

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF
REGULAR MEETING NOVEMBER 13, 2018**

To Order: Chairperson Swallow called the Planning Commission meeting to order at 7:00 p.m. with the pledge to the flag.

Roll Call:

Present were members Steve Ali, Jim Maleski, Council Liaison Bruce Abens, Vice Chairperson Jim Smolik, and Chairperson Jennifer Swallow.

Also present were Chief Building Official Guy Fursdon, Law Director Brian Moriarty, Mayor David Gillock, Safety-Service Director Jeffrey Armbruster, Former Deputy Clerk of Council Donna Tjotjos and Present Deputy Clerk of Council Michelle Owens.

Minutes:

Chairperson Swallow asked if there were any corrections to the minutes of the meeting dated October 18, 2018. Hearing none, she stated those minutes will stand approved as presented and will be placed on file.

Correspondence: None

Chairperson Swallow asked the Deputy Clerk to read the application.

NEW BUSINESS:

APPLICANT: TowerCo, c/o Strategis, LLC (agent), 2530 Superior Ave., Suite 303, Cleveland, OH 44114

OWNER: The City of North Ridgeville

REQUEST: Site plan approval to construct a 180-foot monopole cell tower with a 15-foot lightning arrestor and installation of an equipment pad and generator.

LOCATION: Jaycox Road in an R-1 District; south of Shawn Drive and west of Olive Ave; Parcel No. 07-00-017-101-001

Application was read along with comments received from Administrative Officers including Chief Building Official Guy Fursdon, Safety-Service Director Jeffrey Armbruster, Police Chief Mike Freeman, Fire Chief John Reese and City Engineer Dan Rodriguez.

Chairperson Swallow asked if there was a representative and if they could step to the mic and give their name and address.

Jim Matthews, representative from TowerCo, introduced himself

Chairperson Swallow asked the applicant to provide a brief description of the application.

Jim Matthews provided documentation to Planning Commission members. Explained the property is a City-owned parcel that is exempt from zoning provisions. He stated that there had been a meeting with administration representatives and the Law Director prior to submitting an application. At this meeting, an agreement was reached consistent with the provisions in the lease that require cooperation between TowerCo and the City with an approach to proceed with a site plan review. He further explained the purpose of this site plan review. He continued to address the documentation that he provided, directing members to tab one, an FAA aeronautical evaluation. He provided a physical description of the proposed tower, stating the structure is 180 feet with a 15-foot lightning rod; that the tower height is under the FAA standard of 200 feet; that there is no requirement for extraordinary lighting or markings on this tower. He then provided a statement to verify that this location is not within a flight plan that would create any issues with the FAA. That is one example he wanted to respond to some of the staff notations that were raised. There was also a staff question that was raised to make sure that adequate bonding was in place primarily to cover two issues. One would be the process of installing the landscaping that is required but also to protect the municipality, in the event this tower ever needs to be removed, to make sure that there is a backup resource available to take care of that. He submitted, under tab two of the handout, a performance and payment bond that TowerCo will ordinarily enter into with one of its sureties to give to the City for deposit to make sure there are adequate funds available to cover those two issues. One of the matters that will need to be addressed at a later point between TowerCo and the Administration and/or City Council is the face amount of the bond. He just proposed here that \$5,000 but he wanted to point that out that was just a proposal and it may be subject to some negotiation and perhaps even an increase when they discuss this with the Administration and City Council. A form of a payment bond is available and TowerCo will submit that form for final approval in this instance. He continued on to state that under tab 3 is the most important item they felt should be shared with the Planning Commission. This is a summary of Verizon's work to verify the justification for this particular location is to enhance voice communication transmission as well as data transmission in the community. It includes what is referred to as propagation maps to detail the gaps in coverage that currently exist and the way this particular tower will fill in those gaps both for voice transmission and data transmission. He noted they had larger copies of the layouts for the site itself and also larger versions of this propagation map. He asked if the board would like those however, unfortunately, the larger version of the propagation maps is not in color so they don't give quite as much detail. He stated they are available to the Planning Commission and they can get them to the members momentarily. There were some additional items in the staff review that they thought were important and wanted to address them for the Commission. For instance, the issue of insurance: TowerCo has already committed to the requirement of having at least \$1,000,000.00 in general liability coverage in place as part of the lease with the city. He included this in tab 4, which is stated in their current list. That insurance will be present before the facility is operated. In a similar fashion the indemnity issues were questioned and in tab 5 there are excerpts from the lease that are two key features of the lease providing for indemnity. There is a general provision for indemnity that in paragraph 31, which is broadly protecting the municipality against any liabilities that arise out of operation of this project and more particularly paragraph 23, which is also included in the tab. There are specific indemnities for any

environmental concerns the city may have arising out of this particular project. The remaining tabs he provided in the packet presented are some of the other staff comments which have already been read into the record. There are two people present tonight that have more specialized knowledge relating to the project itself. He asked if the Commission had any questions of him before the other two speak.

Chairperson Swallow asked if there were any questions or comments from the Commission at this time.

Member Smolik stated that there is obviously a lack of coverage in this area and there is excessive capacity at the downtown cell tower and the Sheffield tower. He asked if they could put additional antennas on those two locations. He stated he didn't know how that works from a capacity standpoint.

Jim Matthews stated in terms of filling in area he suspects not, but Jason Woodward is present and he can address that question fully for the members. He stated it is important to point out that this tower will have dedicated space at the top of it for the services used by the local safety forces. It is reflected in the application and it may be addressed in more detail tonight.

Jason Woodward, Director of Business Development with TowerCo. He is the individual who works directly with Verizon to implement cell sites in this area. He was the one that developed and designed the tower behind City Hall. This was a need for Verizon a couple of years ago when the network was pretty depleted in this community. This tower ended up backfilling a good hole for what their need was initially. When they deploy, they initiate as many antennas they possibly can depending on whatever the spectrum will allow them to. The Federal government controls what the carriers have in the sense of frequencies. The FCC determines what frequency each carrier can use. Based on that, that is how they are able to propagate into the general area. The cell sites that they currently have will be optimized first at all costs because the cost of deployment is way cheaper than building a new tower asset. They will always go with installing an antenna or more bandwidth off the existing sites either with bigger antennas that hold better frequencies that they are permitted to use or they will generalize a booster system where they will put what they call a remote radio head, which is basically a booster that sits behind the antenna and they can implement sometimes up to 12 to 24 of those, depending on what the sector requires based on the offload. Realistically, when the towers are actually positioned throughout the community, what becomes a bigger issue is, is more less the users underneath that general area. It only can go so far from that destination; and then there also becomes an issue that, if they get real close together, you start getting cross interference where they will also cancel each other out. So, on a lot of cases on the existing towers, they will optimize those the best they can, but if you have a series of users in an area of your community where they really need to get better coverage, it points to installing a new cell tower, which is the case that we have here.

Member Smolik asked if small cell technology would be able to fill the gap or is there too much of a loss in capacity.

Jason Woodward explained that small cells are becoming a little bit more prominent in today's world and there is a misconception out there that small cells are kind of the future of the industry. It is a bit of the future of the industry because that is what will help 5G proliferate in a lot of newer areas. A small cell is developed and made up of a very small condensed amount of antennas. It is usually three to six maximum. Those antennas will actually propagate from 300 to 500 meters in total, so you won't get a very large perimeter off that. What the small cell is actually more or less designed to do is bring the service closer to your handset so that those latency speeds are increased. As soon as you use your phone, the phone can bounce off of that. There have been a lot of tests where they tried to implement small cells throughout one community. The big thing that they are seeing with small cells is that they are carrier-specific and so, because certain carriers are on certain frequencies, certain small cells will work in certain areas for some carriers but they don't necessarily work for all the other carriers. What may work for Verizon here isn't going to work for AT&T or T-Mobile or Sprint and then in doing that the way the small cells are designed is to offload heavy-capacity areas. They work great in downtown Cleveland or around football stadiums or casinos or convention centers where there is a lot of human traffic. When you are trying to implement coverage in a smaller community or suburban area, it would take roughly up to 20 to 30 small cells to equate to a macrosite. In the sense of getting a bang for your buck, the macrosite is really what propagates on the horizon more, where a small cell will be capped at roughly 50 feet. You will get approximately 300 meters and they will get peppered pretty much everywhere.

Member Smolik stated that it sounds as though the applicant has tried to do their due diligence in doing the best they can with the existing resources and it came down to a new tower somewhere.

Jason Woodward stated yes. The path for least resistance is always co-location. That derived from the carrier itself, from the sense of their operating expenses. They do not want to pay hundreds of thousands of dollars for him to build a new tower and at the same pay for the new equipment that it takes to run it as well as pay him rent to go on that tower. They will do anything they can to physically use something to co-locate on first before they try building a new tower. The other issue is the actual due diligence to actually build a new tower can take up to a year, which is quite a long span of time when you can get on a co-location in roughly three months.

Chairperson Swallow asked if the applicant has considered alternative sites to this site.

Jason Woodward asked if she meant in terms of actual placement of where the tower was.

Chairperson Swallow responded correct.

Jason Woodward stated that they looked at a couple of general areas, but it really came down to the area across the street from the school. They looked in that area directly back into that corridor, but the city's code basically asks for them to really focus on municipal property; and so they targeted the municipal property first and foremost on this project.

Member Maleski stated that one of the concerns when he was out at that site was if the tower were to fall and asked him to explain when that happens.

Jason Woodward explained that cell towers are designed similar to a utility tower and so, the large format utility tower is actually designed to basically collapse on themselves if they were to ever fall. When they are engineered, it is basically a sleeved-on design. This tower is a monopole. It isn't a lattice or a guide tower. A guide tower has wires and a lattice tower is a cross-angled tower. This is a straight monopole that is a sleeve-on-sleeve design. There is a 20-foot portion, it is sleeved over and bolted in, and it is sleeved in, and it does that all the way up. The way that it is engineered if it were to fail, it has designed engineered failure points to where it will actually collapse in on itself within the compound. You can engineer the design to actually fall where you want it to. He has towers that are designed to collapse within a 40-foot drop of the platform of the tower. To go on record, he had one tower in the Joplin EF-5 tornado where it is leaning. Using his arms, he demonstrated the approximate curvature of the tower. He continued to go over the building standards, stating that these towers meet more standards than standard building code; that Ohio's structural requirement is 90 mile-per-hour, three-second constant burst of wind, with three-quarters inch of ice. The tower must pass this test at all extents. To give perspective, he stated that this test would take a barn roof off with no problem. He then provided another example of one of TowerCo's towers having sustained the Puerto Rico Category 5 hurricane. He stated that Puerto Rico lost maybe two to three towers, all lattice design, and that their collapse was caused by some sort of debris hitting them.

