

MINUTES

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS  
JANUARY 8, 1998

The Henderson County Board of Commissioners met for a special called meeting at 7:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Renee Kumor, Commissioner Don Ward, Assistant County Manager/Staff Attorney Angela M. Skerrett and Clerk to the Board Elizabeth W. Corn.

Absent was: County Manager David E. Nicholson.

Also present were: Planning Director Matt Matteson, County Planner Karen Collins and Public Information Officer Chris Coulson.

CALL TO ORDER/WELCOME

Chairman Eklund called the meeting to order and welcomed all in attendance. The purpose of this meeting was a PUBLIC HEARING TO CONSIDER AN ORDINANCE TO REGULATE THE PLACEMENT OF COMMUNICATIONS TOWERS IN HENDERSON COUNTY, NC.

OVERVIEW

Matt Matteson gave an overview of the process to date and the regulations available to the County.

Regulating Communications Towers

**There are two ways to regulate:**

1. County-wide regulation under the police powers of county government.
2. Selective regulation through the land use regulation authority of the county.

**This Ordinance falls under the Police Power and Land Use Authorities.** It's jurisdiction is in all areas of Henderson County that are unzoned and are outside the jurisdictions of any municipality.

Our Federal Government has weighed in on the communications business. Last year they passed the Telecommunications Act of 1996. The law says we can write ordinances that both protect the general welfare and insure orderly land use development, but there are certain things that a local government cannot do.

**Local government:**

Cannot prohibit wireless service outright.

Cannot unreasonably discriminate among providers that compete.  
Must act on requests for facilities within a reasonable period of time and must put any decisions to deny in writing.  
Cannot deny a request based on FCC approved technical emissions standards.

But the Act does not require local governments to give preferential treatment to land use requests involving telecommunications facilities.

**The County-wide Ordinance defines categories of Towers:**

- ▶ Exempt Towers
- ▶ Co-Located Towers
- ▶ Government, Residential & Amateur Radio Towers
- ▶ New Towers
- ▶ Antennas on Alternative Structures
- ▶ Replacement Towers

**Each category carries one of three levels of permit review and approval**

**Level I** is fairly simple:

- ▶ Co-location, Governmental, Amateur Radio, Antennas on Alternative Structures and Replacement Towers
- ▶ Review and Approval is by the County Staff

**Level II** is More Rigorous:

- ▶ New Towers (not previously addressed) 50 feet or higher, but less than 300 ft. In height
- ▶ Review and Approval is by the County Staff

**Level III** has the most review:

- ▶ New Towers 300 feet or higher
- ▶ Public Hearing before the Board of Commissioners

There are three types of towers:

- ▶ Lattice
- ▶ Guyed
- ▶ Monopole - standards are more permissive for monopole towers

There are set standards for each level of review, including:

- ▶ Separation from existing towers
- ▶ Separation from occupied buildings
- ▶ Siting on protected mountain ridges
- ▶ Ability to accommodate another user
- ▶ Tower lighting, fencing, signage, etc.
- ▶ County's right to use

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There are General Permit Requirements (example - Level II):

- ▶ Site Plan
- ▶ Accommodate an Additional User
- ▶ Require Co-location where possible
- ▶ Design for Future Co-location
- ▶ Notice of intent to Adjacent Owners
- ▶ Easements

The Task Force has offered minority opinions for the Board's review. The Planning Board has also reviewed the Ordinance.

#### **PUBLIC HEARING**

Commissioner Kumor made the motion for the Board to go into Public Hearing. All voted in favor and the motion carried.

#### **Public Input**

1. Albert Moreno - Had signed up but did not wish to speak.

2. Garth Adcock - Local Manager for Bell South Mobility. Mr. Adcock thanked Matt and the entire committee for all the time and hard work that has gone into this project.

3. Chuck McGrady - Planning Board member and Task Force Member. Mr. McGrady recommended adoption with the changes suggested by the Planning Board.

4. Julie Franklin - Task Force Member. Ms. Franklin has an education in City Planning but works with an Engineering/Consulting Firm that does design work and permitting for communication towers.

Ms. Franklin spoke to the recommendation of Planning Board to go from 300 feet in height to 200 feet in height for towers. She stated that this will probably increase the number of towers necessary in order to serve the community (because of lowering of the height). In conjunction with the separation of tower issue, it will cause some major problems in radio frequency issues and also in providing the service that is needed.

She also suggested that a total above sea level elevation be used in describing mountain ridges in the ordinance.

Ms. Skerrett informed that the Board that if they wished to consider additional comments, they can only consider those brought out at this meeting so specifics should be discussed.

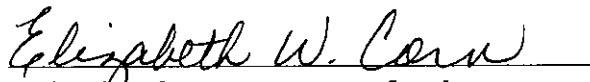
Garth Adcock addressed the Board again regarding tower height. Bell South has been in business less than 2 years. To limit the

proliferation of towers, they need to be able to build a 300 foot tower. He also recommended the Board look at the elevation of the mountain ridges and take into account the topography of Henderson County.

Following some discussion, Commissioner Kumor made the motion for the Board to close the Public Hearing. All voted in favor and the motion carried.

There being no further business to come before the Board, Chairman Eklund adjourned the meeting at 7:50 p.m.

Attest:

  
Elizabeth W. Corn, Clerk

  
Robert D. Eklund, Chairman