

## **LARIMER COUNTY PLANNING COMMISSION**

### **Minutes of September 11, 2019**

The Larimer County Planning Commission met in a regular session on Wednesday, September 11, 2019, at 6:30 p.m. in the Hearing Room. Commissioners Jensen, Wallace, Miller, Stasiewicz, True, Barnett, Choate, and Johnson, were present. Commissioner Dougherty presided as Chairman. Also present were Lesli Ellis, Community Development Director; Michael Whitley, Planner II; Frank Haug, County Deputy; Mark Peterson, County Engineer; Jenn Cram, Planner II; Ken Fellman and Gabriel Daley, Consultants.

#### **COMMENTS BY THE PUBLIC REGARDING THE COUNTY LAND USE CODE:**

Mr. Haug stated; the purpose of tonight's hearing is to discuss amendments to the Wireless Facility Code related to our Land Use Code here in Larimer County. I wanted to mention to you that there is particular federal law under the Federal Communications Commission regulations that relates to the environmental effects of radio frequency emissions. That is regulated by the Federal Government and what we want to focus on tonight is, on the local Land Use regulations.

#### **COMMENTS BY THE PUBLIC REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA:**

None.

**APPROVAL OF THE MINUTES FOR THE AUGUST 21, 2019, MEETING:** MOTION by Commissioner Jensen to approve the minutes, seconded by Commissioner Miller. This received unanimous voice approval.

Motion passed 9-0

**AMMENDMENTS TO THE AGENDA:**

None.

**CONSENT ITEMS:**

None.

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**ITEM #1 AMENDMENTS TO THE LARIMER COUNTY LAND USE CODE  
REGARDING WIRELESS COMMUNICATIONS FACILITIES  
REGULATIONS**

**FILE #19-CODE0240:** Ms. Ellis provided a brief presentation of the Amendments to the Larimer County Land Use Code Regarding Wireless Communications Facilities Regulations File #19-CODE0240. Ms. Ellis stated that the purpose for tonight's hearing is for the Planning Commission to make a recommendation to the Board of County Commissioners. The possible actions are; approve the regulations as written, approve the regulations with changes suggest made by you the Planning Commission, or deny the regulations. The Planning Commissions' recommendation will then be presented to the Board of County Commissioners in October for their consideration. Staff recommend that the Planning Commissioners OK them and hope they consider them for approval.

Work is being completed on the Land Use regulations to replace and re-appeal a chapter in the Land Use Code that is out of date. The county regulates the Land Use Code for types of facilities that have to do with location, height, setback, appearance, screening, procedures (shot clock limitations) and in rights-of-way. The county cannot regulate the health effects. The current regulations in chapter 16 do not address new technology (small cell facilities), use of public right-of-way, clear camouflage/concealment, context standards, height limitation for concealed/stealth facilities, and notice to adjacent properties for administrative decisions and notice of decision. Ms. Ellis continued her presentation along with reminding the Planning Commission of the changes and discussions from the previous Work Sessions with the Planning Commission and Board of County Commission.

Ms. Ellis stated: Intent and Propose: Minor changes addressing the overall purpose and balance of accommodating the communication facilities while addressing the health safety of the general welfare and minimizing adverse impacts. Changes also were made in section 6, 8 and 10 of the purpose items to clarify what applied to Small Cell Facilities and what didn't.

Applicability: Defines the where and how the regulations apply and what they exclude. In most cases building permits are required if there is a proposal on a private piece of land. If it's a Master License Agreement or Small Cell Facility that is in a right-of-way, the applicant would work through the application process and then work with the County Engineer to obtain a Right-of-Way permit.

Table 16.A: Zoning Districts Where WCFs are allowed and Heights: It identifies the zoning districts and the types of facilities. For an Attached Facility on an existing structure there is a Site Plan that is required. Small Cell Facility require a Site Plan less than 40 feet high. The type of process and the heights for Alternative Tower Structure and Concealed structures vary based on the zoning district. This shows is that it carries forward some of the height limitations/height rules we have in our current code. An example would be in an airport district, you don't want taller towers that might impede air traffic and it also shows that smaller more concealed facilities in the district that tend to be residential for esthetic and the districts that are more commercial, industrial, mixed, or open nature are the ones that allow for larger facilities and less concealed facilities.

Setbacks: Language has not change for the setbacks. Red Feather Lakes district and the 30% setback requirement might be challenging and might encourage applicants to seek opportunities to collocate a facility or locate a facility on a commercial building and there may be properties where this would be appropriate. Otherwise if it's a tower facility that's adjacent to properties, buildings, or structures with residential uses then there is a 2:1 setback and if it's adjacent to any right-of-way then there is a 1:1 setback.

Design and Camouflage: Minor word changing was made and added the Growth Management Area (GMA) into the language and that any GMA that's adjacent to a city would need extra review and attention based on a lot of comments from community members as well as some input from the City of Fort Collins.

Other Design Standards: Proposed regulations include collocation, lighting, noise and some of the impacts in and around these facilities. Landscaping, these areas are more likely to be around water and the ability to support a robust landscape. Applications are received for facilities that are out in

remote locations. Most landscaping requirements don't seem appropriate and get waved in those types of locations. It seems appropriate that there might be higher standards in areas where there is adjacency to other types of development and buildings.

Administrative Waiver: The waiver has not had any changes made and it was advised to be included in case there's a situation where there's an inability for a project to move forward because it's stuck on one design factor. The applicant may be able to seek a waiver if they meet certain criteria, they must meet all other standards and if we can't make it work then it is possible their application would be denied.

Review Procedures: Changes were made to add some specifics around the requirements for a process for eligible facilities request. We are going to require those to only obtain a building permit and not go through a planning process due to 60-day requirement. In those cases, the types of facilities that are attaching onto an existing structure and they are only increasing it by certain amounts and not changing the character overall.

In table 16.B we also specify the Master License Agreement process and added a provision to state that if 30% of the neighbors are expressing concern about an application in the case of a project where it's a Public Site Plan that is a process where we send it out for notification to neighbors and we sometimes get comments back and then we may refer it up to the County Commissioners if there seems to be a large amount of interest in the project/application. The processes are proposed would build on our existing processes. The Site Plan, which is an administrative process, would be a faster process for the smaller facilities and Small Cell Facilities because they do not need to go to the Planning Commission or the Board of County Commission for approval. We are including a notification process in all cases so that there is at least a courtesy notification once an application has been reviewed and approved. This is so there is an opportunity to appeal it if there was a decision that was made inappropriately or incorrectly so neighbors are aware of it. The Public Site Plan process is also an administrative process, that means the director approves the project, but we do notify the neighbors and if there's a lot of interest in the project then it might be something that we send to the County Commissioners. The Minor Special Review process is a process that goes from staff review and then to a hearing in front of the County Commissioners. The Special Review is the process that goes from staff review to the Planning Commission and then to the County Commissioners. Some of the larger types of facilities, more complicated types of projects, or projects that are in areas where there's probably going to be heightened interest in visual qualities would be the ones that would go to a public hearing. There are some notes in your addendum where we did a little adjustment to the language around the application process. In section 16.1.6.A.2 we will take in the application and review it within 5 days and during the review

period if there is anything missing or needing to be addressed then the 5 days gives us and the applicant time to complete the application.