Chairperson Swallow asked about the sort of maintenance and safety inspections that are done routinely on the towers.

Jason Woodward responded that anytime there is activity on the tower – whether to change or add equipment, or if there's a new co-location on the tower – they have to run a certified structural from a State engineer that signs and stamps that tower to meet those standards that he just spoke about; that there is a constant monitoring of the tower at all times.

Chairperson Swallow asked if there are regularly-scheduled maintenance inspections.

Jason Woodward responded yes, that there is always a physical inspection because they have to make sure there is some form of weed control on the site and that the fences are taken care of, and everything is looked at. He said that TowerCo has a contract with a company called TRL that visits all the sites; that's usually done with every six months. They also do a physical inspection. He said that these towers are pretty self-sufficient. There's not much of an issue but, historically, anytime you build a tower, a carrier is usually touching it somehow, someway, usually within every single year. It's rare that he doesn't ever have to cycle something on a structural review.

Chairperson Swallow stated that the members were all emailed today some comments by a resident and one of their concerns was light emissions from the tower. She understands that the

proposed tower would be 180 feet so it wouldn't require that extra lighting from the FAA. She asked if he could describe what would be on the tower and what the emissions would be like from that light.

Jason Woodward explained that there is no lighting on the tower at all. The FAA requires that anything 200 feet or over has to be lit in some way, shape, or form, and then the FAA determine how that lighting standard is. It can be a constant red burn or flashing white light or it could be what they call a dual zone light, which flashes white in the daytime and then red at night. This site, because it sits under that 200-foot plane, it actually is not going to be lit. So there is no lighting on the tower at all. The only lighting that would actually be on the site is actually down at the equipment area. It is a twist timer and very similar to what is located in an old-fashion hotel as a timer fan. It is basically that. Whenever there is a Verizon tech on site, they can twist that and it goes on a 20-minute interval. That light basically lights up the compound; and the lights are built on pillars that shine onto the equipment so that, when the tech is working on it at nighttime, they can see everything and it automatically shuts off. There is no lighting apparatus on the tower at all.

Chairperson Swallow asked if the site that is being proposed is proposed to be fenced somehow and screened from the neighbors.

Jason Woodward stated yes. Back in the day they would put compound shelters with a light – and that was always lit – and they have gone away from that entirely.

Chairperson Swallow asked if he anticipated any light emitting onto neighboring properties.

Jason Woodward stated no; and in a sense of basic maintenance, if there ever has to be a technician to visit the site, it is not heavy equipment. It is usually someone that is driving in an F150 or F250 pickup truck that drives back there. They turn on that dial and the light just stays on in that small, condensed zone. Usually, you can't see it past 50 to 60 feet away.

Member Maleski stated that he has done his research with American Cancer Society and FCC. He asked if the applicant could address that, as that was something that was brought up with some of the members in the audience who he met at the site.

Jason Woodward explained that one of the things that American Cancer Society has said that there is basically not an issue from this style of cellular radiation. One of the things that he has to be careful with here is that, under the Telecom Act of 1996, this is not actually to be addressed in a public hearing because the federal government and the FCC – it is a non-health issue and basically it states that it is not to be commented on or discussed in a public session.

Chairperson Swallow asked if there were any other comments from the Commission.

Member Abens asked if there was any chance this pole could be a little bit shorter.

Jason Woodward stated that they originally came to the city with a 150-foot pole for Verizon and that is basically where Verizon will co-locate. This tower is going to be designed for multiple carriers and so it is not just for Verizon. One of the things that became a big issue for this community is that North Ridgeville needed some height for propagation for a repeater system for Police and Fire. That repeater system needs to be elevated at an above-level to get that corridor covered properly. So, in the sense of their development, they are basically having North Ridgeville piggyback off of their infrastructure and letting North Ridgeville install their equipment for public service. They are basically donating 30 feet of free space to the city so that they could get propagation and use it at will. He believes that there is also a need for the meter reader for the water reading system at one point in time. He knows that is being used on the existing tower here. The majority of the focus though was on public safety. He knows that there is a big issue with a coverage-hole that has developed in that area quite a lot.

Member Abens stated that there is obviously a generator for this particular facility. He asked if that generator was for backup or was it for the main electrical source.

Jason Woodward stated that the generator is only for backup. It is there for nothing more than to meet the FCC requirements of an eight-hour, mandatory backup. Ever since hurricane Katrina hit and 9-1-1, it basically implemented these types of requirements. The FCC made a guideline that the wireless carriers need to have at least an eight-hour battery backup on what they call a hard and core directive of their sites. In doing that, Verizon has gone above and beyond. They basically have a generator on almost every single one of their sites. It is extremely rare that they don't. There was a point in time that Verizon had the aid band in the federal government to where, if there was truly a natural emergency, they can actually shut off and everything goes to the Feds. It was hard network across the country. It has been a little bit different as it is now with AT&T. They have continued to take that hardened approach. That generator will only fire up during a test period, so that happens once every 30 days and it will cycle 30 minutes in total; and is usually done in midafternoon. That generator is a small propane tank that they install now to where it just feeds off that propane tank. It only runs during off-time when the grid is truly down. One of the things that is very important is Verizon and AT&T are the LTEs-provider for pretty much all of Ohio and the entire country. They are the LTE backup systems or primary systems for data dumps, squad car information, all your police data and ambulatory, all goes through Verizon's network. He met with the Police and Fire Chiefs extensively to understand what the needs were for the community. Verizon's network in a national emergency needs to operate more than ever, and that is why they are staying with the hardened generator backup systems.

Member Smolik addressed the Administration and asked if they could elaborate a little more on the police and fire communication. He knows that a lot of the surrounding communities are going to MARCS Towers. It seems to have your own infrastructure is a little outdated and MARCS Towers are able to communicate on a state level.

Safety-Service Director Armbruster stated MARCS towers are actually going away and AT&T will be taking over that system.

Jason Woodward stated that the State of Ohio was probably one of the most advanced states in the union in a sense of inoperability system and that was the MARCS system. The big problem that happened with MARCS was the cost. A lot of smaller communities couldn't afford the cost of buying their radios, subscribing to the service, and it became a bit of a privileged network. That became an escalating voice from the rural markets to the federal government after 9-1-1 and Katrina and a couple of other instances where there has never been an inoperability system to be used by the masses at a low cost that can be controlled by a carrier on a national basis that everyone can use. That ended up spurring an entity called FirstNet, and FirstNet is a federal government-funded agency that basically took over block 14 and the spectrum band. Block 14 was carved out, set aside and given to FirstNet, and they said to find out a way to implement an inoperability system that everyone can use. The federal government had nine billion dollars to allocate to that project. They initiated that money and found out that it was impossible to build a network nationwide with that little funding. They RFPed that spectrum out and they wanted to find someone who was willing to take on the capital investment throughout the entire country. Quickly, AT&T jumped on the bandwagon and said they would take over FirstNet; and they offered 46 billion dollars of investment until 2025. They asked to use block 14 for public usage but, if there is a national or international emergency, then they could shut down the service and push it to the local and national first responders and they get first dibs on frequency bands for all police radio and fire and utilize the system that way. That was approved and signed off on as of last December. Every single Governor in the union had to either agree or disagree with accepting FirstNet into their state. The State of Ohio was the worst case because they had one of the most robust networks. They wanted to take FirstNet and implement into MARCS and run it on their own. That was the biggest case. The problem was the federal government kind of trapped all the states and said it was great that they had their own network, but they have to use their frequency and, guess what – if they wanted to use their frequency, it is 25 million dollars a year, and so, if your state wants to pump up 25 million dollars a year to use their network then be their guest. All the states were trapped and had to accept it. The Governor of Ohio signed it last December and FirstNet is now implemented in the United States. Every single Governor has signed it. Nobody rejected. He stated that if the city changed from Verizon data dump to AT&T, they would then have First Responder Priority Network on FirstNet. The city would have to switch over and change to that and there is obviously a fee. That is the direction that everyone is going, which is now going to take MARCS and put MARCS on a shelf as well as the local Motorola systems. A lot of directive is going to the wireless infrastructure, which is FirstNet. Now Verizon is competing with that as well and they have implemented their own "FirstNet". It is just not on that frequency band. What they are doing is they are taking their subscribers and giving you guys a priority system base too to where they will actually shift the system to try and help you, but it is not guaranteed like FirstNet on a national basis.

Member Smolik asked if there was going to be a repeater on that tower then. So then there is a repeater at Shady Drive and then the north repeater will be at this new tower.

Safety-Service Director Armbruster stated that was correct.

Chairperson Swallow asked if there were any other comments from the Commission. Hearing none, she asked if there were any comments or questions from the Administration. Hearing none, she opened the floor for public comment. She asked that they start on the front side of the room. She asked that they approach the podium and state their name and address for the record, and sign in on the sign in sheet at the podium.

Mike Babet of 38601 Sugar Ridge Road stated that he received a lot more information now that he is pleased to know. He did hear one comment he had a question about. There was a comment about alternative sites were not thoroughly investigated because municipal code is that they build on municipality ground, and he wondered at what length were other sites looked at.

Chairperson Swallow asked if it would be more efficient if the Commission collected the comments and questions and then maybe have the applicant come up and respond. She is thinking in the best interest of everyone's time this evening and, if we miss anything, we will certainly come back to it; she will try to keep track of questions.

