

**FAIRFAX COUNTY PLANNING COMMISSION
TELECOMMUNICATIONS COMMITTEE
THURSDAY, OCTOBER 27, 2011**

COMMITTEE MEMBERS PRESENT:

Earl L. Flanagan, Mount Vernon District
James R. Hart, Commissioner At-Large
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Peter F. Murphy, Jr., Springfield District

COMMITTEE MEMBER ABSENT:

Janet Hall, Mason District

OTHER COMMISSIONERS PRESENT:

Frank de la Fe, Hunter Mill District
Jay Donahue, Dranesville District

FAIRFAX COUNTY STAFF PRESENT:

Chris Caperton, Chief, Public Facilities Branch, Planning Division (PD), Department of
Planning and Zoning (DPZ)
Anita Capps, Senior Planner, PD, DPZ
Barbara J. Lipka, Executive Director, Planning Commission Office
Dawn M. Ashbacher, Assistant Director, Planning Commission Office
Jeanette Nord, Deputy Clerk, Planning Commission Office

OTHERS PRESENT:

Frank Stearns, Esquire, Donohue & Stearns

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Chairman Peter F. Murphy, Jr. called the meeting to order at 7:01 p.m., in the Board Conference Room of the Government Center, 12000 Government Center Parkway, Fairfax, VA 22035.

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Commissioner Litzenberger MOVED TO APPROVE THE TELECOMMUNICATIONS COMMITTEE MINUTES OF WEDNESDAY, JULY 20, AND WEDNESDAY, SEPTEMBER 21, 2011.

Commissioner Flanagan seconded the motion which carried unanimously.

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Chairman Murphy introduced Chris Caperton, Chief, Public Facilities Branch, Planning Division (PD), Department of Planning and Zoning (DPZ), who indicated that he had met with Denise James, Director, Facilities Planning Services, Fairfax County Public Schools (FCPS), and discussed meeting in early 2012 to review the Policy Plan relating to the 2232 process and schools.

Chairman Murphy reminded committee members that the PC's Schools Committee would meet with FCPS on Thursday, November 10, 2011, at 7:00 p.m. in the Board Conference Room, adding that an agenda would be forwarded to Committee members prior to the meeting.

Mr. Caperton noted that staff from DPZ and the PC Office would meet on Monday, October 31, 2011, to review how the 2232 applications were processed in each other's offices.

Mr. Caperton briefly noted that his office was receiving many applications for replacement antennas for pole- and slab-mounted antennas. He pointed out that unless an antenna was the same size or smaller and could thus be mounted in the same manner as its predecessor, the proposed replacement would be reviewed by staff, as required by the current Policy Plan.

2232/FEATURE SHOWN PROCESS

Anita Capps, Senior Planner, PD, DPZ, provided an overview of the "feature shown" and 2232 public hearing processes, addressing timelines, communications with staff and applicants, and the documentation required.

In response to questions from Chairman Murphy, Ms. Capps explained that the extension of a 2232 application was done by staff in coordination with the appropriate Planning Commissioner, adding that the denial of a "feature shown" application would automatically change its status and make it subject to a public hearing.

Responding to a question from Commissioner Flanagan, Ms. Capps confirmed that a Planning Commissioner could request that a "feature shown" application be changed to a 2232 application requiring a public hearing.

Ms. Capps noted that while citizen notification was not required for "features shown," citizens could take their concerns to members of the Board of Supervisors. However, Chairman Murphy noted that such practice had previously been highly discouraged by Board members. Ms. Capps also noted that Board members could request an appeal of a decision within 10 business days.

Ms. Capps pointed out that staff had been sending all telecommunications applications, as requested by the Commission, regardless of their status, but also expressed minor concern about Commissioners having enough time to review and approve the "features shown" prior to their expiration dates.

There was a brief discussion about citizen contact for "features shown," wherein Ms. Capps pointed out that it was not required. When Commissioner Flanagan mentioned a case in the Mount Vernon District where a 2232 public hearing application had been withdrawn and subsequently replaced by a "feature shown," Ms. Capps reiterated that the "feature shown" process eliminated the requirement for citizen contact.

Commissioner Hart suggested that once an application was determined to be a "feature shown" of the Comprehensive Plan and assigned a number, staff could send an email to notify the appropriate Planning Commissioner, who could then email the appropriate land use committees in his or her District.

Chairman Murphy pointed out that the “feature shown” process had been developed to expedite the process for existing utilities.

