facilities within the public right-of-way (such as streetlights, telephone, and utility poles) as long as other requirements of the ordinance are met.

(9) **(10) Security**

If security fencing is proposed the fencing shall be installed around the base of the tower, including but not limited to equipment and/or storage structures, along with any guy wires. Such fence shall be opaque and shall be composed of materials such as wood, brick, or metal to a height of not less than eight feet. Chain link is not an acceptable material. This requirement shall not apply to communications equipment co-located on facilities within the public right-of-way (such as streetlights, telephone and utility poles) as long as other requirements of the ordinance are met.

(10) **(11) Lighting**

Support structures shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other federal or state authority and in no case shall exceed the required minimum. To the extent allowed by the FAA, strobes shall not be used for night time lighting. The lights shall be oriented as not to project directly onto surrounding residential properties, consistent with the FAA regulations. Prior to the issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.

(11) **(12) Removal and Performance Security**

- (a) Whenever a communication facility becomes inactive for a period exceeding 180 consecutive days, it shall be deemed abandoned and the antenna and all related appurtenances shall be removed in its entirety. Notice shall be provided to the Zoning Administrator within 30 days of any communication facility that is placed out of service.
- (b) A bond, or other form of surety acceptable to the City Chief Finance Officer, in the amount of at least \$75,000 **for new towers and substantial modifications** shall be posted for the removal of each communication facility. The amount for a co-location **of small wireless facilities** shall be \$5,000. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit or zoning authorization permit and/or until the removal of the wireless support structures, and any necessary site restoration is completed and/or in the case of abandonment until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.

(12) **(13) Submittal and Site Plan Requirements**

(a) Site Plan

The site plan shall include:

- i. The zoning district in which the property is located.
- ii. The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site.
- iii. Existing and proposed on site structures showing required setbacks and the proposed wireless support structure.
- iv. The fall zone of the support structure.
- v. Proposed and existing easements and rights-of-way.
- vi. Proposed locations of fencing, landscaping, access, and any proposed parking.
- vii. A vicinity map indicating the proposed facility and search ring.
- viii. A vicinity map indicating all existing and proposed communication facilities over 60 feet tall within a three-mile one-mile radius and their search rings.
- ix. Any officially designate floodways, floodplains, or watersheds
- x. A plan drawing of the proposed equipment compound area showing names and locations of other providers; location of ground equipment; centerline height of all proposed and existing antenna on the supporting structure. Demonstrate that there is adequate ground space for additional users.
- xi. Indicate how many antenna sites the support structure is designed to accommodate and how many of those sites will be available for co-location opportunities.
- xii. Identification of the intended user(s) of the tower and an attestation that the communication facility will be activated for use within one year from permit issuance by a wireless communication service provider.

(12) (14) Prior to the issuance of building permits, a public land, right-of-way lease or encroachment agreement shall be established by a separate instrument and recorded for all wireless communication facilities and/or support structures placed on City property or structures and within the City's rights-of-way.

(13) (15) Copy of FCC license applicable for the intended use of the facility.

(14) (16) Any proposed communication facility must demonstrate that it is designed and sited to be the least visually intrusive and creates the least visual impact reasonably possible. The City reserves the right to require the use of stealth designs or technologies such as a distributive antenna system (DAS) or its functional equivalent to achieve this goal. This may require the placement of two visually unobtrusive structures, as opposed to one structure.

(G) Administrative Review Qualifications

- (1) At the discretion of the Zoning Administrator, an application may require the issuance of a Special Use Permit if there is any doubt as to whether a proposal is in compliance with the intent of this section.
- (2) No new short communication facility shall be built, constructed or erected unless the structure is capable of accommodating at least two additional

provider's equipment of comparable weight, size, and surface area to the wireless facilities being initially installed.

- (3) Stealth facilities located in other than single-family residential zoning districts, **excluding the R-15 district**, that are sufficiently disguised to minimize visual impact;
- (4) Addition of an antenna to an existing utility pole or City utility pole that does not increase the pole height;
- (5) Stealth support structures up to 40 feet in height that are sufficiently disguised to minimize visual impact;
- (6) Any wireless support structure less than 200 **199** feet in height **or less** located on City property and otherwise meet the requirements herein; and
- (7) Co-location applications meeting the following requirements:
 - (a) The proposed facility will not increase the overall height or width of the support structure.
 - (b) The proposed additional facility does not exceed the applicable weight limits for the support structure.
 - (c) The proposed additional facility will comply with applicable regulations, restrictions, or conditions, if any, to the initial support structure.
 - (d) The proposed facility complies with all current federal, state, and local requirements.