Mike Babet stated that the other question was that the applicant stated it takes up to a year to build one of these; and they went from 150-foot to 180-foot which now gives the ability to add on other competitors onto the pole and so, that makes it more lucrative; and, if that being the case, wouldn't that change the study because he believes they are building a monopole due to size restrictions, and typically monopoles are 150 feet and under, not 150 or over. He asked with the size limitations they have, is it the only pole they are able to construct; and now that they have gone to the excessive height, would it change the engineering; and he asked what additional risk does that put on the people in that close proximity. He stated that the police, fire and service department do a wonderful job protecting our service and servicing our city. We also have been benefited financially from the Mayor finding financial help for our city. He does a great job. This could be another win/win for us if we can upgrade emergency services at little to no cost and realize some income for this city by leasing unused ground. We all want better police communications as well as additional income for our city. On the application, the fire department had no comment and so, they must have adequate radio coverage. The police say it will enhance their coverage and the Safety-Service Director stated it was imperative that we approve. Three different levels of needs are expressed here. He has heard police drop radio coverage in this area and much switch over to cell use. He asked if that meant the area cell coverage is good there currently. This application is for a cell tower and not a radio tower. The applicant must supply data that directs us to their need and they did. Each resident relies on their elected officials to know that we are following the same guidelines equally for all. There are minimum requirements for all set forth by our city in regard to building structures. These minimum requirements are designed for public safety, welfare, security and aesthetics as well as planned growth. It may be true that utilities have different requirements and standards placed upon them when it comes to following local building codes; that they also bear the burden of proving data that indicates there is a need for their utility and where it will be best suited for the community. It is required that there are multiple sites of location of interest that they have comparison studies done to determine the best site for all. It may be true that our city does not have to follow its own process for approval and building codes. He asked at what point is it

reasonable to expect the city or the utility to abide by these codes. He asked if it would be a safety concern, managed growth, aesthetics, and public welfare. He asked if the city and utility can pick and choose when and what it should follow or use common sense or public input. Our city has spent a lot of money for building and planned growth. It is the burden of the utility to submit design plans and prove service needs as well as offer multiple location sites and coverage solutions if they want to circumvent our process for construction. After reading the application and comments from the legal department, they seem to make a big deal about what if. He stated what if we don't approve this. He stated if the Commission doesn't approve this – a completed application, which only 95 percent was received tonight, from the utility will already provide most of the information you need for disapproval. No one is asking the city to give special treatment to anyone, and that includes the applicant.

Gary Gouchie of 9061 Franklin Drive stated the reason he is here tonight is because he was asked to review some of the data that the city had and other questions they had about cell towers. He has some experience in radio towers and communication. He looked up other municipalities that have either telecommunications technical reviews set up, statements of purpose, and a lot of the cities have ordinances. He read a statement of purpose. He stated that the company that came in tonight to talk about the tower did a great job covering a lot of that data. From our community, he didn't believe we had an ordinance right now for telecommunications and he believes one is needed. He asked that the city sit down and draft one up. He brought samples from other Midwest communities. He stated their concerns are different from our concerns as a city. He stated that, if the city has a problem with safety communications in that area, he asked that something be put in there in the interim. If his mother is over there and these radios aren't working, and we lose communications, and we say because we didn't put up a cell tower, that doesn't seem like a good reason to put up a cell tower. It may be a good location for it later on in the future but, if there is a hole there now, please fill it.

Martin Austin of 34897 Shawn Drive handed out documents to the Commission including a map of the current towers and carriers. He stated AT&T is .68 miles away from this proposed location. He thanked the Commission members that came out to view their concerns. He asked that Planning Commission deny the request to construct a cell tower in their backyards. This tower would negatively impact their property values, impair the scenic view, and potentially affect the health of every resident living near the tower. Over the last year, he has been a regular attendee at many Zoning Board, Planning, and City Council meetings. At a Zoning meeting in December of 2017 – when this cell tower first came to light – a homeowner was simply asking for a variance to construct an 8-by-10-foot outbuilding. The Board denied the request due to the effect that it would have on the property and the surrounding neighborhood, even though no one was there to speak out against it. The cell phone tower cannot move forward without the BZA granting it several variances tonight, which he will hope the Commission will not do. On the south side of the proposed tower is one of the first housing developments that were built in North Ridgeville. He lives on the north side and he built his home in 1998. Both developments were well aware of the power lines when they purchased their homes. However, part of the reason why he chose to build his dream home on the north side was that he has a buffer zone of trees blocking the power lines from his view. Should this cell phone tower be erected, he will have to

look at an eyesore that is almost 12 stories taller than any existing trees in his backyard. He also has a health and safety concern – due to the proximity of the tower of some of their homes less than 500 feet – in case of a collapse. He understands how it is built to collapse, but it won't collapse toward the power lines. It will collapse in their direction of their homes. Even if it collapses within a 40-foot surrounding area, that could probably take out the power lines as it is that close. This tower will be extremely close to homes and power lines, and will also be right in the middle of the flight path. The applicant said there weren't any flight paths. He disagreed, as there are helicopters that fly to check the power lines at least eight times a year. There are four recorded crashes between 2014 and present of these helicopters flying and crashing during these inspections. This inspection is in the flight zone where this tower is located. It will be quite a bit larger than the power lines. He continued to ask if there is a need for another cell phone tower in our area. He has Verizon and he has good reception. His area is not the area in the city that is growing. He asked the Commission to keep in mind that there is another tower that is just over a mile away that has the same wireless carrier. Cities are being asked to share services to reduce cost. He asked why they can't share cell phone towers. Sprint has a 190-foot tower, .54 miles away; AT&T has a 250-foot tower, .69 feet away from his residence. The surrounding area of this site is zoned R1 residential neighborhood. It also includes an elementary school which should be free from any health and safety concerns. He sent information to every member in regards to his findings on cell towers as they are a public utility. We as the city cannot prohibit the placement of communication towers. They, the City, are allowed to regulate how and where the towers are placed as long as the overall impact is not to preclude wireless service. He then proceeded to read Section 704 from the federal law as stated in the Telecommunications Act of 1996. He stated that our ordinance does not prohibit a tower to be built in an R1; it just needs to meet the reasonable guidelines set forth in our city ordinances. He addressed the attorney's letter in regard to the Building Department's recommendation. With regard to the first recommendation, this item relates to a zoning issue as you will recall this application involves a property leased to sell company by the city of North Ridgeville and, pursuant to NRCO 1420.07, the city is exempt from limitations and restrictions imposed by the zoning code with respect to the use of the land or structure in the city. He read 1420.07 of the codified ordinances. He then referred to part 14 of the building and housing code, and not under part 12. He believes this means it has no bearing on this tower. He read part 14, building and housing code, title six, miscellaneous building and regulations under chapter 1462. He continued to add sections 1248.8, 1462.04b3a and section 8.6 of the City Charter means, to him, that the city does not have an absolute right to construct a tower until first approved by the Planning Commission and confirmed by City Council. He asked the Commission to vote no. It would then be up to City Council to decide on the tower.

Chairperson Swallow explained that she understands that there is some confusion about the zoning code and what is required and what is not required. However, that is not before this Commission. The Commission is here tonight for the approval of this site and the development itself. She stated that if there are questions about whether or not zoning applies, that is not before this board as that is a legal decision; and this board has no authority to tell the city, yes, they have to comply with zoning or, no, they don't have to comply with zoning. That is a legal decision the city has reached and not something we can address before the Commission.

Kevin McNaulty of 34956 Shawn Drive stated a lot of his questions this evening were answered, but he does have a couple comments. There are seven towers in this city as we stand here tonight – that are already built and the FCC knows about. There is another one being built on Shady Drive, and they want to do this one here. Private property in our area – not less than 200 yards from the current site – has 12 acres of woods. He approached the gentleman who owns that property and asked if anyone ever contacted him about the use of his land for a cell tower. He said no. He was going to attend this evening but felt ill so he couldn't attend. He provided the locations of all the towers in North Ridgeville. His biggest concern is that we have seven towers that the FCC knows about; and the surrounding communities that have towers the FCC knows about are four in Westlake, and there are two in Avon in which all locations are registered with the FCC. The other concern he has is – when their homes were constructed, that is their living and viewing area toward the back of their homes. His home is on the north side of the street. His concern is he has been in that neighborhood 24 years. He knows that when the people on the south side of the street built, they built because of the living and viewing is in the back of their property. Sure the power lines are there, but the trees are high enough that you don't even see the power lines. He said now you want to add a 180-foot tower with an extension of another 15 feet, which makes it 195 feet. The other concern he has is that, when the other tower that was built near City Hall, they were told that tower was going to take care of the communication for the safety forces. He stated tonight, the topic of safety forces was only brought up in less than a five-minute discussion. The rest has been about cell phone use. He believes that this is more about a corporate thing than a safety issue for our city.

Therese Hensley of 34825 Shawn Drive stated her husband sent some documents to the Planning Commission. She stated that locating a cell tower in this location would decrease the property values for at least 80 homes, in a combined value of over \$650,000 based upon current property tax rates, the city and schools would lose over \$7,000 in tax revenue. These findings are based on a recent study conducted by the University of Kentucky. This was one of the documents her husband sent to the Commission. She asked how the city plans on compensating residents for reduction in their home value of as much as 8 percent, especially if a home is the largest asset owned by most people. The other document sent referred to Diamond Communications stating that, if it is truly found that the additional cell coverage is needed for this city, there are at least two other options that would have a much lower impact on the residents. She asked that the Planning Commission strongly recommends that the city look into companies such as Diamond Communications, whose business is to co-locate cell towers on existing electric grid infrastructures like the high-tension power lines that are adjacent to this proposed property. Diamond Communications already has an established relationship with First Energy, which has led to the cohosting of cell towers in a number of locations. It would make perfect sense to utilize the existing power lines and work to co-locate a cell tower rather than constructing a solitary 180-foot cell phone tower in a residential neighborhood. By utilizing co-location, property values are not adversely affected and the impact on these site lines is dramatically lower. Another option would be to locate the cell tower at the fire station being built on Ranger Way currently.

Josh Hughes of 34909 Shawn Drive stated he was basically here tonight in hopes that the Commission would swing their vote to the no side on the cell phone tower. He stated his wife and he just bought their house on Shawn Drive in June of 2016. They bought it based on the beautiful landscape and view of the woods in the backyard. He stated the power lines were there but they are pretty far off to the west side, which they can't see from their house. He asked if any of the trees will be removed back there. That is one of his big concerns. He continued on to state that he has three boys – ages 8, and the twins are age 7. His boys love to play in the backyard and in the woods and enjoy the freedom. This year they built a clubhouse. Right now it is a safe place for them to play; but when and if this 180-foot tower gets built, this place will no longer be a safe place for them to play. He stated he knows the government doesn't allow the public to address the high frequency radio waves and the danger it inflicts on our body, but there is a very good reason why this isn't to be talked about. He stated that in the zoning rules there is a 750-foot restriction from the cell phone tower structure to the house; and this cell phone tower will be about 450 feet from where he and his family sleeps, 150 feet from his workshop, and 68 feet from where his kids play. Many studies have shown the many dangers of living too close to cell phone towers and the dangers of high frequency radio waves, especially on children. He knows that they design these things to fall a certain way and he is interested to hear that this one will collapse. However, it was mentioned here tonight about a monopole that was leaning; and he asked where was it leaning as he knows foundations can only be so strong. No one in this room wants a 180-foot cell phone tower in their backyard, and he is sure no one would buy a house with a cell phone tower that is already there. When they sell their house, it will be difficult or very impossible to get their asking price; and most surveys say that it will be an 8-to 10 percent decline on the value of the home with a cell phone tower that is in range. It is frustrating that the city owns the parcel and they can pretty much do whatever they want on it and he asked why this is the only location for this cell phone tower. He is learning now that the applicant was restricted to only North Ridgeville property, which he finds interesting they couldn't look anywhere else besides that. There are a lot of locations with a lot more land that wouldn't have a negative impact on residents.

