



CITY COUNCIL STUDY SESSION REPORT

MEETING DATE: JANUARY 11, 2011

ITEM NUMBER: 3

SUBJECT: DISCRETIONARY REVIEW PROCEDURES FOR PROPOSED CELLULAR TELEPHONE
MONOPOLES AND OTHER PRIVATE IMPROVEMENTS IN PUBLIC PARKS

DATE: JANUARY 3, 2011

FROM: DEVELOPMENT SERVICES AND PUBLIC SERVICES DEPARTMENTS

PRESENTATION BY: KIMBERLY BRANDT, AICP, DIRECTOR
PETER NAGHAVI, DIRECTOR

BACKGROUND:

The City's Zoning Code requires a Minor Conditional Use Permit (CUP) for the installation of cellular telephone monopoles in Costa Mesa, regardless if it is located on public or private property. Minor CUPs are reviewed and acted upon by the Zoning Administrator. Public notice of the proposed planning application is given to property owners within 500 feet of the project site, and the site is posted with a written notice as well. However, the Zoning Administrator does not conduct a formal public hearing in the Council chambers. Any decision of the Zoning Administrator may be reviewed by the Planning Commission and ultimately the City Council, if the decision is appealed or called up for review. Furthermore, the Zoning Administrator has the ability to refer any pending application to the Planning Commission for review and action.

Presently the City has a monopine in Shiffer Park and another monopole approved for TeWinkle Park.

With a recent application for a cellular telephone monopole in Estancia Park, there was considerable community concern expressed regarding the lack of a public forum to comment on the application. Additionally, since the proposal was within a City park, staff received comments that the proposed application should be reviewed by the Parks and Recreation Commission (PRC). Ultimately, the applicant withdrew the application.

Staff, including the City Attorney, has reviewed the City's Municipal Code and determined that it does not authorize the PRC to render any type of recommendation or decision regarding a proposed planning application. (See Attachment 1). So any change in the current review procedures to allow review and action by the PRC will require a corresponding amendment to the Municipal Code.

Staff has drafted the following alternatives for Council consideration.

ALTERNATIVES:

Alternative 1: Parks and Recreation Commission Review of Cellular Telephone Monopoles in City Parks.

Council may direct staff to prepare a Municipal Code amendment that allows:

1. The Zoning Administrator to forward any Minor CUP application for a cellular telephone monopole that is proposed within any City park to the PRC for review and action; and
2. The PRC to take action on the application, with their decision being appealable to the City Council.

This alternative limits the PRC's review authority to only Minor CUPs for monopoles in City parks. The Planning Commission is not included in this proposal as a review authority. Any decision of the PRC would be appealable to the City Council.

Alternative 2: Planning Commission Review of Cellular Telephone Monopoles in City Parks.

Council may direct staff to prepare a policy that requires:

1. The Zoning Administrator to forward any discretionary planning application for a cellular monopole that is proposed within any City park to the Planning Commission for review and action;

This alternative does not require a Municipal Code amendment in order to require Planning Commission's review and action on a cellular monopole in a public park, since the Zoning Administrator already has that authority to refer any application to the Planning Commission. The policy would simply document Council's direction that the Zoning Administrator shall refer such applications to the Planning Commission.

Alternative 3: Retain Existing Review Zoning Administrator Review Procedures.

This alternative maintains the existing review procedures, with any decision of the Zoning Administrator being appealable to the Planning Commission and City Council.

CONCLUSION:

The study session provides Council the opportunity to provide comments on the City's review procedures for proposed cellular telephone monopoles in City parks, but formal Council direction cannot be given. Staff will place this item on a future Council meeting agenda for formal direction.



KIMBERLY BRANDT, AICP
Development Services Director



PETER NAGHAVI
Public Services Director

DISTRIBUTION: City Manager
City Attorney
Finance Director
Transportation Svs. Manager
City Clerk (2)
Staff (4)
File (2)

ATTACHMENT: 1 Costa Mesa Municipal Code Excerpt

File Name: 011111DRMonopoles	Date: 010310	Time: 9:30 a.m.
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ATTACHMENT: MUNICIPAL CODE EXCERPT

CHAPTER III PARKS AND RECREATION COMMISSION

Section 12-71. Commission established.