Application Submittal Requirements: we did make some minor adjustments in this section as in adding 3 new requirements. We also added a requirement for some of the engineering submittal requirements because we are working with these tight time frames and the shock clocks, we don't have the ability to come back to an applicant a month and half into the process and say that we need a drainage report because you are in a floodplain. We want to make sure that if certain circumstances are present on a property that we are asking those questions at the beginning of the application. There is also some language in the addendum about the Radio Frequency Emissions Letter and would like to recommend that we strike the language to say shall be monitored. If we include that language, we may want to consider being more specific and recognize that requiring this ongoing monitoring or periodic monitoring may be preempted by federal law.

Recommendation: We recommend and find that this meets the criteria in our code for making a change to the Land Use Code, which is that it's consistent with our Master Plan, our Comprehensive Plan, that you recently adopted and the intent/purpose of the Land Use Code.

Additionally, these changes are necessary because in large part we are correcting some emissions that are in our current standards that aren't there. We recommend approval of what is proposed and what these would do is place and repeal that chapter and the language in chapter 16. Make minor amendments to other sections of the code to make it consistent with that chapter.

## **DISCUSSION :**

Commissioner Jensen: There has been suggestions that the setback should be 1500 feet. Tell us how the setback was determined and is it a process if we change it.

Ms. Ellis: We had conversations back in earlier Work Sessions with you all about what would be an appropriate setback. If you recall we talked about a 3:1 setback adjacent to residential areas and we talked about even more in consultation with our consultants and looking at what the best practices are and what other communities and counties are doing with their regulations. We found and thought that going much further 3:1 would put us into an area where we would likely be challenged from a legal standpoint and that it becomes more and more difficult for an applicant to be able to accomplish projects. We received feedback from you all and Commissioners that there was more interest on settling on a 2:1 setback in that case. The question about a 1500-foot setback would be an unreasonable distance to ask an applicant. We feel that the setback for the residential properties, that 2:1 is reasonable. You can look at expanding it to a 3:1 if you want to consider it again. For the facilities and the towers adjacent to rights-of-way's, the main issue is safety. If something where to happen to the facility or if it fell into a right-of-way, we would want to make sure there is a safety zone.

Commissioner Jensen: You spoke about Red Feather Lakes district and the 30%. If we leave that and the intent/thought process that it might encourage collocation or location on commercial, should we not actually say that in the code and that we would encourage that type of development and that it be encouraged onto commercial and not something like this.

Ms. Ellis: We do have some language that encourages collocation in general. That wouldn't be inconsistent with that. I think that this is really a question of character and what you want to accomplish, and think is reasonable in a commercial district for these types of facilities. These setbacks only apply to towers they don't apply to facilities that are collocated onto a structure, and so there wouldn't be a setback requirement in those cases. We can also look at it from a district-by-district standpoint, so if you feel like it's really going to be a challenge in Red Feather Lakes because the properties are smaller and certain types of commercial buildings that may be more prohibited we can exclude that requirement in a particular district too. We left it in there because we thought it was worth having a bit more conversation, but we also think that it's appropriate if its left in.

Commissioner Jensen: Will you clarify the signage being a requirement to the ADA?

Mr. Haug: What we have included in our regulations is a requirement that they meet all the other law requirements that exist, including the ADA. If they have an obligation under that then the onus is on the company to make sure they are compliant with all those obligations. We are not as part of our regulations saying that they must do it in any particular way, we are just saying you need to make sure that you are compliant with all other federal laws. That is your job as a developer to make sure that you are doing that.

Commissioner Jensen: In 16B.1-C it talks about notifications of approval that notification is for 500 feet. That would include or should include all the abutting properties to that even if it was outside of that 500 foot and that seems to have gotten dropped or it got put some place else. Can you clarify that for me?

Ms. Ellis: If you reference the table 16B, we note that the notice of administrative decision is sent to an abutting property owner in that case. In other cases, a notice is sent to the property owner within 500 feet of the property/application. That is standard practice and is what we do with all our applications. We do sometimes go beyond that if there's a subdivision or a neighborhood that is going to get bisected by that notification or if that appears to skirt the edge of a property.

Commissioner True: For safety reasons, we're allowed to take into account how far it will fall but the difference is that we can't take safety into account when it's the RFF. It sounds like we are taking safety into account sometimes but not safety into account for other reasons.

Ms. Ellis: There is a physical safety of a facility in a fall zone, that is one issue. The other issue that you raise is health effects of facilities and that we cannot regulate. We cannot say that we are requiring setback because of a health concern related to Radio Emissions.

Commissioner True: I would like to have that clarified that safety and health are not the same.

Mr. Fellman: You raise an OK leave. I think health is a subset of safety. Safety complies with things other than health impacts. We are limited because the FCC rules and court cases interpreting those rules have said that the Federal Communications Commission is the only entity that can regulate what those emissions can be and what's a safe distance maximum levels of exposure at different distances can be. We can require in the application, that they certify, we are going to comply with those rules that are adopted by this other agency but we cannot say that we decided even though their rules may say if your 15 feet away from something that's transmitting this power, we think you really should be 150 feet away that's safer, we cannot do that. It is very clear in the

law and you saying that it sounds like we are regulating some things related to safety and health but other things we can't. You're absolutely right.

Chairman Dougherty: My concern with the 30% is a tower falling on somebody on a separate property and harming them through no fault of their own if the reason we're leaving it in there is to encourage people to collocate on buildings, I'd rather we stated that there would be no setback if they were located on buildings and remove the 30%. There should never be a reason that someone who is on a separate property minding their own business is harmed by one of these towers falling. I'm not sure how we would modify that this evening or if that would be something that you could bring forward and modified before or when it goes forward to the Board of County Commissioners.

Commissioner Barnett: In the draft regulations there is a provision that says within the right-of-way, there is a minimum spacing requirement of 600 feet between facilities. If your collocating you don't need to do that but for a new facility, it's 600 feet. In other parts of Land Use regulation, we require a minimum space of 1000 feet between for example adult uses and elementary schools. There is provision for offset because of certain nuisance requirements and it seems to me that there is potential here for wireless communication facilities to have nuisance characteristics affecting property values in those types of things should we be looking at an offset distance between let's say residential units and some of these wireless cellular facilities based on the nuisance characteristics of those wireless communications.

Mr. Haug: I think one of the things to keep in mind is when you're describing something as a nuisance, You need to be able to articulate what specifically you mean in terms of part of the difficulty with the right-of-way regulations is there's a state law that exists and there's some other federal laws that exist that require us to allow these things in the right-of-way, and there's an additional law. That law says that you can't prohibit them from having a functional system. Meaning, they have to be allowed to do it in a way that functions and if it's too far apart then it doesn't work, you can't regulate it out of it being functional. When you say you want to look at different distances, (the 600 feet), my understanding is it exist because that is about a city block. I don't know that there's any set reason you have to have it exactly 600 feet but that's pretty consistent around the country and what people have done. When you say you want to regulate it or do it according to nuisance characteristics, I think that's probably OK as long as the nuisance characteristics aren't Radio Frequency Emissions.

Commissioner Miller: Standards apply to utility poles and powerlines when these of necessity need to fall into the same characteristics because this is a utility that we are speaking of.

Mr. Fellman: The reason that we have separation requirements is generally to do with esthetic issues. You usually want to avoid pole clutter and frankly that is one of the things that is in the FCC regulations is that local governments can impose esthetic requirements, but they have to be objective standards, and they have to be comparable to what is imposed on other kinds of entities structures and right-of-way's. To the extent that there are regulations that say streetlights must be "X" amount of feet apart, I think you could probably say that the same rules would have to



apply. In my experience, some streetlights are more often much closer together than 600 feet apart. There is also a provision that says if you can prove to us that your network cannot work unless they are closer together, then the federal law may have to allow a shorter distance and because you're encouraging collocation, on existing structures, there is not a 600 foot separation a standalone.