Nicole Spearman of 34921 Shawn Drive stated that she is interested in looking at the coverage that they were speaking about as she was not able to look at any of that. She stated that the proposed site for this cell tower is directly behind her home. She built her home in 1998 and moved in January of 1999. She has a handicapped son and that home was built specifically for him. She can't just pick up and move because she doesn't want to see a cell tower in her backyard. She looked at some studies and real estate appraisal journals and almost 79 percent of the people would never consider looking at a home that has a cell tower behind their home. She is located on subplot 24. Her main concern is what this cell tower will do to her home value. She asked that because the cell tower itself would be impeding on some zoning variances, what would happen if she wanted to construct something on her property. She would now have to apply for a variance for her yard.

Pat Austin of 34897 Shawn Drive stated that she learned a lot more tonight than what she originally knew. She stated that she and her husband have lived in North Ridgeville for most of their lives. They built their home over 20 years ago and were one of the original homeowners on

that street. This structure will be built between Shawn and Deborah, and it will literally be in their backyard. She stated that it will be 75 feet from the western corner of their lot, and 500 feet from their actual home. They aren't opposed to a communications tower in their area. Yes, studies were done and it is warranted, but we haven't seen any of that. They realize it is a necessary evil but we don't feel that it should be in any North Ridgeville neighborhood, especially when they have power lines in place. She has many questions and concerns but she was told health issues and aesthetics is irrelevant; that they have no bearing on when the towers are placed. This is a very tall, intrusive tower – 12 times taller than the tallest tree in our area and 1.2 times higher than the high-tension towers. About a year ago, some of the trees were removed for the retention basin. They are concerned and there are zoning rules in place; and just because this is city property, they don't feel the city should be exempt from following their own rules. Health and safety is a concern for them because they live right there. There are two sources of radiation – can't possibly be a good thing. As far as enhancing communications, there is no problem with that but they haven't seen the study and they are very curious what other sites were looked at. She spoke about the decrease in property values as well. She stated that this is a family-friendly neighborhood and asked who will want to buy a home that has both a cell phone tower and power lines in their back yard. She asked that their voices be heard regarding the site selection. She asked that the Commission consider their welfare and their property value and their safety by reviewing all the information that is presented and made available. She stated that they hope the Commission agrees that there are other options available that will work for all parties involved. Communication towers do not have to be placed in residential neighborhoods.

Mary Schaale of 35265 Aspen stated that she is the minority in the room and is all for this tower. She has to stand at her door wall in order to talk to her daughter. She can't sit on the couch or at the dining room table; she literally has to stand at the door wall because she has only one bar. As soon as they got the notice about this meeting, she said yay – she will no longer have to stand at the door wall to talk to her daughter. She stated that she is all for better service for the police, fire and radio. She feels bad that these people live on this street, but she has more of a problem looking at those garish street lights that she would love to see come down because they are horrible. She felt that this cell monopole would be more aesthetically pleasing than these hideous street lights.

Dr. Beth Malinich of 5504 Robert Court stated that the cell tower will be just 68 feet from the nearest property owner's property line. She spoke of the city's requirements for cell structures and a property line. She spoke of the city ordinance that requires cell towers to be 750 feet from a dwelling. This cell tower will be half that distance. She asked how the city expects their residents to obey the laws if the city chooses to ignore their own laws. She stated her concern is, if this tower collapses, it will collapse near the homes. She asked the Commission to reconsider the location for this. There has to be an alternative location that is less dangerous.

Pamela Madak of 34885 Shawn Drive explained they just moved to North Ridgeville and they saved their whole lives to find their dream home. They searched for three years. She stated she had a list of 36 items that had to be met and this was the house. They moved here because they heard this was a great city. It was one of the safest communities in 2016. Every year, they hear

that it is one of the safest communities in the State of Ohio, if not the Country. She stated now they are hearing that property values do decrease because of cell towers. She stated that they trust you as their local government to make decisions that protect their investments. This affects 61 homes in a 750-foot radius. Commercial appraisers have said, if this happens, it does cause lower value and the city could actually be sued. The applicant stated that cell phone tower failures could happen if something falls into it. There are 120-foot trees there that could fall into it if there is a storm. There were trees that had fallen from the storm that we had last weekend. She spoke about safety and addressed the Law Director and asked if we had to follow these ordinances, because there were documents in the original application that the Law Department stated it needed approval of the Planning Commission, pursuant to Chapter 1462 and Section 1240.08. She provided documents that include model ordinances and it says that the Federal Communication Act of 1996 places some restrictions on the ability of the communities; but the net effect of the Act is that communities can place reasonable restrictions on facilities in certain zones or areas. Some courts have interpreted the Act preempt of local regulation of health effects from wireless facilities; but the Act does not specifically grant health issues which are traditionally left to local control. In Chapter 1462, it's literally about cellular communication systems, and she asked why the city isn't following these codes that somebody in this city worked so hard to make for cell towers. She read a portion of Chapter 1462 regarding preservation of the city, minimize the impact of property values in the city, promote the general health and quality of life of the citizens, etc. People have said enough to where the Commission has enough information to say no to this. That coverage map doesn't show enough information pertaining to adequate coverage. She stated that, in the code, it states the independent radio frequency engineer will not be an employee of either the city, the applicant or permit holder, and shall be compensated in full by the applicant and selected by the city. She asked if that was done or not. She printed out a Verizon map and it shows no gaps. She spoke again about Chapter 1462 and stated that the city is saying that they don't have to follow these codes but the residents are asking that they should. The setbacks are not met according to code and the cell tower should not be within any residential zoning districts. It is located in R1 and it is surrounded by R1. She stated that, according to code, it should be camouflaged; again, it is twice as tall as the trees. You can't camouflage it unless you are lying on the ground under a trampoline. She stated she didn't know how you would camouflage a 195-foot tower. She reiterated the code and the required setbacks. She spoke on the subject of the tower falling in on itself stating that is not how it will always happen as there are some things out of our control that will cause that tower to fall another way. She spoke regarding the ordinances, specifically as it relates to non-ionizing radiation exposure. She quoted a portion of the ordinance, which states that no wireless tower or related wireless telecommunications facility shall be located in such a manner that it poses, either by itself or in combination with other such facilities... – the power lines are right there. She asked if there were any studies that showed the non-ionizing radiation exposure, which the city had asked for. She then asked if studies were done in combination with the power lines and the cell tower. She restated that health and safety is a huge concern for them. The FCC may say it is safe and not unhealthy and that it shouldn't be talked about, however, the Telecommunication Act does not state that; and the FCC is not a health or safety or scientific agency, so think about the source of that information. She stated that the residents were told, when this existing tower at City Hall was being put up, that it would be the end-all – be all for the city; and here we are,

three years later, having these same conversations. She asked why the city is doing business without the proof and without the data. She read an excerpt from the Law Department stating that a significant gap in coverage needs to be shown, and some inquiry into feasibility into alternative facilities or locations. That is paramount to placing the tower here. She stated that all cell phone owners on Shawn Drive do not have cell phone issues and they all have Verizon. She stated that the Police Chief indicated that this would help. She asked how we know if that is true. She stated that the residents want the area to be safe but they shouldn't have to take the burden of putting the cell tower behind their homes. She asked that the Planning Commission protect their property values; uphold the city ordinances for safety, health and welfare and their quality of life. She asked that the Commission vote no.

Chairperson Swallow called a recess at 8:30 P.M.

Meeting resumed at 8:38 P.M.

Ross Madak of 34885 Shawn Drive confirmed comments made by his wife in finding their home. They were concerned about the power lines as it was their choice to still buy where the power lines were; but the trees cover it and the distance from the power lines is not an issue; and between the distance and the trees it mitigated any health concerns. The monopole for this project is twice the height of the power lines so there is no mitigation of rays that will come off this tower. This is 24/7 continuous power. It is not like your cell phone that you can turn off and on. Studies have been done showing exposure over time and not continuous period of time. Him and his wife are both teachers and have the summers off, which they plan to enjoy in their home and yard. This second health risk is compounded and is out of their hands. This choice is being forced upon them and they are just asking the Commission to help give them a voice. He read an excerpt from a law firm regarding wireless companies filing applications with local government; the local government is to remain vested both with the power and the obligation to enact local zoning laws, and in a manner to protect their citizens. He stated there are ordinances in place; and this application is also supposed to prove that this is the least intrusive option for the location of the cell tower. He stated this is one of the most intrusive locations, ignoring over 50 percent of the city's recommended distance from structure-to-structure, and 30 percent from structure-to-property line. It does not promote safety, health and welfare, but actually jeopardizes the many homes in that area; not to mention the elementary school west of it. One item they were to meet according to code is to provide a feasibility study that showed alternate facilities and locations. They only spoke with the city regarding city-owned property. They didn't talk to private owners. That portion of the code was not met. He spoke regarding Chapter 1462, stating that it was created to protect the health, safety and general welfare from general cell towers and their placement. These are not unreasonable requirements and can be used to determine the success of the application. The applicant is not following the required guidelines. He spoke about the hardship TowerCo will be giving to the residents surrounding it based on decreased property values. The city is to minimize the impact this will have on the residents per code. He spoke of case law regarding a tower company application being denied, and that denial being upheld in court based on the reduction of property values in close proximity to the tower. He stated this is one case which could be used to say no here. He provided documents which

state 94 percent of participants agreed that a tower would negatively impact their decision in buying a home; and 79 percent expressed under no circumstance would they even consider buying a home near a tower. He stated that the International Association of Fire Fighters also feel there are health concerns due to cell towers. He provided documents where a Fire Department did not want towers near stations as they have studies of health effects from continued exposure. He asked why the city would gamble with the residents' health. He concluded by stating that this cannot possibly be the least intrusive location for this tower. It may be convenient for the city, but convenience should not override its intrusive location on its neighbors and its schools. It goes against every ordinance created to protect. He continued on regarding the location; and the ordinance that has requirements; and if there is a catastrophic failure, who knows what the damage would be. It is a safety concern in which the city needs to protect its residents from these concerns. It will affect the health of these residents in this area, and these are not unreasonable reasons to deny the application. These arguments follow the guidelines set forth by the city. These are specifically ordinances for cell towers. Convenience should not trump the residents' health, safety, and welfare. There is enough information out there to say no to this application.