(G) Full Review for Tall and Non-Stealth Communication Facilities

- (1) All support structures over 60 feet tall require the issuance of a Special Use Permit.
- (2) No new tall communication facility shall be built, constructed or erected unless the structure is capable of accommodating at least five additional provider's equipment of comparable weight, size, and surface area to the wireless facilities being initially installed.
- (3) Any proposed tall communication facility must demonstrate that the structure was designed and sited to be the least visually intrusive and creates the least visual impact reasonably possible.
- (4) The holder of a Special Use Permit for a support structure shall secure and always maintain a public liability insurance policy **for personal injuries, death, and property damage** in the amount of \$1,000,000 **\$2,000,000**. **For automobiles the coverage shall be \$2,000,000 per occurrence with a \$5,000,000 aggregate amount**. The City shall be named as an additional insured on the policy for support structures located on City property. For a support on City property, the City shall be named as an additional insured. The City shall be notified by written notice at least 30 days in advance of the cancellation of the insurance policy. Renewal or The City shall be notified by written notice at least 30 days in advance of the cancellation of the insurance policy. Renewal or replacement policies shall be delivered to the City at least 15 days before the expiration date of the policies that are to be renewed or replaced.
- (5) Special Use Permits for all communication facilities shall expire unless documentation, including but not limited to an FCC license, is submitted each January to the Zoning Administrator indicating that the tower is being utilized. Additional documentation shall be submitted confirming that the insurance policy and the bond for equipment and structure removal are still in effect.

(6) (7) Neighborhood Meeting

At the time of submitting an application for a proposed tower that requires approval for a Special Use Permit, the applicant shall submit written documentation that they have conducted a neighborhood meeting, to which owners of property within 500 feet of the subject property **tower site** had been invited, to explain the proposed facility and answer questions. The meeting shall not be less than 14 days after the mailed notification. Documentation should include the time, date, and location of the meeting; a list of meeting attendees; a brief summary

of any presentations and/or information discussed; and concerns/questions expressed by neighboring property owners.

(6) (6) Balloon Test Required for New or Enlarged Tall Towers

To better inform the public in the case of a new communication tower, or an increase in height of an existing tower, the applicant shall hold a "balloon test" prior to the initial public hearing during which the application shall be considered submittal of photo simulations in order to demonstrate the proposed height and concealment solution of the wireless support structure The applicant shall arrange to rise a brightly colored balloon no less than three feet in diameter to the maximum height of the proposed wireless support structure, and within 25 horizontal feet of the center of the proposed wireless support structure. fly, or raise upon a temporary mast a minimum of a 10 foot in length brightly colored balloon, a minimum diameter of 36 inches, at the maximum height of the proposed new tower.

(a) Sign Required

At least 14 days prior to the conduct of the balloon test, a sign containing the times and date(s) of the balloon test and contact information shall be erected to be clearly visible from the road nearest the proposed site and shall be removed no later than 14 days after conducting the balloon test. The sign shall be at least 4 feet by 8 feet in size with lettering at least three (3) inches high stating the purpose of the balloon test.

(b) Published Notification

The date, time, and location, (including a second an alternative date and time in case of poor visibility or wind in excess of 15 mph) on the initial date) times, and location of this balloon test shall be advertised by the applicant at least seven (7) and but no more than 14 days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City in writing, of the dates and times of the test, at least 14 days in advance. Re-advertisement will not be required if inclement weather occurs

(c) The balloon shall be flown at the required height for at least four consecutive hours between 10:00 a.m. and 2:00 p.m. between dawn to dusk on the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures of the balloon from various locations shall be provided with the application.

(d) Notification to adjacent property owners

The applicant shall notify the Planning Division and all property owners by first-class mail located within 1,500 feet of the nearest property line of the proposed tower site and of the date(s) and time(s) including alternative date and times, of the balloon test. Such notice shall be provided at least 14 days prior to conducting the balloon test.

(7) Visual Impact Analysis for New or Expanded Tall Towers

The application shall include:

- (a) Photo simulations of before and after views from key viewpoints including but not limited to state highways and other major roads, parks, public lands, historic districts, and from any other location where the site is highly visible.
- (b) A visual representation of the visual impact of the proposed facility, including the tower base, fencing, and equipment compound from abutting properties and streets related to the need or appropriateness of screening.
- (c) The applicant must demonstrate and provide in writing and/or by drawings how they will effectively screen from view the base of the structure and the related facilities and structures.
- (d) The applicant shall demonstrate that the facility is sited and designed to be the least visually intrusive which is reasonably possible.

(I) Other Requirements

- (1) Any communication facility must comply with the requirements of the National Environmental Policy Act (NEPA) which addresses such things as wilderness areas, wildlife preserves, endangered species, historical sites, Indian religious sites, floodplains, wetlands, high intensity

white lights in residential neighborhoods, and excess radio frequency emissions. Prior to the issuance of a building permit, the applicant shall be required to submit documentation that all the requirements of the NEPA have been met.