Mr. Haug: I think part of the question you're asking is if you're going to regulate light poles or stop lights, can we make it consistent. We in the county don't have a ton of roadside things, but that doesn't mean that we couldn't adopt them.

Commissioner Miller: One of my concerns is that if we're punitive with regulations for cell towers and not with other utilities, would that make the county liable to possible lawsuits.

Mr. Haug: As long as we're following the federal rules because this is a really particularly regulated area with the small cell towers in a right-of-way, the specific federal and state laws that talk about it. So as long as we're compliant with that I think we can regulate to make sure that it's safe.

Commissioner Johnson: The pre-existing WCS, would those be considered, should these pass with those other uses be considered legal nonconforming then? If they would want to change something would they, with the existing, then have to come into compliance with the new regulations or would they be allowed to expand and modify to a certain percentage?

Ms. Ellis: We do have cases where routine maintenance and replacement of antennas occur. Those are not required to go through a process with us. If it's an eligible facility request and a change that's defined according to the definition here where it might go up another 10 feet or maybe add a new antenna, those would require a building permit. Then everything else is defined in its own category to the type of procedure they would have to follow and the type of process they would have to follow.

Ms. Johnson: If any pre-existing wireless communication facilities, if they don't meet the standards of this new code, should this new code pass, those are considered non-conforming but will they be considered legal nonconforming and then at what point in time with those have to come into compliance with the new regulations.

Mr. Haug: You are right. They would be nonconforming uses. If there's already a tower there, maybe it doesn't meet setback requirements under this code or doesn't meet a requirement but it's not changing. If they're not modifying it in any way, it's going to stay the same then it would essentially exist as a nonconforming use. If you come in and you want to modify the tower and make it taller, smaller, put more antennas on it, or do something different to it, then yes, you are going to have to come into compliance. There are some federal regulations also about how you have to treat things that are already there.

Mr. Fellman: That's the correct answer with one exception and that's the category that we defined as Eligible Facilities Request. That's a result of a 2012 federal law that led to FCC regulations into 2014. It says that if you want to increase the height by a certain amount or increase the

extension of the antennas from the structure or increase the number of cabinets on the ground, up to a certain amount. As long as you meet a certain criterion and you don't go above 10% or 20 feet, that's what's called an Eligible Facilities Request and, in that law, Congress said, in most cases the local government may not deny and shall approve the application. When the FCC adopted the rules, they addressed the issue if it's not a nonconforming use. It was legal when it was put there, it no longer meets the code, for all other Land Uses, if you want to add to a nonconforming structure, you have to come into compliance. Local government argued that they should have to come into compliance too and the FCC said no. Because if you do that then all local government will have to change their codes so everything will be illegal and nonconforming use, then they will get around our rules by saying you can't add 10 feet of height. If it was legal when it was built and you're within the 20 feet of the right-of-way and the other categories there, then even though all other things that you're adding to it will have to go through the new code, but these facilities don't. There is that limited but still potentially significant exception that the federal government tied our hand.

Commissioner Johnson: Is there anything that's needed for staff to understand what can and cannot be requested?

Mr. Fellman: I don't think we have a ton of applications for them but eventually all Land Use staff have slowly but surely come to understand, if you meet that criteria or if you are getting a little bigger or wider, we're still going to approve you.

Mr. Haug: When Congress passed a law of uncertainty as to what a substantial change was, they defined that if it is more than 10% increase in height or more than 20% depending on if it's in the right-of-way or not, it can extend a certain number out further.

Commissioner Johnson: Why don't Small Cells have to go through the pre-application process?

Mr. Fellman: I don't think the FCC understands what a pre-application conference is and what the benefit to applicants of the pre-application conference is. Usually it educates them more and it speeds up the process and avoids mistakes with actual filings made. There were a number of complaints made by the wireless industries that local government is using these conferences to stall and delay, and they have these meetings and then they don't do anything with it, and then tell us that we have to do other stuff. So, the FCC said if they want to file an application at the time, they come in for a pre-application conference, you must accept it. The shot clock starts ticking at the time they say that they are ready.

Even though you said we need a pre-application conference. That is why we have made the change and to be able to address these in a timely manner.

Commissioner True: When does the clock start? When is day one and who is making that determination?

Mr. Haug: As soon as they turn it in.

Ms. True: Whether its completed or not and whether there's a pre-conference or not, it's just when they turn it in that's day one?

Ms. Ellis: That's correct, and they can pause it if we send it back and it's incomplete but otherwise the clock is ticking.

Commissioner True: So, if we send it back, then that does stop the clock?

Ms.Haug: Yes, it stops the clock. You then have to notify the applicant giving them a description of the missing items in their application and then the applicant has a certain amount of time to complete the application. When the applicant comes back you can't then come back later and say now you also need to do A B and C. Everything that you think that's insufficient about it you have to catch on the first time. You have to make sure the first review is very thorough because if you don't include something and saying you didn't give us this the first , you need to give it to us now, you lose the opportunity to do that after you send out that first insufficiency letter.

Commissioner Stasiewicz: What if they send it back and X, Y, and Z are still messed up?

Mr. Haug: Then you would send it back to the applicant until the application is correct and complete. The process pauses every time there is a mistake that needs correction. You can still send it back due to the applicant and say they are not doing X, Y, and Z well enough, you just can't add something else.

Chairman Dougherty: I understand you mentioning that we may not have the grounds to deny a permit on this basis but is there some sort of way to put teeth into requiring an owner of one of these facilities that is abandoned to remove it. Maybe do we collect a bond or a deposit upon the application so that we have the funds to remove it?

Mr. Fellman: The real remedy is, enforce your code with respect to that site. If they have a site that they have abandoned and the county has notified them to take it down and they haven't, then there is a possibility that you can require to post a bond and even charge for the tear down and clean up. You could probably do this through your building regulations, that your required to post a bond to address damages from the clean up as well as taking it down if they don't do it and that could be another way to protect it. Then you avoid the potential liability of someone saying, we are in violation over here you can't use that to stop my application over here.

Commissioner Jensen: Can those remedies be addressed in the MLA?

Mr. Fellman: Yes.

Commissioner Jensen: That would simplify it and keep it out of the code? Is that a better place to put it?

Mr.Haug: It is, but you're not going have an MLA in every circumstance.

Mr. Fellman: If you have a tower on private property you're not going to have an MLA but if it gets approved through the zoning process then you'll want the provision that says, if we tell you to take down the abandon property and if you don't then you are violating the code.

Chairman Dougherty: What are other municipalities that you're seeing doing?

Mr. Fellman: It's not unique to wireless, there is a lot of things in local government codes that usually end up sitting around and become problems because somebody's not doing good enforcement.

Commissioner Johnson: I do agree I would feel much better if there was something about bonding because it's going to protect the county from having to go out and remove equipment at the county's expense if a company fails to do so.

Chairman Dougherty: Do we currently have the mechanism to go in after an owner made an improvement on the property and not the property owner to remove it, and have we had successes with that in the past?

Mr. Haug: Yes, we could do a couple things. We could seek some kind of an injunction action to try and get the court to order them to remove it. There are some others Mr. Fellman mentioned, there are some specific procedures for imposing penalties financial penalties every day that they don't comply with having it removed, and so the only difficulty that comes up and that is if it's a company who's not around anymore, then it becomes difficult to impose it. But as long as it is someone that is available, and you can interact with them and enforce it.