David Bogner of 34944 Shawn Drive stated that it was brought up earlier that the Motorola systems are going outdated and becoming obsolete. He asked if it was also true if that was the current radio system being used for the police department and fire department. He asked if that system that we are trying to enhance will be obsolete in the very near future. He stated that if the residents now in this area apply for a building permit, they will now have to go through a process and they would have to make sure whatever they put up – be it a shed or whatever – that it doesn't impact other locations around them. The city requires that a structure cannot be built within 750 feet of a cell phone tower. You can't have a cell phone tower within 750 feet of a structure; and you can't have a structure within 750 feet of a cell phone tower. If anyone in these 61 homes wants to pull a permit to do anything, he asked if they would have to receive a variance from the Board of Zoning to be able to build anything; so now, all of a sudden, they are within 750 feet of a tower. Just because the city can allow a tower to be built by TowerCo, he asked should it. Just because it is land that the city happens to own, that is the only property this applicant looked at. The representative stated that was all they looked at. He stated it doesn't make any sense. He stated that the representative believed the ordinance directed them to look at city properties because that is the easy way out. We have ordinances in place for the protection of our residents, for their health and safety. The Mayor was on Council at the time these ordinances were put in place, and for good reason. Council made some really good decisions and were proactive in making these decisions; and now, all of a sudden, those decisions are being thrown to the wind. He disagrees and doesn't believe it is the smart thing to do. He stated it has been mentioned that health and safety cannot be talked about, but there are so many studies that show that there are health risks involved with living in the vicinity of a cell phone tower. Of course they diminish the further you get away. He presented some of the results of that. He spoke of a study done in 2007 which shows that being within 1200 feet of a cell phone tower increases the high incidents of cancer, brain hemorrhages and high blood pressure. He stated he doesn't want any of those and doesn't want it in his neighborhood. This cell phone tower is proposed to be 390 feet from a residence, and within 750 feet from 61 homes. There was good

reason that our city, the City of Strongsville, and many other cities, require 750 feet. He asked why we aren't paying attention to those ordinances. He believes it is because the city owns this property and that is not reason enough. There are plenty of other locations, and he mentioned one location in particular that is north of this property with plenty of land to be more than 750 feet away from a resident. There are plenty other options and he asked for the Commission to consider them. He asked if we are installing something for equipment being used that will be obsolete soon at the risk and expense of the health and safety of our residents. He stated that cell phone towers do fail and showed the picture of Rocky River High School. This happens locally; and he asked which one of these seven, eight or nine towers in North Ridgeville will be the first to fall. It will happen. Josh and his wife have three young children and they are playing within 68 feet of this tower. This is their backyard. He asked what right does the city have to take that safe zone away from them. He asked if the Commission would ask the audience tonight – with a show of hands – how many people in the room want this to happen. He humbly requests the Commission cast the vote against this proposal. He stated let Verizon come up with a proposal that provides for the needed services without putting the health, safety and welfare of the residents at risk.

Kathleen Williams of 5528 Robert Court stated she has the power lines behind her house. She stated she is very impressed with how prepared everyone was and noted that, back in 2003, there were trees in her backyard where she was forced to take down because of the power lines. She was told that if they grew tall enough they could hit the power lines and the grid will go out. The electric company said that the trees have to go because of the power lines. She stated why did she have to take the trees out if this tower can be put in, fall and hit the power lines, and take out the grid. She stated that the helicopter pilots wave to her when she is at work in her home office. Her concern is for these helicopter pilots that come through and check the powerlines with this tower being there. She asked that they don't build in her backyard. She spoke then of the property values and how they will decrease based on this tower. She wants to keep that neighborhood safe for the children as well as the adults.

Doug Ice of 5591 Jaycox stated he is on the other side of the residents but will have a bird's-eye view of this tower. His concern is this monopole being a little less than 200 feet without lights, because it is in the flight paths of the EMS helicopters that come through. The power line helicopters come through during the day and check them, but if a helicopter needed to land over at Liberty School, who is going to see this tower that is almost twice as tall as they are coming from Avon or St. John Westshore. He feels the Planning Commission should be doing what is best for the city. He has lived here over 60 years and has seen a lot of changes. We seem to let go of the things that would benefit the city as it is all going to the city of Avon. Now, we are trying to play catch-up. He asked who this tower will actually benefit. There is one already here and this one will be a mile and a half away. If this short distance will benefit the police, he asked how they are communicating with the other half of the city. He understands that the Fire Department has their antennae on the water tower. He asked why the Police don't put theirs up there also. He finds it hard to believe that just putting a repeater on this tower will benefit the safety forces. This tower is on the border. He asked if this would benefit Verizon in helping the City of Avon out or will it actually help us and our Police.

Dennis Boose of 6405 Denise Drive noted that it is appropriate the day after Veteran's day, a day where we celebrate veterans who sometimes gave up their lives so that we would have the freedoms that we are enjoying this evening. He thanked the Chairman, members of the Commission and all the members of the Administration, for allowing the opportunity for individuals here to voice their opinion. He thanked the residents for voicing their opinion. These are the people that are affected by the decisions we make as city leaders. He is sometimes accused of things that he sometimes looks back and says what he could have done differently. In this particular case, people had the foresight to put together a cellular communication ordinance. It is not a part of the zoning code. The Law Director indicated that they were exempt from zoning. This is not zoning. This is part of the building code as was stated earlier. We have something in place. It isn't that we didn't look forward into the future to see what could happen because that is so hard to do. He noted that someone in his ward put a windmill up in her backyard and people were complaining, asking why a law wasn't written against that. He apologized and stated that he never thought anyone would build a windmill in their backyard. Now it is gone, but we had the foresight, and so let's use the information that we have to make a sound decision. He won't go through everything in detail as his neighbors already did. He provided a synopsis beginning with the ordinance Chapter 1462.01, which is the purpose. He noted it to state that it is to preserve the character and appearance of the city. He asked if the cell tower in this location will do that. He stated it is to minimize the impact of telecommunications facility. He stated that if health is something we aren't allowed to talk about, why is it in the ordinance in the first section of the chapter. He continued on to read that section. He stated that it was discussed earlier that the task for the Commission is for the approval of the site. He states to minimize the impact on property values and scenic access within the city. He stated that the Commission has heard testimony that a decrease in property values will be the case. It will cause property values to diminish. It will have a negative impact. He continued to state that the ordinance states it is to require the sharing of existing communications facility towers and sites where possible. He has not heard any other opportunity other than this site, stating that the applicant acknowledged that they focused on this site because it was city-owned. Part of what's required is that they look at numerous sites for the least intrusive amount. He wasn't quite sure when Planning Commission received all the required documents, if it was today or not.

Chairperson Swallow stated that the Commission received a supplemental packet this evening.

Dennis Boose stated that he wished he could have seen it as well because there were several items that were within the Chief Building Official's comments that go directly to whether or not the Commission could consider an approval or denial on this request. He learned too long ago as a City Councilman that you certainly want to make sure that you read and understand all the information that is provided to you on a particular topic before you vote yes or no. He stated he learned the hard way. He thought he understood everything on a particular item and he didn't; and though in hindsight he still made the right decision, he should have been more careful in understanding the information and details he had in front of him. He hopes that the Commission members take the time to read that. There was actually one Council meeting within the last couple of years where they were handed something before the meeting and he couldn't vote on it

because he hadn't had the chance to read it. In fact, neither did any other Council members, and so the President took a recess in order for the information that was brought forward that night to be read by all. It wasn't until after everyone read it that they moved forward. The Planning Commission packet that he received was incomplete. The Chief Building Official indicated that they needed to submit the FCC license, the environmental assessment, impact service calculations, calculations that measure the data to the non-ionizing radiation emission exposure. In addition, the applicant should have submitted signal propagation, radio frequency studies signed by a radio frequency engineer. He asked the Commission members if they received all of these items. He stated if they haven't, he would ask the Commission to consider. He stated that the Law Department provided a member to the Commission and to City Council detailing what items can be means for denial in the request. He didn't repeat them because he said the audience has already told the members several of them. Those are genuine, legitimate reasons to say no; and he didn't want the members to have the impression that they can't say no. Otherwise, there will be this big lawsuit. The Commission members can say no as it is legitimate reasons which have been discussed here tonight. He read those reasons under ordinance section 1462.04, and provided explanation for each required regulation. He stated that if the communications for the safety forces need to be addressed, it doesn't need to be addressed in this location. There are other locations that have been discussed that this same effect could take place. He spoke of 1462.08 where it states the provider shall locate a tower and related wireless telecommunications facilities only on a zoning lot of sufficient dimensions and conditions, and that includes 750 feet from a residential structure and 100 feet from the lot. To suggest that someone had the right mind too many years ago to write this and to set it up so that the residents are protected; and just to say that it is the city's property, that they don't have to follow it, he doesn't agree. There was a memorandum from the Law Department dated January 23, addressed to the Mayor, and it stated that the Law Department was approached with several issues concerning the application and legislative process for the cell towers; and after review of the Ohio statutory case law and pertinent ordinances, they made the following conclusions. He read those conclusions and noted the Ohio Revised Code 519.211, which talks about the limits of a township zoning power; not a municipality. North Ridgeville is not a township, it is a municipality. It further states where a tower could be located within a township. Again, North Ridgeville is a municipality. Again, the entire memorandum talks about an Ohio Revised Code that specifies items related to townships and not municipalities. Further, there was a letter dated October 16, 2018, from Baker, Dublikar, Beck, Wiley and Matthews, about authorizing per the lease to act as an agent for the city in connection with all matters relating to the approval and development of the project. It states, pursuant to their client's lease with the city, TowerCo is authorized to act as the agent of the city in connection to all matters to the extent that the city itself should be considered the applicant for purposes of facilitating this exemption then they request the Planning Commission to be made aware of this agency relationship and treat the city as the applicant. That could be a dangerous precedent because that means that any city, or any other business that wants to do business on city-owned property, could then have the same things afforded to them versus a utility company. He stated he is not an attorney and not here to say that, but to bring it up to question if that could happen. It was mentioned before on the reverse zoning precedent that now these homes within