- (2) All communication facilities shall be constructed and maintained in accordance with all rules, regulations, statutes, and ordinances, including but not limited to applicable building code requirements as well as FCC and FAA rules and guidelines.
- (3) The applicant must certify that it complies with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and all other federal statutory and regulatory requirements relating to radio frequency interference.
- (4) The owner of the communication facility shall provide documentation that the power density levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever provides for stricter requirements.
- (5) All structure-mounted communications facilities shall be designed to meet current North Carolina State Building Code standards and wind load requirements.
- (6) The communication facility shall have at least one communication service provider committed for active use at the time of application and the service provider shall activate the wireless facility within one year from the permit issuance date. Evidence in writing of this commitment shall be submitted with the application.
- (7) All utilities serving a new communication site and facility shall be installed underground from the point of the existing service.
- (8) Non-stealth communication facilities are not permitted to locate on an existing utility pole or streetlight.
- (9) Outdoor storage of equipment or related items shall be prohibited at all communication facility sites.
- (13) (10) No new communication facility/support over 40' shall be permitted within the City unless the applicant submits technical evidence that substantially proves that a shorter height would be commercially or technically impracticable.
- (14) (11) The City Council shall set a technical consultation fee to offset the actual, direct and reasonable administrative costs incurred for review, processing, and approval of a wireless communication application. The City may engage a third-party consultant for technical consultation and for the review of communication facilities a co-location application.

6. Approval of Minutes:

a. August 26, 2019 – Work Session;

Motion was made by Mayor Pro Tem King, seconded by Councilman Caudle to approve the August 26, 2019 Work Session minutes. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

b. August 26, 2019 – Regular Session;

Motion was made by Mayor Pro Tem King, seconded by Councilwoman Young to approve the August 26, 2019 Regular Session minutes. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

c. September 9, 2019 – Regular Session;

Motion was made by Mayor Pro Tem King, seconded by Councilwoman Young to approve the September 9, 2019 Regular Session minutes. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

7. Consent Agenda (Items “a” through “c” recommended for approval by the Finance Committee during their September 19, 2019 meeting)

Mayor Parker requested City Manager Olson read the items presented on the Consent Agenda into the record.

a. **Consideration – Accept Award of Governor’s Highway Safety Program Grant – MDTs.**

b. **Consideration – Amend Asset Management Plan;**

**RESOLUTION # 2019-09-10
Approving the 2019 City of Elizabeth City Asset Management Plan
Water and Wastewater Systems**

WHEREAS, City staff has made a comprehensive effort to compile available information into a single document that presents an inventory and conditional assessment of the City’s water and wastewater systems infrastructure; and

WHEREAS, the plan, as designed, will be updated regularly and will serve the City well as a management guideline for the operation and maintenance of the City’s water and wastewater systems; and

WHEREAS, this plan was presented to the City Council of Elizabeth City during the regular meeting held on September 23, 2019 for Councilmembers review, comment and consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH CITY that the City of Elizabeth City Asset Management Plan for Water and Wastewater Systems is hereby approved this date by the City Council of the City of Elizabeth City.

ADOPTED, this the 23rd day of September 2019.

Bettie J. Parker
Mayor

Attest:

April Onley
City Clerk

c. **Consideration – Call for a Public Hearing – Non-Downtown BIG for Currituck BBQ;**

Motion was made by Mayor Pro Tem King, seconded by Councilwoman Young to approve the Consent Agenda. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

8. Regular Agenda:

a. Any Item Pulled from the Consent Agenda

No items were pulled from the Consent Agenda.

b. Consideration – Call for a Public Hearing – BIP for Hockmeyer;

Mayor Parker recognized City Manager Olson to provide a brief overview. Mr. Olson presented the IMPLAN study for Hockmeyer, as well as an analysis of the tax impact the company would have over a five-year period. He pointed out that both the City and the County would have a cap of \$100,000. The projected new tax for both the City and the County would be \$87,353. Mr. Olson noted that the company would be hiring an additional 90 full-time employees.

Motion was made by Councilman Adkins, seconded by Councilwoman Young to call for a public hearing. Those voting in favor of the motion were: Spence, Walton, Caudle, King, Hummer, Horton, Young, and Adkins. Against: None. Motion carried.

c. Police Recognition (As Added by Councilman Horton);

Mayor Parker recognized Councilman Horton to lead the discussion since he requested the item's addition. Councilman Horton stated that he heard that Elizabeth City Police Officer Tajuana Mitchell had gone above and beyond the call of duty. He advised that when the officer was approached by a citizen inquiring where to get a low-cost walker, Officer Mitchell not only invited the individual to follow her to her home, whereupon she gifted the citizen with a walker her daughter no longer needed. Councilman Horton asked that a mayoral certificate of recognition be presented to TJ Mitchell. Councilman King concurred and asked that a citation also be placed in her personnel file within the Police Department. City Manager Olson agreed to place the item on the next agenda for presentation.

9. Comments and Inquiries on Non-Agenda Items:

Councilman Adkins had no further comments.

Councilwoman Young had no further comments.

Councilman Horton had no further comments.

Councilwoman Hummer had no further comments.

Councilman Spence had no further comments.

Councilman Walton stated that he would like special events stated at the end of the Council meetings, if staff was aware that they were upcoming, in order to remind the Council.

Councilman Caudle had no further comments.

Mayor Pro Tem King had no further comments.

Mayor Parker thanked everyone for attending the meeting and for the good discussion engaged in by the Councilors.

10. Adjournment:

There being no further business to be discussed, Mayor Parker adjourned the meeting at 7:58 p.m.

Bettie J. Parker
Mayor

April D. Onley
City Clerk

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