Commissioner Jensen: And likely if one of these facilities gets abandoned, it's probably because the owner is no longer in existence. So, what would be your solution to guaranty that the county doesn't end up with expenses for removing a facility?

Mr. Haug: There's probably a couple ways to do it. We do have the enforcement capability and you can still go after somebody to try to remove it. I think if you wanted to do it through the building permit process that probably makes the most sense to me because what you're really trying to accomplish to say look there's a structure that exists and we need to be able to remove the structure if you abandon it and you disappear, we need to be able to do something to try to clean that up.

Commissioner Miller: Wouldn't it be accurate to say that most of these towers that are going to be built by the same few corporations?

Mr. Haug: There's not a lot of companies doing this, I think it's mostly big corporations.

Commissioner Miller: So, requiring a bond, you wouldn't have to have a bond for every single tower, you just need a bond to secure the reclamation of any tower.

Mr. Haug: I think what Mr. Fellman is saying is that it's a site-specific deal. Because if you're going to say that you need to post a bond, then the bond has to be tied to something specific.

Commissioner Wallace: We have a lot of cell towers in this county already and there are a lot of really big ones. Are any of those bonded or is there any mechanism for those if somebody wanted to take them down?

Mr. Haug: You have the same mechanisms and we don't have any bonds on any of them.

Commissioner Wallace: So, it's just basically the same process of suing the company and saying you have to take it down and for the cost.

Ms. Ellis: We're not aware of any and also any that have been abandoned.

Commissioner Johnson: As technology advances, maybe some days these the large towers are not going to be needed. I don't know because I can't determine what type of structures or what kind of advances are going to be needed in the future for telecommunications. I would feel a lot better if we had something in place, and I don't know if it would be cumbersome for the building department staff or if it's more cumbersome for planning staff, but I would really like to see a bond to protect the county for removing these items. Also, it protects the county from companies that emerge or change of ownership. Things that that are beyond the counties control them to go after them to take their equipment down.

### **PUBLIC COMMENTS :**

John Weins: I'm a resident in the unincorporated Larimer. We have already heard a lot about setbacks, and that's what I would like to address. One of the factors that has been mentioned is how far these signals travel. It's seems kind of important. According to the Wireless industry, they want to go at least 3,000 and we have heard talk if it should be 400 feet or 600. Why would they be 400 feet apart if the signals can go 3,000 feet. As far as setbacks go, I think what Larimer County should do is what has already been done in many other places. Mill Valley, California; the counties; Simi Valley, Sebastopol, and Marin, have already incorporated in their rules and regulations, which haven't had any trouble. They have 1500 feet already. So, to make the excuse, that they can't do it, that's baloney, it's already been done and there's no problem. If the signals can go 3,000 feet, this does not prohibit the deployment of 5G. There's just no excuse not to have it less than that. Since other places have already incorporated 1,500 feet, I think there's no reason why we shouldn't do it here.

Tricia Diehl: We all appreciate your willingness to keep an open mind, to study the issue, and to consider these amendments to the regulations which we believe are within the FCC and state law available to you and your police powers. First, the RF measurement and monitoring is included in the Master Licensing Agreement but not spelled out in the regulations. This leaves an important component changeable under staff's prerogative. Applicants merely supply a compliance letter.

Monitoring and measuring with consequences for exceeding RF exposure limits is not spelled out in regulation. How does a resident who privately secures a third-party measurement of RF exceeding FCC limits proceed? What are their right and recourse under proposed regulations? Other citizen comments tonight and then previous written comments have shown you clearly, tower antennas are regularly exceeding FCC RF Emission limits. You have the obligation to protect us by including RF measuring in your regulations with consequences and actions, should any of these providers exceed statutory limit. The FCC has no devices to respond to these complaints or exceeding limits. Monitoring needs to be handled on a local level. Second, setback on wireless facilities, regardless of what type, need to be 1500 feet from residences and schools. This 100-foot nuisance tower as you already have been familiar with, is in our backyard and it's 100-feet from properties. We had no notice given and it was administratively approved and it's in the GMA. Third, site visit is imperative as part of the application process. The staff cannot review the impacts of wireless facilities including any antennas mounted to any existing support structures for visual clearance, for ADA compliance, and for residential environmental impacts. They must have eyes on it. Not a picture presented by the applicant. The regulations do not mention nor require a site visit. Please change this. Fourth, we have to request a far more public notice in a larger circumference than currently stated and for all applications before they are approved. Table 16A has more than 60% of all applications notifying the public after the administrative review.

Be consistent and specific across all wireless facilities, antenna to towers so that they must comply and establish periodic monitoring and measurements beginning with the applicants first compliance report. Again, in conclusion please include RF measurements and monitoring with the path that citizens can submit licensed third-party reports of exceeding FCC limits and consequences setback should be 1,500 feet from schools to residences, a better notification process to surrounding neighbors prior to approval, and the county maintaining a geo-mapping siting of applications and installed wireless facilities.

Nola McDonald: I came tonight to inform you of a growing diagnosis in my practice and the practice of other physicians that I know. This condition has appeared more in our office over the last decade and is growing, so much so that there are now professional development courses available for diagnosing and treating this condition. The condition is electro hypersensitivity (EHS). Individuals who suffer from EHS have increased in recent years and the only treatment we currently have for them is to avoid EMF. While some individuals report mild symptoms and react by avoiding the field as best they can, others are so severely affected that they must work elsewhere and change their entire lifestyle. I have patients who cannot serve on juries because the courthouse wireless system is too high. I have patients working from home and I have patients, who their financial lives have devastated on the verge of homelessness trying to mitigate the exposures to EMF. The worst part of the 5G deployment wireless industry is that it is proposed to be everywhere. There will be little chance to get away from it. Your powers of regulation setbacks give hope to person suffering from EHS and for the health of even your own families by setback residences and creating EMF free park zones could be your consideration. The symptoms of EHS can be very debilitating there are extreme fatigue, headaches, migraines, nausea, sleep disturbance,

insomnia, hyperactivity, itchy burning skin, cardiac arrhythmias including tachycardia severe enough to be hospitalized, anxiety, depression, ringing in the ears, numbness in the face and another body parts, inability to concentrate, cognitive issues, memory issues, dry eye and sight problems. Because people suffering with EHS cannot work in an environment with wireless radiation, they are forced to work from home. As more and more public spaces are filled with wireless radiation and high density, they are limited in the places they can go. Movie theaters, concert, and walk in old town has long been off their list of recreational activities. Parks have been a refuge and of course our homes. If you do not make a minimum setback from any residence regardless of zone 1,500 feet and provide a way for public notice or posting on the county website prior to the installation of wireless facility in their neighborhood, the persons most affected, those suffering from EHS will be forced to leave their homes without notice. Even if one is not diagnosed with EHS, the health effects on all of us are cumulative and real. Consider your powers to regulate wireless radiation away from the homes we heal and sleep in.