750 feet of the structure want to add on a porch, build a deck or an outbuilding, will now be in violation of the distance that allows that. Those residents will now have to go to the Zoning Board for a variance, but this project doesn't. Again, that doesn't make sense. He has not seen any evidence of other sites that were considered. That goes directly to one of the reasons the Commission can say no. He stated that he is not aware of any documentation of customer complaints of not being able to get service in that area. In talking to most of the individuals in the audience, he is not aware of anyone who is having any coverage issues. The Commission saw the map that the cell phone company puts out that shows North Ridgeville has full coverage. He hasn't seen a copy of the study about the service needed in this area and he hoped it was in the Commission's packet and they reviewed it. He hasn't seen the cell spectrum or radio spectrum showing the overlay in determining where the dead spots are. Again, hopefully all of this is in the packet the Commission received and they have had a chance to review. Somewhere or someone here talked about health being a subject that is not allowed to be discussed but, according to the Law Department's instructions to the Commission, it indicated that the TCA expressly prohibits the denial of an application of a tower based on alleged negative health effects. Alleged is the key word here, and the Commission has heard enough here tonight that would plant the seed in the Commissions' minds that a reasonable person that perhaps there is more investigation that needs to be done. You can go online and see videos of cell phone towers on fire. This doesn't happen a lot, but when they do – and they have happened locally – he asked if they wanted it to be here. This is a neighborhood that has young children, people that have been here for a long time, people that if anyone took the opportunity to stand in their backyard and look to the south, you didn't see high-tension wires, you saw trees. You will see this tower. It is two and a half times the height of the current high-tension wires. If you believe that the city is exempt of all these things or the cell phone company is exempt from all these things because they are the agent – and they can act on behalf of the city and vice versa – just because they can doesn't mean it is in the best interest of the health, safety and welfare of the residents. He concluded by reading the purpose noted in Chapter 1462 and requested that Planning Commission vote no.

Chairperson Swallow asked if there was anyone else in the audience that wanted to provide comments or questions. Hearing none, she closed public comments. She asked the applicant to respond to some of the questions and comments.

James Matthews stated that he was going to have Mr. Woodward and Mr. Styles come up to address a couple of site designs and specific points from their notes and then invite other notes.

Jason Woodward revisited his earlier comments and explained the structure of the tower and the way the tower is designed. He heard a lot of comments that the tower is designed to fall toward the houses and that is the furthest from the truth; there is no dictation of how that tower will fall – it is just engineered to actually collapse within a 50-foot radius and that is how it is designed. A letter that was provided indicates that the tower meets all of the Ohio Revised Codes for cellular towers, which is again what he discussed earlier. It is not designed to fall toward the houses or the power lines. He stated that they have an agreement with First Energy and they are

very aware of this tower being there. They have approved it. They have a document that they have to use in order to gain access for the facility from First Energy. The request mentioned about Diamond Communications. They do market the high-tension power lines as a means to co-locate. However, Verizon will not co-locate on high-tension power lines at all due to the public safety of their climbers climbing an energized line. It wouldn't meet the propagation requirements for Verizon as well. In order to access those systems, the power needs to be turned off and that has to be done in the middle of the night. Verizon and all other carriers that are providing LTE services for first responders are no longer co-locating on high-tension power lines. He stated that he has been in this industry for over 20 years and he has built cell towers in almost every state in the union. One of the best examples he can give is where Pulte bought property in Michigan from a community where the property was cheap initially, but the city was able to sell it to them for over 2.6 million dollars. In doing that they developed 75 homesteads on that property and, just behind that, there are two towers. There is a guide tower that is 250 feet tall and a monopole that is actually right next to it. There are two towers sitting behind every single one of those house lots and every single one of those new homes sold for over a half million dollars. To say that property values are being affected, there are proven locations where they have not been affected.

Chairperson Swallow stated that many times alternate locations were brought up and it was said here that city-owned property is required by code. The section she believes the applicant was referring to was section 1462.04(a), which states that it shall be a permitted use on city-owned property. That does make it a permitted use, but she believes the question is if there were other sites that were investigated that would meet those requirements of Chapter 1462.

Jason Woodward stated he would have Jesse comment on that but asked the Commission to keep in mind that they initiated a search ring from the carrier, which tells them to implement the site within a certain zone; and the reason for that is that there are existing cell towers that are already in place in areas surrounding around this area, which they have to kind of thread the needle to get into a coverage objective that meets the need for that cell tower. They don't want them too close to each other because that could cause a cross-interference; or if you separate them, you cause what they call a speed gap, so when crossing from tower to tower it disconnects your phone and shuts it off. Jesse was the site agent and responsible for looking at multiple properties in the area. One of the first steps taken when establishing a location for a tower is they engage the municipality. They want the city to know what their intentions are, and so the city is contacted first. They did look at other properties and asked Jesse to comment on those.

Jesse Styles stated that there are already a lot of existing sites. They have to take those into account, and having sites too close to each other does not help the network. They need to be fairly evenly spaced, and the heights need to be consistent with what the engineering team designs. To that end, they did look at the elementary school across the street. The search area in this location was very small. It was consistent to what they are seeing in the industry now due to the density of sites in suburban areas like this. The search areas they get where they used to be a mile or more are now being seen at a half- or quarter-mile. They don't have a lot of flexibility at where they can go. This case, per the ordinance, they were steered hypothetically toward

anything zoned industrial or business. There is nothing zoned industrial or business within that small of an area near the intersection of Jaycox and Deborah. They have already talked about why the high-tension wires were not feasible to place equipment; and so they look to the ordinance and ask what else can be leaned upon that helps them place it. That actually took them to the city-owned property that happens to be in a residentially-zoned area. In theory, the property has a significant tree buffer than the school property; and it is generally further away from houses than any other location that is in that small area. He asked is there any perfect location in that very small geographic area that they were given by Verizon, probably not; but when you try to compare the overall greater good of access to E911, greater community development services through the use of mobile devices – they tried to balance all of those things out and they came upon that location because it seemed to satisfy as much of the need for Verizon as possible while still taking into account the spirit of the zoning ordinances as much as they could.

Chairperson Swallow asked what the search radius was.

Jesse Styles stated approximately a quarter-mile in all direction, around Jaycox and Deborah.

Chairperson Swallow stated that we heard from residents that there is another lot that is near this location that is also zoned residential but would more likely meet the setback requirements to put this tower further away from the residential properties. She asked if that was investigated.

Jesse Styles stated that part of the problem they run into when searching for sites like this is, yes, there might be a property that is much larger and would be easy to place it in the middle, but it is very unusual that a landowner – that owns that much property in that square footage that is having the kind of growth that North Ridgeville is – finds it advantageous to lease with the access and utility easements that are required, to place it in the middle of a property; that they have significantly greater core business mission plans to develop or utilize in another way. The kind of dollars in play for a cell site really only make sense for ancillary revenue, or incidental revenue, for a landowner that owns that much acreage in a growing area like this. Realistically, to lease a spot on that property, they probably would have been coming to the city for a variance; because the landowner would have wanted it in the corner of the property, as far away from the center as possible to preserve value for future development.

Chairperson Swallow stated that there was one year to conduct a study prior to bringing this forward, and the original height of the tower was proposed at 150 feet. The height bumped up to 180 feet. She asked if the size of the cell tower changes that study. She asked if it changes the engineering or safety.

Jason Woodward stated that all of the regulatory is based off the height of the tower and the location of the tower. Before they ordered that regulatory, they actually determined the 180-foot was a need prior to ordering the due diligence.

Chairperson Swallow asked then if it was included in the study.

Jason Woodward stated yes. Any time you build a taller structure, the foundation is always accommodated for a little bit taller, or the tower itself being stronger.

Chairperson Swallow stated that the Commission heard from one resident that the cell phone coverage in that area is good. They asked about radio versus cell coverage. In the discussion, we spoke about public services switching from radio over to cell and she didn't know if that was a question for the Administration.

Safety-Service Director stated that the police department uses handhelds, and there is communication in their cars. There are issues in that area where there may be some communications that are garbled, or communications that are dropped. Most recently, the city of North Ridgeville has gone up on the 9-1-1 tower over at Lorain Community College, within the last six months, thinking that this was going to resolve the issue; and comments from the Police Chief are well taken, because it has not resolved the issue in total. It has helped, but it has not resolved the issue.

Chairperson Swallow asked if there was anything else to fill that gap that has been identified, and would it substitute for this size cell tower. What she believes the resident was alluding to was placing the smaller towers on utility poles.

Jason Woodward stated that those are small cell installations, and that is where he referred back to his explanation about that. He stated that they basically take out about 300 meters, and to cover that area with limited amount of height will not do much for the community.

Chairperson Swallow asked if the tower falls it would affect the power lines.

Jason Woodward stated they are required by First Energy to stay a certain amount of feet away from them; but at the same time, they asked them to make sure there was a fall zone area of 50 feet; and they accomplished that, and they are aware of it.

Chairperson Swallow noted flight paths and asked specifically about the helicopters coming in to check those power lines.

Jason Woodward stated the purpose of the FAA and the required filing of the structure to them. These sites are placed on aerial maps for any pilot to identify. The lighting requirement comes through the government through the FAA. If it is over 200 feet, or if it is in a flight path, they can make them put lights on the tower even though it is less than 200 feet. It is always the determination of the federal government to determine whether or not that tower needs to be painted red or white, or if it has to be lit. The State of Ohio Department of Transportation actually supersedes the FAA; and so ODOT has final say on the height of a structure, because they take into considerations small regional airports, crop dusting areas, backyard airports, hospital landing paths and everything that can be considered. After he gets the FAA filing, he then submits it to ODOT; and if ODOT agrees with it, then it is final; but the State has the final

say.

Chairperson Swallow asked if life flight would have access to that information as well. Someone asked if towers could be shared with other communities; and they were talking about Avon that is close to this location as Avon is right on the border there. She asked if towers can be shared.