When Commissioner Hart questioned the notification process in relation to bond-approved items, Mr. Caperton clarified that when that subject had arisen during the September 21, 2011 Telecommunications Committee meeting, he was discussing the Policy Plan related to school improvements. He reminded everyone that staff had previously understood that once a bond item was approved, it became part of the Comprehensive Plan; thus, any items arising from that bond would be treated as “features shown.” However, he explained that the County Attorney’s Office had advised staff not to assume that bond-approved items would automatically become part of the Comprehensive Plan.

Commissioner Lawrence expressed concern with regard to notifying citizens about applications, indicating that such a custom could quickly gain the force of law, and echoed Chairman Murphy’s remarks regarding the “feature shown” process. In the ensuing discussion, Ms. Capps reiterated that problematic applications could always be elevated to public hearing status. Commissioner de la Fe concurred with Commissioner Lawrence’s remarks, adding that there were different requirements throughout the County, citing Reston as an example. Commissioner Donahue, however, noted that he forwarded every application to the two major civic associations in Dranesville District without question. Commissioner Flanagan concurred, stating that he had no problem notifying the citizens. Chairman Murphy said that, like the Area Plans Review Task Forces, the method for notifying citizens would vary by District. Commissioner Litzenberger agreed and suggested that staff leave it up to the Planning Commissioner to decide.

Commissioner Flanagan remarked that he regularly received a listing of Countywide applications from staff, which he forwarded to the major land use committees in his District, but noted that he had never received information on 2232 applications. Mr. Caperton explained that the “2232/ Feature Shown Pending/Received Table for Planning Commissioners” that he and Ms. Capps had created last summer, was a separate listing and would be provided to the Commission bi-weekly.

Ms. Capps turned the discussion to the current process for reviewing alternate sites and balloon tests, asking for suggestions on how to streamline the process.

In the ensuing discussion Chairman Murphy noted that remarks by Commissioners could easily be misinterpreted as suggestions for alternate sites. He suggested that the applicant, and perhaps anyone else involved with the selection of a particular site, provide the explanation for why a site was not satisfactory, thereby requiring an alternate.

Frank Stearns, Esquire, Donohue & Stearns, pointed out that a clear definition for “alternative” was required, pointing out that a telecommunications facility depended on radiofrequency signals, leasing options, and location. He added that requiring applicants to discount every possible alternative would be infeasible and provided a scenario using site alternatives as currently prescribed in the Comprehensive Plan.

Commissioner Lawrence concurred with Mr. Stearns’ remarks, particularly in relation to Distributed Antenna System (DAS) networks, which significantly depended on the locations of the nodes to function. He noted the complexity and importance of providing a uniform network and said that node placement, even if minimal, in residential areas was unavoidable. Therefore, he

added, it would be essential for potential applicants and citizens to begin communications as soon as possible.

Commissioner Flanagan noted that he had learned of some areas where design standards for DAS had either been adopted or were being considered for adoption into the local plans. He added that Mount Vernon District Supervisor Gerald Hyland and Chairman of the Board of Supervisors Sharon Bulova had said that they would be willing to support such a measure.

WORK PROGRAM SCHEDULE

Ms. Capps briefly reviewed the Work Program schedule, a copy of which is provided in the date file, as follows:

October

Telecommunications Committee (Committee) – Review 2232/“Feature Shown” Process
Staff – Review “Feature Shown” and Administrative Review Text only

November – *Committee does not meet*

Committee – review “Feature Shown” and Administrative Review Text only
– Return comments via email to staff no later than November 17, 2011
Staff – Develop draft Plan Amendment, Administrative Review Process, and other support materials for internal staff review, including the County Attorney.

December

Committee – At meeting on December 8, 2011, review comments on “Feature Shown” and Administrative Review Text
Staff – Finalize draft Plan Amendment and Administrative Review Text
– Forward revised drafts to Committee for review.

January

Committee – Review draft Plan Amendment and Administrative Review Text
Staff – Incorporate Committee comments and forward to County Attorney’s Office for review
– Forward revised drafts to Committee for review.

February

Committee – Review final documents
– Schedule the public hearings for the Planning Commission and Board of Supervisors.

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Chairman Murphy announced that the Telecommunications Committee would meet again on Thursday, December 8, 2011, at 7:00 p.m., in the Board Conference Room.

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The meeting was adjourned at 7:54 p.m.
Peter F. Murphy, Jr., Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved: December 8, 2011

Kara A. DeArrastia, Clerk to the
Fairfax County Planning Commission