Cindi Peck: The first thing I'd like to talk about is the minimum setbacks on page A4 16.1.4. Please understand and be clear, this is the only section in the regulations noting setbacks. These are for towers that are antennas and light poles. There're not for existing structures and they're not for mono poles. We have no protection with any setbacks, and this is what people will ask you for over and over again tonight. There appears to be none in the right-of-way so when a Master License Agreement is granted, they are allowed to put them wherever they want. It appears that anything goes in the public right-of-way. We feel that you have the right, under the police powers, to implement setbacks whether they are in the public right-of-way or not. Setbacks can be applied to all zones near residences, schools and fire stations. I understand that state law pre-empts FCC rules if they conflict. We get to use our state laws. So, the test really is whether it is materially inhibits the installation. If 5G goes a minimum of 3,000 feet with no obstacles but further up to miles, then why are we doing 600 feet apart and no setbacks at all. There are setbacks and I want to create. John Weins and I read the Sebastopol and all those cities they've implemented 1,000-foot setback. Requiring applicant to provide the details of how they cannot provide the newer improved service by using the counties preferred location or avoiding the least preferred as is in the Master License Agreement really needs to be spelled out. We're not asking for any setbacks yet only on towers. So, the next thing that we would really like to ask for is the section of the regulations in the on measuring and monitoring RF Limits. Monitoring such as pre-empted is Ludacris. If you have a Federal law then we should be able to enforce it they want to enforce all the other federal laws on us and I've given examples of Syracuse, New York, who took a strong stand and said if any of us are found out of compliance with federal health safety and radio frequency regulations then Verizon under their Master License Agreement must immediately shut down the site and remedy the situation. They have to do it, so we really are asking for RF measurements. Next, on page A-9 the spacing of wireless facilities. Again, the 5G which is the shortest distance is 3,000 feet that can transmit why are we giving them only 1,000 feet.

James Schmidt: I am here to address the dangers of the fifth-generation wireless technology, health hazard, privacy issues, and recommend the tabling of the 5G roll out in its current form. We the

people hold you liable and accountable for our safety and the protection of our individual rights. I am a retired air force air space engineer and manager with a physics degree, I am knowledgeable and like to remain under non-nuclear radiation effect. What is 5G, it is a fifth generation of wireless technology. It is not faster or better 3G or 4G technology. 5G technology is a multiplex of 3G, 4G, and microwave frequencies that can be programmed and used to transmit all types of data at rates to 10 hundred times faster than 4G. The microwave frequencies will be transmitted at higher intensity for penetration using higher density or ugly antennas. Two antennas located closely together can be used to create 3D images of the zone it is penetrating, your house or your business. 5G antennas can also be used as receivers for the purpose of surveillance. This is the new oil and huge profits at our expense. The government will use the surveillance data for their purposes without our consent. 5G frequencies create health and safety issues. The military uses a microwave antenna for crowd control. A scientific American article tells us that the use of frequencies to control or read our thoughts. Is this how we want to educate and program our kids? Independent documents and studies show that the potential health hazards of wireless technology, yet that FCC refuse to do their own research saying that it is safe. Children and elderly are more susceptible. The 5G wireless technology have much potential for increase communication and data collection ability. It is our health, our privacy and individual rights that concerns us. Alternatives including stay with 4G, using optical data transmission, and waiting for safer technologies. Commissioner can and should table an immediate roll out of 5G technologies until the Commissioners research the 5G technology and develop their own limits and regulations. Only then should they allow the deployment of technology on a phase basis starting with demonstrated safe controllable applications. There are already 1.4 billion dollars in law-suites against 5G in many cities and counties across the country already saying no to 5G.

Cindy MacMaster: These are unprecedented times and, in an industry, literally dictating to local government. What the private industry wants for their benefit and making every effort to take away local control. It is most likely understood here tonight that the County can see how the FCC has prohibited you from safeguarding our homes from the bioactive environmental toxin of wireless radiation, issuing rules where health affects cannot be considered. Isn't it shocking that in a democracy reasonable minds cannot discuss what is relevant to our own pursuit of happiness of which our top priority is health? While the FCC tried to pre-empt your responsibility to protect us from this act of biotoxin there is reasonable advancing evidence that the authorized provisions of the 1996 telecommunications act and the overreaching FCC rules implementing them, will be held unconstitutional in violation of home rule separation of powers due process and uncompensated taking under the first, fifth and 14th amendments of our constitution. The US Supreme Court has already recognized the principle of cooperative federalism. This will counterbalance the FCC's aggressive use of this pre-emption doctrine. You have received much documentation on the court cases pending or ruled upon, ruling back these tyrannical FCC rules. Tonight, we ask you to take up more aggressive leadership role in our best interest. Please follow the example of the city and County of San Francisco who used to police powers in their Land Use Codes, took control in sighting wireless facilities. Their actions were upheld by the California Supreme Court in the Mobile verses the city of San Francisco case. The court ruling confirmed the fundamental right of local municipalities to protect the health and safety of their citizens. Please protect our health tonight. The court affirmed that inherent local police power includes broad authority to determine



for purposes of public health safety and welfare. The appropriate uses of land within a jurisdiction boarder and acknowledged that lines of equipment might generate noise, cause negative health consequences or create health and safety concerns. Having had the stellar example by the city and County of San Francisco and other examples from recent court rulings, we need you to exercise your police powers. These police powers granted you under HP 17 Dash 1193 our state legislation. Please protect our homes. Prohibit any wireless facilities in 1500 feet of any school or residencies. These are our sanctuaries.

Paul Searles: I'm asking that three items for your revision be considered. In section 16.1.1 intent and purpose, section A.2 on page A-1 states the purpose and intent of the regulations is to promote and protect public health safety and welfare. We ask you to please remove that sentence and replace it with promote and protect the public safety. Unless you exercise your police powers to keep all wireless facilities 1,500-feet from our homes, then the codes intention is esthetic and its structural purpose only. They are not written to protect our health. No Land Use Code should contain statements that are not true. It would be a misrepresentation of the contents. Please speak what is true this day. These regulations only promote esthetic and safety from fire and falling facilities. Point number two, on page A-13 item 2.A where it states that small cell facility shall be permitted use by writing county rights-of-way, subject to review and approval from the County. Please remove it. There is absolutely no reason to codify state statute in HP 17 Dash 1193, which took away local control on sighting wireless facilities by writing permitted use by right caused by our Land Use regulations. Every legal option out there has advised that each local government not only codify overreaching state federal law. This language is not necessary. This sentence is not necessary for legal reason in the regulations. If this sentence was necessary for county staff to know what state laws is then please do it in training based on the current law and do not codify and restrict county local control as such as sentence in the regulations. It is necessary and is not included in any other regulation from what we have read across the state and country. Point number three, RF measurement and monitoring is included in the Master License Agreement but not spelled out in the regulations. This leaves this important component changeable under staff prerogative. Applicant merely supply a compliance letter. Monitoring and measurements with consequences for exceeding RF exposor limits is not spelled out in the regulations. Please be specific and consistent across all wireless facilities from antennas to towers, that they must comply and will be periodically monitored or measured begin with the applicant first compliance report spelled out.

Heather Lahdenpera: I want to talk about the setbacks. I want you to do everything in your power to create setbacks of at least 1,500-feet in residential neighborhoods, schools, and your fire stations. You may not be able to do this on the basis of health because of the 1996 telecom act. But we know that you can regulate based on esthetics, property values, and privacy, which is a big concern with 5G. There were some questions in the last session about putting cameras on every antenna. So are we going to go out and get our newspaper in our bathrobe with a camera hundred feet from our house now? All of these things are big concerns for our neighbors, are neighborhoods, are residences property values, our livelihoods. Many of us, our biggest investment

is our home and I asked that you do everything that you can't protect that. But I really want to tell you a story of why it's important. My mom died of multiple brain tumors, Glioblastoma, as they were in the right forward anterior quadrant of her head. She had been exposed to two Wi-Fi routers for about 15 years. One here when she was working during the day and one to the side of her temple lobe while she was sleeping at night. I don't have time to explain in three minutes but when I spoke to her neurosurgeon, they agreed that it was from the exposers of those Wi-Fi routers. I've hardwired my home we use hardwired leaks; we have hacks into our telephones, my children don't use cellular service in the house ever, we don't have Wi-Fi. I go to great links to protect my family when they're in my house I do not want a small cell antenna outside of my home. I implore you, use your police powers. Do whatever you can, this is your chance to protect us to protect you, your children, your grandchildren, children you might have in future. This is going to affect us all now and for a long time to come. Please make the best and most restrictive decisions that you possibly can give the ridiculous limitations that have been put upon you.