There is hereby established as a part of the government of the city, a parks and recreation commission, which shall:

- (a) Consider matters that may be referred to it by the city council, the city manager, the director of administrative services, or the director of public services, and render such counsel and advice in regard thereto as may be requested by the referring authorities;
- (b) By its own motion, make such studies, investigations and hold public hearings as it may deem necessary for the formulation of parks, recreation, recreation facilities and parkways policies, or to determine the wisdom and efficacy of the policies, plans and procedures dealing with parks, recreation, recreation facilities and parkways matters, or to determine an action program to pursue in implementing the city open space plan and report its findings and recommendations to the city council, the city manager, the director of administrative services, or the director of public services;
- (c) Recommend to the city council approval of concept plans for development and/or modification of parks, recreation, and open space facilities;
- (d) Solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies concerned with the parks, recreation, recreation facilities and parkways of the city;
- (e) Make a determination on the necessity for removal of parkway trees as provided in section 15-11(2) of this Code, and the necessity for terms and conditions for retention of trees as provided in section 15-11(3)(c) of this Code, which decisions shall be final not withstanding section 2-303;
- (f) Set the fees to be paid by participants in recreation programs and classes in accordance with the guidelines adopted by the city council in the Cost Recovery Program for Recreation Activities;
- (g) May review the annual budget as presented to the city council and advise them on the current operational needs and long-range plans for capital improvement; and
- (h) Periodically visit parks and recreation facilities in the city to review established programs and facilities, and to monitor needs in accordance with the Parks, Recreation and Open Space Master Plan.

(Ord. No. 90-13, § 1, 9-4-90; Ord. No. 99-8, § 19, 6-7-99; Ord. No. 99-9, § 2, 6-21-99; Ord. No. 02-10, § 1, 5-20-02; Ord. No. 07-1, § 1, 1-16-07)

Sec. 12-72. - Rules and regulations.

The commission shall operate under the following rules and regulations:

- (a) *Chairperson, vice-chairperson:* The election of the chairperson will precede that of the vice-chairperson nominations. Elections of officers shall take place annually to coincide as closely as possible with the appointment terms of the commissioners. The commission, in event of a vacancy in either office, shall elect one (1) of its members for the unexpired term.
- (b)

Meetings: The commission shall meet at City Hall, 77 Fair Drive, on the times and dates set forth by resolution of the city council. In the event the regular meeting day falls on a holiday, the regular meeting shall be held on the next business day. A regular or adjourned meeting may be adjourned to a time and place specified in the order of adjournment. Special meetings may be called at any time by the chairperson, or in the absence of the chairperson, by the vice-chairperson, by the city manager, the mayor, or by the majority of the members of the commission, by notice delivered to each available member of the commission, at least twenty-four (24) hours previous to the meeting. A regularly scheduled meeting may be cancelled or rescheduled by a majority vote of the commission, with proper notice as required by law.

(c)

Quorum: A majority of the members of the commission shall constitute a quorum for the transaction of business. No action shall be taken by the commission unless it is concurred in and adopted by the affirmative vote of at least a majority of the members present. The powers conferred to the commission shall be exercised by motion of resolution and recorded in the minutes. Upon request of any member of the commission a roll call of the vote shall be conducted, and the results thereof recorded in the minutes.

(d)

Secretary: The secretary shall be designated jointly by the director of public services and the director of administrative services. The secretary shall record the minutes of the commission and shall maintain the records of its proceedings and transactions.

(Ord. No. 90-13, § 1, 9-4-90; Ord. No. 99-8, § 20, 6-7-99; Ord. No. 02-10, § 1, 5-20-02; Ord. No. 07-1, § 1, 1-16-07)

Sec. 12-73. - Procedures.

(a)

All meetings of the commission shall be open to the public.

(b)

Matters brought before the commission by the public, director of administrative services or director of public services of the city, or their designees, shall be considered by the commission and report its actions, findings and recommendations to the city council, the city manager, the director of administrative services, or the director of public services.

(Ord. No. 90-13, § 1, 9-4-90; Ord. No. 99-8, § 21, 6-7-99; Ord. No. 02-10, § 1, 5-20-02; Ord. No. 07-1, § 1, 1-16-07)

Sec. 12-74. - Membership.

The parks and recreation commission shall consist of five (5) members appointed by a majority vote of the entire city council. The city council may, by majority vote, remove any member of the parks and recreation commission. Additional details for the appointment procedures and member qualifications, terms, and compensation may be set by city council policy.