Jason Woodward stated that you can't limit frequencies from crossing over the border. The need is in North Ridgeville, and that is why the actual tower is being built in this community. The urgency is for this general area. Avon more or less has its separate issues, but yes, frequencies will traipse over it a little bit, but he can't limit that. That is basically up to the FCC and the carriers, but where their tower is located will serve more North Ridgeville than anything.

Chairperson Swallow stated she took that question to be why can't the cell towers in the surrounding community fill this gap. Why can't Avon's cell tower be used to fill this gap?

Jason Woodward stated it depends on the user and whether our frequency meets the site. There may not be as many users for Verizon on the Avon side of the plot. He can't really speak to that because he is not an RF Engineer for Verizon. When they implement a search ring, they have to go through a pretty large series of due diligence for them to approve that location – to make sure that it meets their needs. These sites are extremely expensive to build, and the operating expense to run them and everything else is substantial, so when they need them it is a serious investment.

Jesse Styles stated that there are a couple of sites that Verizon is already on, and it is important to remember that we are looking at this in 2018. They can't move where Verizon is at on those existing sites. He gave an example for clarity.

Chairperson Swallow stated that property values were already discussed; and so she will move on to the next question. Someone asked about the Ranger Way location and stated it is a continuation of Jaycox, south of Center Ridge Road, where the new fire station is being built; and the question was why the cell tower couldn't be built there.

Jason Woodward stated he isn't aware of this location; but when they did look south, it was starting to cause closer interference with this tower located here. They asked them to stay a little bit further north.

Chairperson Swallow stated there were questions about trees and landscaping. She asked how those existing trees will be affected, and what the landscaping plan would be around the facility.

Jason Woodward stated that the back row of buffer trees will stay in place. That was important for a buffer zone away from the residents. Their intention is not to mow down those trees. They are intending to keep a pretty dense buffer of all those trees on the back end. They were not substantial enough – that if they fell they wouldn't cause much damage to the fence, but no damage to the tower at all. They were going to integrate some landscaping around the compound itself to initiate more tree growth.

Chairperson Swallow asked if he had a diagram that would show that to the residents.

Jason Woodward stated that there is a fenced area and a retention basin. The tower will be basically east of that retention basin, and he showed that drawing.

Chairperson Swallow asked roughly how deep the tree line is.

Jason Woodward stated it is probably 45 feet of tree buffer between the compound and the clearance of the yard.

Chairperson Swallow addressed the Chief Building Official and the Law Director and stated that the question came up that, if the cell tower was approved and it was built, would that change a variance requirement for a resident that may want to build a deck. She restated her question that, if a resident wanted to build a deck that would be less than 750 feet from the cell tower, would that resident be required to get a variance.

Law Director Moriarty stated that he believes that because it is on public municipal land is the difference here.

Chief Building Official stated that the ordinance applies to the cell tower. The ordinance does not apply to the residential use.

Chairperson Swallow stated that the regulation goes to the cell tower and not to the residential use. Any variance the resident would need would be to their own property line setback. She clarified that for the residents. She continued on to state that there was some discussion about Motorola – but she thinks the person was referring to the MARCS radio system – and asked if that was going to become obsolete; and what would that mean for the city's use of the cell tower.

Safety-Service Director Armbruster stated that the city presently is using one or two of the MARCS radio systems and we use our internal system through 9-1-1 and through the County system. We don't really use the MARCS system within our cars and portable radios. That is a choice that most of the police departments and fire departments, if not all, within Lorain County has chosen to do. We are using New World which is the County system, the 9-1-1 system that they just built is being built over at Lorain Community College to take care of that. Most recently, we have moved our night time dispatch over to 9-1-1 and so any dispatch between 11:00p.m. and 7:00a.m. is done through the new 9-1-1 center. We have not gone to the MARCS system up north. It is a system that is used down south in southern Ohio and almost every County is using it. We do have some radios to be on it, but if Jason would like to add to that.

Jason Woodward stated that the cellular base systems are becoming the new norm. Eventually, you will see communities go away from the two-way. The ultimate plan for FirstNet and for Verizon's first responder network is to eventually take away that two-way and make it all cellular band. They are basically implementing the infrastructure to apply that cellular band not

only for Verizon but also co-locatable for all other vendors to use as well.

Chairperson Swallow stated one final question for the group and then she had a couple of her own. She asked how the signal gets to the rest of the city if the signal only goes 1.5 miles from this tower.

Jason Woodward stated the whole misconception is that it only goes a certain range and then it just cuts off. That is not the case. The cell system is a living breathing system and it depends on the amount of users underneath it at certain periods of time. For instance certain cell towers can literally band out two to three miles and get you a perimeter of just voice on the fringe but then in the peak hours when everyone is on the phone, that cell tower will actually shrink and condense based on the amount of users underneath it. It is a living, breathing network that actually expands and contracts as the day goes by based on the amount of users that are using it.

Chairperson Swallow asked what is the closest proximity of any residential structure to where the tower is proposed.

Jason Woodward stated 450 feet. He stated that there was a previous version of the calculations that people may be commenting on. They pushed the equipment backwards to get away from a house even further, so he didn't know if the people are commenting on a previous version of the design that they may have seen in a previous application. Their drawings that they have in front of them state 450 feet.

Chairperson Swallow asked if this was the current proposal.

Jason Woodward stated yes.

Member Smolik asked if the Board had the updated drawings, as his drawings show 390 feet.

Jason Woodward stated yes, that is correct. He was responding to the north. Yes, it is 390 feet to the south. So it is 450 to the north and 390 to the south.

Chairperson Swallow addressed the Law Director and stated that in listening to Councilman Boose comments, he does make a good point with Chapter 1462 being within the building code and not in fact within the zoning code. When you read through this Chapter, many of the requirements read like zoning restrictions. She asked if he had a legal opinion as to whether or not all of 1462 applies.

Law Director Moriarty stated that there are certain areas in the cell tower ordinance that talks about the 750 feet. That is for districts that need to get conditional uses. They know that because of the location of this one that this is outside of that umbrella. Because it is public property and this is a public utility going into that area, it is exempt from that; and the 1240.08 specifically deals with utilities building these types of structures and it states that they are exempt from any type of zoning code – whether it is construction, alteration or maintenance from

the application of the zoning code – provided that the erection, construction or alteration and maintenance is approved by the Planning Commission. That is why when they spoke with TowerCo, they believe that the ordinance, although it may appear to be conflicting in some areas really just means that number one, the zoning regulations is the land use regulations that are referred to do not apply and that it still has to go to Planning Commission for the remainder of that ordinance.

Chairperson Swallow asked if it was his opinion that Chapter 1462 is a zoning regulation.

Law Director Moriarty stated no, not at all.

Chairperson Swallow stated that she agrees that municipalities are exempt from their own zoning codes and she also understands why that is not well taken by residents. She just wants to make sure this is clear, and maybe the Commission needs more time, but she wants to make sure that the Planning Commission is applying the proper regulations. Parts of Chapter 1462 do read like zoning regulations, such as the 750-foot setback and being 100 feet from the residential lot line. She understands that this is a permitted use on city property in any zone. There are no conditional uses or variances required for that purpose for the actual use of the property but what is the opinion of the Law Director regarding those setbacks.

Law Director Moriarty responded that those setback requirements fall underneath the section that deals with the section that requires getting the uses for the residential districts. That is why he feels there is a difference.

Audience spoke from their seat and it was inaudible.

Chairperson Swallow stated that it is up to the Planning Commission to ask for the clarity and encouraged the resident to contact the Administration or the Law Director if they had any questions. She stated that the fact that this is included in the building code and not in the zoning code is what is causing some concern, and what the intent is of the regulations. The other regulations, such as physical requirements, aren't zoning regulations and those would be applicable. She stated if this was approved, she asked if all of those other regulations apply.

Law Director Moriarty stated yes.

Chairperson Swallow asked if there were any other questions from the Commission or comments.

Member Smolik stated that some of the people were asking about some of those studies regarding the nonionizing electromagnetic radiation study and the radio frequency study. He isn't sure if that was conducted for this.

Jesse Styles stated that he brought that here this evening and can leave it here for anyone that wants it. It is a copy of the radio frequency engineer justification package that was completed by

Verizon's radio frequency engineer. There are some other ancillary documents that, as a condition of approval, he would be happy to supply at the proper time of the building permit submission.

Chairperson Swallow stated that it has been pointed out that in Section 3 of our By-laws that regular meetings require adjournment by 10:00p.m. so, at this time, she asked for a motion to suspend the bylaws to extend the meeting beyond 10:00p.m. to finish the business here this evening.

It was moved by Smolik and seconded by Ali to suspend the bylaws to allow the meeting to extend after 10:00p.m.

MOTION CARRIED

Chairperson Swallow stated that she understands the interactions may have raised some new questions; new comments will be very limited in the interest of time. We are coming up on 10:00p.m. She feels it is important for those here tonight and if there are any new questions or comments that may have come up as a result of the information just heard. Please restate your name. We are not going to get into whether or not the zoning code is applicable, that is a question of law for the Law Department. She encouraged the residents to contact the Law Director if they had any further questions regarding that.

Mike Babet, Sugar Ridge Road, stated that his question about the 150-foot expanding to 180 feet was about the design in the intended height of a monopole in an ordinary and customary use. Normally they do not exceed 150 feet and since there is limited space at the bottom of the foundation. This pole is extending to 180 feet to add additional economic impact in a positive way to the applicant because they are adding other service carriers onto that. He asked if that is compromised when it comes to the integrity of the pole; and is it the safest pole that could be put up or is it the only pole that could be put up because of the small foundation area. Secondly, it sounds like the spectrum analysis is incomplete, and it sounds like they have looked at some other sites and looked at the engineering that Verizon has provided, but in the spectrum analysis of other towers, the applicant mentioned the height of their location on other towers. The spectrum analysis also has to include using secondary towers as an option. He asked if that was done and is it completed in the application.

Martin Austin of 34897 Shawn Drive stated that he heard 9-1-1 communications have been turned over to Lorain County Community College. His understanding of the wireless system is that 9-1-1 uses any cell tower. It is not restricted to one tower; it will go to any tower. So, 9-1-1 should not have a problem because there are enough cell phone towers around here. He didn't believe a completed package for the decision to be voted on tonight has been received.