Cheri Kiesecker: As a Larimer County resident and a third generation Coloradan you are our last line of defense and I know you spent a long time learning about this but its apparent there's still a lot of questions and I would wager that most citizens aren't familiar with 5G. They aren't familiar with A. the FCC and reading that we're doing that we have no say. We do have a say, you have a say, and you are Land-Use Commission. I would like clarification and I do agree with Commissioner Johnson's question about applicability, 16.1.1 B3B. Why would we exempt any pre-existing statutes for WCF? I want to make clear that if there is existing setback or there is anything that is restricted, we keep that as a safety measure. Please safeguard that. Sunset some kind of clause to make sure that as long as it's not in conflict with the state federal law, that we do keep those. Also, I am quite concerned with the surveillance aspect of this with a brief mention of cameras being posted. I would say that if you are familiar at all with the news and facial recognition bands in different cities, it is not the proper role of government to surveillance citizens, nor is it a proper role of government to let broadband companies come in and tell us what to do. The FCC may say that you can't regulate based on health, they have no jurisdiction on safety, they have no jurisdiction on what you do with your safety of your citizens and surveillance. Before you implement any kind of cameras on any kinds of poles, please have a very detailed privacy and security plans with audits and independent help because it will be a very costly and expensive thing to remove. Once that data is out there, you can't remove it. I do very much agree that if the cell signal is 3,000 feet, I don't understand why we are keeping it at 600 or less than 1500. I don't think citizens are clear that that doesn't include collocation or towers, or antenna and I think maybe clarification of why we're not doing that around schools and fire houses were people are or residence exposed to this. When you put a cell phone tower in front of my house, you're affecting my pocketbook, that is my money that you have just now decreased my property value.

Sharon Bringelson: I used to sit in your position on the original Planning Commission as a health planner and I served as a health planner for 10 years and currently a health and wellness lifestyle coach. I want to underscore all of the symptoms that Dr. McDonald mentioned, that people are experiencing and over a wide spread of sleep disorder, anxiety, and depression. While I deal with

what I can, I really feel since beginning of the year that I might be hypersensitive as well, so I planned on speaking to the disabilities act liability. I think the FCC has put that all local and state counties into a great exposure as well as the citizens. By rolling out and pushing this technology that hasn't been proven to be safe. I Listen to the Senate hearing where they interviewed 5 telecom executives asking about safety research and they said there was none. I want to speak for not just the people but also when I called the web of life which would be the birds in the trees and all the other lifeforms. That have evolved on this earth without there being any proof that these radio emissions and microwave radiations is safe for them. The bees are already struggling under 4G or cell masters. There's been some documentation and that they are being affected by the current cell phone towers. They pollinate our food system, So, I would like to see you join with counties all over the country to legally challenge this pressure that you're under to accept this. It's not a matter of setbacks it's a matter of stopping it.

Aaron Moats: I am one of the signers of one of the citizens comments dated May 29, 2019. Page 157 is one of several white papers by the industry on radio frequency emissions. The wireless industry is already for seen problems with complying with radio frequency exposure limits in the deployment of 5G in some countries. The wireless industry is actively asking for more spectrum never tested on human exposure to be opened up to make 5G work better. While the US has the highest exposure, limits allowed in the world. 10 times higher than Russia, China, Switzerland and other countries. We do not know what the power density is required will be when it comes to the proliferation of these antennas. Included in the measuring and monitoring of radio frequency exposure both and individual WCF and accumulative exposure for multiple providers as antenna densification continues. Page 140 to 141 explains the details of monitoring all RF as other cities have done. Page 142 includes a sample of the language in the Master Licensing Agreement of Syracuse, New York mentioned earlier. Quotes from this article at Syracuse.com, in the news section 2019 is in the citizens comments dated back on May 29, 2019 "recognizing that any new technology can bring uncertainty. The city has negotiated an agreement with Version that provides the city with additional oversight to protect the health and safety of residence". The deal allows Syracuse to test a random sample of Version's 5G transmission antennas each year. The small cell antennas are about the size of a backpack and mounted to light poles. If any are out of compliance with federal health safety and radiofrequency regulations Verizon must immediately shut down the site and remedy the situation. Verizon will then be required to test a larger sample of small wireless facilities. I heard you all talking about bonding and requirements when it comes to getting rid of the cell towers and things that get left behind as technology continues, we should be also discussing health effects. I understand how that's a giant tar pit of complexity legally but, I'm allowed to stand up here and tell you that in my world view, it's probably the biggest view when it comes to this. It's not what are you going doing this robotic hunk of junk, it's what it's going to do to us until it gets turned off.

David Hoffman: I'm a systems analyst by profession and I'm also a trained RF mitigation specialist. I'd like to discuss two, what several other have talked about and I agree with them, but to actually give you a show and tell almost with this meter. My request is that the regulations

include a section on RF measurement and monitoring with clear steps of recourse for the county and its citizens. We should make sure that these people making big promises are monitored. This should be strongly addressed in the regulations reported by the applicant and a third-party independent test company to verify their readings. The test should be conducted on a non-holiday weekend with a 24-hour exposure. The problem is, the letter of compliance, isn't sufficient. What I'm asking for is better testing that we can do are report back. A recent Wall street journal investigation found many sites were out of compliance with the FCC rules and they didn't have anybody monitoring. It a safety factor with the risk involved of the antenna being on this property because of the setback where it is and that's what I'm requesting is that the setbacks also be the 1500-foot range for residences, schools, and firemen. We can do better; we can tighten this up and take some control that the FCC.

Chairman Dougherty: In the slide, it looks like the RF density was gaining the further away from the pole that it is. Why is that?

Mr. Hoffman: That is correct. It's because these antenna lobs, there's elements within that and they are pointed up for an optimal spread across that neighborhood. If you have a two-story house, then the child's room on the second floor is going to get a much higher reading than the lower because of the way the antenna structure is.

Virginia Farver: I have a picture here of a cell tower that took the life of my son on the San Diego State University campus and I want you to notice the dead tree foliage on this. This cell towers mission control for San Diego gas and electric it's up to over 70 world fire stations which is part of the first net which is also a big part of all this, and I do want to bring up the health effects. The NTP study, this is a national toxicology program study done in 2018. It was a ten year, 30-million-dollar study and it found clear evidence of harm. These are RF levels well below FCC limits. Right now, the FCC is a catcher agency by industries. So, I want to keep that in mind as well. After losing my son from a GBN brain cancer news of old and brain cancer cluster several people died on campus I've dedicated my life to fighting this and in my diary at home from 2008 the neurosurgeon in San Diego told us it was from his cell phone I didn't find out about the cell towers for about 10 months afterwards and had several documents were it had illegal emissions. With that said, the oncologist here in Fort Collins told us that this was not genetic it was environmental, so I got all this in my diary. This cell tower was involved in the research 5G and the scientist's comments back from 2008 said, do not install radios locations where anyone gets exposed to prolong emissions over short distances. They know this stuff's dangerous; this is a weapons system. With that said I would like to request you to put setbacks of at least 1500 feet from any wireless communications facility to any schools, fire stations, or residential areas and I would like to know if you can do some RF majoring in compliance and consequences if they go out of compliance and I'll let you know, Janet Newton from the EMR policy Institute a few years ago in Vermont, tested over 600 cell towers all of them were out of compliance with FCC guidelines. I'd

like to know if you guys would do a geo-mapping website that the county maintains of all the applications so that we can be notified. In table 16.A on page 3, please notice that the number of site plan procedures that only cover about 80%.

Veronica Miscio: I live in the rural area north of Fort Collins and have lived here for many years. We are retired and we wanted to live in the country. As allergies escalated in town and I started having problems living in a city with all the pollution and everything we build our dream home. I suffer from EHS and it's an issue for me to be here, but I felt this strongly about it. I have anxiety issues, insomnia, I have burning all the things Dr. McDonald talked about I have and I'm going to pay the price for being here tonight, but it was really important for me to share. I don't want any cell phone near my home. My home is my safe place I don't have to go to town I can have my groceries delivered. I don't have to expose myself to the RF. I don't have anything in my home that is Wi-Fi. I don't have a smart phone, I don't have a portable phone; it's a landline, I don't have any smart appliances, everything has been disabled or it's not a smart thing to begin with because I have serious consequences and the fact that I have my safe place that somebody can come and stick a cell tower outside of my home and make my place devoid of all the things that we have worked to make it safe for me, it's criminal that the people that are doing this is downplaying the health issues, it's just really sad. I ask you please to step back. I've done a lot of research Canada, England, Switzerland, they don't let you put anything like that in your home, schools, hospitals, or old folks' homes. Why? We're not getting told the truth about the health things.

Andy Miscio: I've been at a commercial real-estate broker for Fort Collins for over 50 years and sold over 1,000 commercial properties here. I've seen it grow. I've been put into courtrooms rooms and I's worked as an appraiser and I've been on the County Board of Equalization as a referee for park protest. One of the things that I have and share with you is that when you have a nuisance and the closer that nuisance is to your property the less value your property's going to have. Cell towers are a nuisance and the closer you get those to your property the less value you're going to have. Even if your property dropped only 10% as result of the proximity of the cell towers. If you buy a property with 20% down, you lost half your equity. If you buy a property for \$500,000 and put down \$100,000 down, you lost \$50,000. That is half of what most people do in their investment. I think what happens when you drop property values, as a referee and a Board of Equalization, the complaints that people have, is I lowered their value and rightfully so because the market wasn't going to pay for the same property that had a nuisance. Our county lost tax dollars as a result of it. The people themselves lost the equity that somebody had in their property. That is one of the consequences of having cell towers. In addition to the health issues, that are far more important, I think you need to have in determining the distance of a cell tower to the property.

Christine Houldsworth: I'm actually a native of Fort Collins and my family has been in Colorado, Belleview, Fort Collins since the 1800s. I am a "victim" and my purpose in coming tonight

obviously was to listen and understand obviously we've been trying to fight this. We didn't get it stopped and we didn't know about it and we made some efforts and I'm here and I echo a lot obviously what was said tonight but I think it's important for us to take a few steps back and look at the erroneous process that led us for this landing 100 feet from our home. It's hard not to notice that the two county planners that signed off on this, Carol Kuhn and Rebecca Westerfield, are no longer working for the county. Perhaps for other issues that we're not aware of seems a little bit, something went wrong and this happened and I am just I want to obviously remind us about this and not forget this so when you are looking through these new recommendations, to take it to heart and that we're people. I come from a family of big property owners. I'm not big on government involvement. I feel the government failed us. A big thing with us is that there were no site visits. Every single planner, Poudre Fire Authority and everybody who signed off on the tower, not one person admitted to me that they came. Also, suggested language, there is so much of it, even we had said earlier, blend it. Let's not locate this in a visually sensitive area am not seen from the public right away. Be very careful when you're reading this in the subjective language in addition my son Zack, my 14-year-old sons' bedroom is right up above it, and with all the health issues, that keeps me up at night.

Scott Houldsworth: This has been an emotional rollercoaster because we have had neighbors try and move, we have lost property value, and every house thereafter will lose property value. This impactful is hurtful and it's a lot of money. You can't fight it based on health alone, but we know it's there and there is about nine pages showing that it is there. This company that put this tower in, put it as close to our house that they could to minimize the amount of cost for the fiber optic cables. If it was a windy day and it were to fall, it would hit our house. It's 100 feet from our house and 100 feet high. I know you weren't here, but we do feel that the county wasn't looking out for our rights. There is a school 2,000 feet from it, Zach Elementary, it's a big neighborhood all because of one property owner. They could have collocated them, there are other towers around the area that they could have put it on, but they chose not to. They wanted to hit the highway and the high school in our neighborhood and save themselves money. They didn't care about the health concerns of anybody.

Jean Carlson: I was an educator for 30 years. I came tonight to see you know what was really going on. I just have a question, what the purpose is of inflicting the community and all of your constituents to this toxic energy. I mean what are you gaining that is so much better than the health importance of this whole community? Have you given any thought to that? I have no idea what you've done in the past to prepare for this. I'm just questioning. We've gotten along with 4G now for a while and I know there are some problems with it, but we at least managed and now you're asking us to except this new 5G that supposedly so much faster. I'm just questioning is this just a faster way to get communication on the computer worth our health.

Commissioner Dougherty closed public comment and opened the floor for the staff to respond to the public comments.

PUBLIC COMMENT REPOSENSE FROM STAFF :

Ms. Ellis didn't have any response to the public comments. She felt the Planning Commission could entertain any questions they might have regarding any of the comments that had been made. She did want to say that these regulations are agnostic as to the type of technology they really regulate the facility that the antennas are placed on and what they know in hearing at this point that 5G is deploying in very urban places and is unlikely going to come into rural Larimer County or even downtown Fort Collins.

Commissioner Wallace: What is the FCC's position on monitoring compliance with the radio frequency emissions? We have to have that letter up front that says they say that they're in compliance, is there a position on that or is there any kind of ongoing monitoring that it's either prohibited or required or happens by the FCC?

Mr. Fellman: The FCC position is that they have the exclusive authority to set the regulations and to deal with enforcement of any potential violations. Whichever one of the speakers that said it's not the FCC's role to do that, I believe was wrong, respectfully. Now the FCC and the other agencies don't have the staff staffing to do that effectively. The FCC would likely look at a local government that forces as part of its code periodic compliance and the cost to go along with that would probably be seen as a local government stepping into the role of the FCC, and they believe they have the exclusive authority on what they're going to do and how much of it. If this County decides as a policy matter, not a Land Use matter, if the Commissioners decide it is as a policy matter and that we as a county want to incur the cost of getting a qualified Radio Frequency engineer to test these sites periodically, and if it determined, Someone asked what can they do as a citizen. If a citizen preforms a test and finds they are out of compliance, they the citizen will need to go to that region FCC office and report it and ask the FCC to enforce the law which is their legal obligation.

Commissioner Wallace: I would like Ms. Ellis to take a few seconds or minutes to talk about the setback issue which I think is being confused with distance apart. We have a 600-foot rule which is distance apart rule. The setback rule is a setback for the property lines are from where of it is

that is determined, and I think that that is important understand the difference. Also, the 600-foot is a minimum. If a company decides they want to put one every 1500 feet, they can do that it just means that they can't put it more closer together than 600 feet in the right-of-way, so if you take a second to explain how those two things fit together it will be helpful.