Kevin McNaulty of 34956 Shawn Drive came here tonight thinking that this was about the safety of this community; and he is finding out that it is about a money-grab and corporate greed. He stated most of the conversation has not been about the safety forces and their communication; it

has been about cell phones and its communication. It is not about our fire and police.

Pam Maddack stated that there is a two-part test if the Commission denied it. She stated that the applicant said it takes a year to do a study and the Commission received the information tonight and it is still not a complete application. She stated that they have to provide studies that weren't provided or they weren't sure they were done. The Commission does not have enough information to make a decision. She asked the Commission to vote no.

David Bogner of 34944 Shawn Drive stated that he was referring to the Motorola system and not the MARCS system. He asked if these additional antennae on top are only going to help the Motorola system that will be outdated very soon, or is this something else.

Therese Hensely of 34825 Shawn Drive stated that it was her husband that came up with Diamond Communications that, according to their website, states that their team has significant telecommunications experience, and it takes a long-term view when acquiring lease interests; and their strong ties with major wireless carriers like AT&T, Verizon and Sprint enable them to market your site effectively.

Ross Maddak of 34885 Shawn Drive spoke about property values, stating that when the applicant addressed the private property he stated that the person would probably move it to the corner to preserve value. There is risk to property value. He stated that if the city is moving to cell service, then why the need for a repeater up there. It was stated that when their radio goes out, they use their cell phone; he then asked where the lack of coverage would be if they are able to use their cell phone in those areas.

Josh Hughes noted a comment made by the applicant regarding his example in how the sale of homes weren't affected by a tower that was in one area. However, he stated the cell phone tower was there before the homes were built, which he believes is not relevant to his situation at all. This tower is being built after they bought the house.

Dennis Boose of 6405 Denise Drive stated that 1462 is not zoning code; it is building code. He suggested that if the city wanted something in regards to this information in the zoning code, they would have put it there, but they didn't. It is in the building code, and is specific for cell towers. He stated that you can't pick and choose things in the code to say that they really meant this, or the intent was really about that. He respectfully suggests that this could be in error. If it is supposed to be in zoning code, then put it in zoning code. He added that it is clear that the Planning Commission doesn't have all the information. They suggested that, upon approval, they would provide additional information. That information is paramount to whether we can move forward on this. He respectfully requests a no vote.

Chairperson Swallow asked if there were any other comments. Hearing none, she closed public comment and invites the applicant to respond.

Jason Woodward stated that, in regard to the 150- to 180-foot monopole, the industry standard is

that you don't take a monopole over 200 feet; and the reason for that is the cost of the foundation and the actual tower become increasingly expensive. He has a tower that was built at 230 feet that is a monopole, but by no means does that affect the actual structural capabilities. There is minimal difference between 150-foot monopole and a 180-foot monopole in the sense of its engineering and design factor. They are able to build monopoles as high as the engineering will permit; it just becomes a cost value at 200 feet. A monopole is a cleaner, slicker design. Anything under 200 feet defaults to a monopole right out of the gate.

Chairperson Swallow stated that the question was whether increasing the height will affect the integrity.

Jason Woodward stated no, because the tower is actually designed based on that height. They tell the tower manufacturer that they want a 180-foot monopole that needs to hold four towers; plus it needs to hold safety. One big thing that is super important to understand is when you put public safety on a tower, it has to be a class three tower. A class three tower is 15 percent stronger than what is dictated by the Ohio Revised Code; the foundation also has to be 15 percent stronger. The reason for that is because it has public safety on it. This will be a much stronger tower than what is required by the Ohio Revised Code.

Chairperson Swallow stated there was another question about the 9-1-1 system.

Jason Woodward stated that the 9-1-1 system using all the towers is not accurate. Those systems are basically wherever their antennas are placed; that is where they locate off of. So, if they have a repeater on top of a roof top somewhere, that is where they are pulling from. He cannot comment on what Lorain County system is or where it is located, but the cellular-based equipment that North Ridgeville Police Department, Fire and Ambulatory uses is Verizon LTE. That equipment is being fed by Verizon's wireless signal. When the Police Department pulls someone over and types in a license plate, and it gives the data that the gentleman has a conceal carry permit or that person has four warrants; that is all coming over wirelessly. The other device that the Police Department uses is a two-way radio. That is based on more less a Motorola-style design. He doesn't know whether or not that will become obsolete. He has a lot of communities that use Motorola systems all the way back from the early 90s, and they haven't even gone digital yet. He stated that they are seeing the trend that things are going cellular-based.

Safety-Service Director Armbruster stated that the Whole New World, and what the Police Chiefs are talking about in Lorain County, is to modernize what they have. When our repeater went up on that tower, we thought we were going to be able to fix the void in this area. It has helped but has not resolved the issue. He explained that it's our repeater which communicates to our Motorola handheld.

Jason Woodward stated he was trying to do his best in talking about the tree line; and when they said south, he thought that meant going south from the top of the property. He apologized for that mistake, but the drawings do reflect those separations. Diamond Communications is a

competitor of his and they do the exact same thing. They build cell towers. They have a relationship with FirstEnergy where they market their towers for co-location. These towers are too low and are also legacy towers; it would be impossible to fit or modify that tower to fit this equipment. Diamond Communications is no different from what he is. They contract with Verizon. He stated that, if it was a path of least resistance to co-locate on it – given that Diamond Communications has contracts with Verizon Wireless – Verizon would have gone right to them, as it would have been the easier path. They are not going to put equipment up on a high-tension power line that is fully energized, and take a risk of their employees being up there when they have to shut it down. They have to give over a six-month notice to switch out equipment; and when you have public safety equipment up there, you can't avoid that shutdown time. This is why the carriers are starting to go away from infrastructure of high-tension power lines. They also don't like water tanks anymore. There is lead penetration when they are welding equipment. Cell towers are designed for cell towers, and they are meant to hold the equipment. In the worst-case scenarios, they have proven themselves; and that is where they want to be at all costs.

Jim Matthews stated that the Chair and the Law Director kind of identified the core frustration over what is zoning versus what are site or developing configuration issues that we submit are what to consider tonight. There isn't a perfect line there, unfortunately; and part of the problem is that the ordinances are structured by having a separate zoning code, and the other chapter that appears to be a building code. He stated that federal law favors the deployment of these towers, and it has for decades. Federal law carved out a safe harbor provision in section 332 that allows for the retention of limited zoning control. That specifically is the TCA. It authorizes a safe harbor for local communities to have zoning authority over the placement, construction and improvement of towers. The fact that there is a freestanding section in the ordinances that may be called a building code, the subject matter is clearly related to cellular tower construction and deployment, it is a zoning regulation to the extent if it was enforceable at all, it would fall under the safe harbor provision of the TCA. What is interesting in the freestanding provision that calls itself a building code is that it actually stresses that the TCA is a primary foundation or basis for that body of ordinances. He stated that he is trying to offer some clarity on what the role is tonight for the Planning Commission to look at. He could take the position that none of the zoning code is applicable to this tower. It falls within the city's exemption. He could also just take the position that the freestanding section on cell towers is nothing but a zoning regulation falling under the safe harbor provision of the TCA, from which the city is entirely exempt from as well. When they sat down with the Administration and Law Director, they felt it was entirely appropriate, as part of the cooperation as required in the lease, to have a proceeding before the Planning Commission to address some of the planning issues. Planning issues are classic site dimension design and configuration concerns. The members do have all of the information in the plans necessary for them to review the features of this project. The members know the heights that are involved. They know the dimensions that are involved. They know the size of the footprint of the base area that is going to be part of this configuration. They know the size of the fence, which was adjusted in accordance to the planning review to the eight feet. They know the buffering that will remain in place; and they know the site configuration and its own landscaping of trees and mulch. The other features that are classic site and design issues relate to

colors, which the members are aware of the color of this tower; and they also have lighting information, which is another feature of site design and configuration. The final components – aside from screening, fencing, etc. – are drainage and environmental concerns. Drainage is also addressed in the planning documents, as are any environmental issues, which there are none. The distinction is crucial to what is on review tonight. He believes the applicant has fairly demonstrated to the members his full compliance with any provisions that are indeed design and configuration rules. On top of that, design configuration that is applicable showing the dimensions, ultimately, the plan will have to go to building permit approval to make sure that all of the engineering is appropriate to meet those standards, which are separate and distinct from the site plan.

Chairperson Swallow stated that it was brought up by one of the residents regarding a spectrum analysis.

Jim Matthews stated he didn't want to belabor these points about where we creep into zoning issues and what are purely site issues. His view of the spectrum analysis is that it is a pretty classic provision dealing with zoning regulations from which this city would be exempt and, as a result, this project is also exempt. The Chair commented earlier about knowing the longstanding exemption that cities have from their own zoning rules. In the statement he offered, he went back and looked for the oldest case he could find ratifying that exemption. When you look at case law that has dealt with zoning, there is an Ohio Supreme Court Case dated back to 1926 ratifying that city properties can be exempt from their own zoning codes. Having said that, the applicant fully wants to be reasonable; and if the Planning Commission wanted to include a provision of your approval that an additional document be submitted – even if it is zoning-related – he is sure the applicant would be more than willing to do that.

Chairperson Swallow expressed how pleased she was with everyone's input and very thoughtful comments, well-articulated arguments and issues they brought forward to the Commission. It helps her better analyze and look at these issues. She expressed her appreciation and noted her respect for their position. Having no further discussion, she entertained a motion.

It was moved by Maleski and seconded by Ali to approve.

It was moved by Swallow and seconded by Maleski to amend the motion to include a spectrum analysis be submitted by the applicant.

Yes, 4 No, 1

Deputy Clerk Tjotjos announced the amendment made to the motion passed by a vote of four yes and zero no.

Deputy Clerk Tjotjos stated on the amended motion to approve the application.

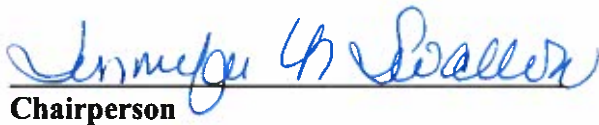
Yes, 4 No, 1

Deputy Clerk Tjotjos stated that the amended motion passed by a vote of four yes and one no.

ADJOURNMENT:

Chairperson Swallow stated there was no other business. She announced the next regular meeting is scheduled for December 11, 2018. She adjourned the meeting.

Meeting adjourned at 10:21 p.m.


Chairperson


Deputy Clerk of Council, Michelle Owens


Date Approved