Ms. Ellis: You're correct, it's important to make a distinction. The setback requirements are presented in the earlier section of the design standards part of the code. We have that on page 11 of your packet and that talks about setback distance, what the setback is, and how that it is measured is the distance from the actual tower facility to the property line. If it's on a given property, you measure it from the base of that facility to the property line or to the edge of the right-of-way or whatever the situation maybe with that property. The spacing requirement is presented a bit later with regard to small cell facilities in a right-of-way and that's back on page 15, where we have the 600-foot spacing requirement. That would be the linear spacing in a right-of-way between new facilities that would get located and built in that right-of-way. That would be a different issue than the distance from the property line.

Commissioner Wallace: This request for a 1,500-foot setback, there isn't a provision in the regulations right now would say that a cell tower cannot be closer than 1500 feet to a school or 1,500-feet to, there's nothing that actually deals with that. Is my correct?

Ms. Ellis: We don't have that proposed. I would bring to your attention some language in Attachment D where in the packet for the work session we presented a sample Master License Agreement to you just because we heard a number of questions about what is a Master License Agreement and what kind of provisions does it contain. Some communities have moved in the direction of identifying location preferences for facilities. So, we took a stab at some language that could be incorporated into a Master License Agreement that suggests preference locations based on siting and how they would be collocated and based on how the different utility infrastructure. We could move in that direction if that's of interest and that is a way to try to encourage these facilities be located for instance along arterials and rather than along local streets and residential areas and located as far away as possible from residential buildings in a particular location.

Commissioner Miller: You're talking about the big towers in that regard. Correct?

Ms. Ellis: It would be the small cell facilities.



Commissioner Jensen: There were a couple of mentions and testimony about the setback issue from schools and from fire departments. Why isn't there not mentioned that we should keep it away from courthouses or police department or those kinds of things? There seems to be a separation in an approach there, and maybe we can't really regulate a fire department separation because it's a private entity. Why are they pulled out?

Ms. Ellis: It's my understanding that the drive to pull those out separately for things like daycare facilities is basically a difference between a structure that might be residentially occupied or occupied overnight. There have been some studies and interest in the fire and profession in particular who have reported that they have seen health issues. There's been public comments about the notion of trying to keep these facilities away from such structures. We did reach out to the fire districts we asked them if they had any preferences or if they had any direction with regulations, and we didn't hear back from most. One of those comments is in your packet. We did include some new standards related to fire protection. We didn't hear any locations preferences from any of the fire district here in the county. We don't regulate what the school districts do on their property and so it is their prerogative as to if they want any guidelines or standards.

Commissioners Johnson: I wanted to go back for just a point of clarification to some of the public testimony that we heard. What I understand about our processes is that in 2014 the FCC indicated that for all wireless facilities that the county must approve within 60 days and if the county fails to act then it's deemed approved regardless. Then in 2018 there's a house bill from the Colorado that indicated that there's a small cell law and it indicated that those small cells could be regulated based on local police powers. If they're not approved or the local entity doesn't have regulations and they get approved regardless. I think what the nature of what we're trying to do tonight is to establish some baselines for regulating, because if we don't establish anything then the county staff can't control anything. What Mr. Fellman, I believe has pointed out is that there are things that we can and cannot regulate and so we're just trying to establish some baselines for groundwork. The code can be amended at any time. If the County doesn't adopt and the County has a development standard for everything that is approved, that they have to remain compliant with the FCC rules and regulations. If there is a complaint that some facility is out of compliance and the County doesn't have a process, does the County have teeth, so to speak, to enable a facility to come into compliance? Or, is it better to not adopt rules and somebody would lodge a complaint and then the County has no teeth in the game? I just wanted that clarification. The benefits of having something versus not having something and then if there's a development standard for compliance does that help the County.

Ms. Ellis: I think we as staff feel that putting some regulations in place gives us better protections and ability to get better outcomes from the applications that come through our process, otherwise we have the existing standards. You have seen some of the outcomes that have come from those. We have heard complaints about in the lack of provisions and the aspects that make them out of

compliant with the shot clock requirements. You make good points that we also are vulnerable right now and then if we don't review things within the timeframe then a telecom provider could challenge us. I think from our standpoint we feel like it would be prudent to put something into place and that we could amend these regulations at some point in the future if laws change or if we find that there's insufficient or something else that we need to modify. We do feel like putting something in place now would be better than not.

Commissioner Johnson: If there could be a development standard or I think there's something in here that indicates all facilities must maintain compliance with FCC, and if a facility would be found to not be in compliance then the county would have the ability then to go after and require a facility to become in compliance because we have a process but without a process we can't mandate compliance. Can we?

Mr. Haug: We can mandate compliance and say you need to be compliant with the FCC. The problem we run into is that it puts us into a position of having to interpret whether or not they are in compliance with the FCC. We may say they aren't in compliance with the FCC when really the FCC is the one to decide if they're in compliance; not the county.

Commissioner Johnson: Then it kind of puts us in somewhat an interesting situation but by indicating that a facility has to be in compliance with all the federal state local rules and regulations, as a development standards one more layer regardless of what the compliance issue may be.

Mr. Haug: Right. If there not in compliance with the FCC, then we are in a position to where we can say that they are not in compliance, you're not operating within the realm of your permit. The FCC said we are the ones for the radio emissions stuff, so I think what you're getting at is if they're out of compliance with the radio frequency emissions can we then shut them down because they are out of compliance with the FCC standards?

Mr. Fellman gave a more detailed explanation of what Mr. Haug had already explained.

Commissioner Johnson: I would like to see and propose that we need some clarification on the timing of when notice is provided. On the site plan, notice is provided after an administrative decision but the other four indicates that notice will be sent to neighboring properties within 500

feet of the property but there is no timing on when that happens. Clarification is needed in the table on when that notice is provided, and then the referral process as well. I'm on the site plan it's noticed within 14 days, and I think we need to say that 14 days of the application was deemed complete or received and I think that clarification needs to be made all the way throughout. I'm assuming that on 16.1.4. B.7, property owner authorization. Then an item on page 22 16.17C3 indicates that the owner also gives off authorization and I'd like to ensure that that's the owner of the property and not the owner of the equipment (or maybe it's both) have to give authorization that they approve the location. Page 21 16.1.6.C4C, business or calendar days for 10. I think that needs to be clarified.

Commissioner Barnett: As I am understanding it, the events that the Holdsworth's were talking about with the 100-foot tower, immediately adjacent to the residential property, that meets the current code to the best of your knowledge and was approved.

Ms. Ellis: Yes sir, it was approved. The setback is the distance between the tower and the property line, and the current requirement for the setback on that particular case actually would've been 10 feet so the 100-foot setback exceeds that.

Commissioner Barnett: Right, so under the new regulations, that tower would not of been in that location?

Ms. Elli: Correct. Under the new standards that tower would have been set back at a 2:1 ratio from the distance from the property line and probably would have been a shorter facility as well.

Commissioner Barnett: One of the things that we are trying to address is a lot of problems as much as we can. It's your judgment that having a new code is better than what we have now?

Ms. Ellis: Yes.

Commissioner True: I had a question for Mr. Fellman or for the attorney. It sounds like across the country there are many places who are fighting this, so what are they doing in with regards to

applications that are coming in? So, in other words, it sounds like Syracuse is there're saying no not here or not the way that the things are written. Do you know when a community is saying no?

Mr. Fellman: Keep in mind there are over 36,000 local units throughout the United States. You've heard examples of about five or six of them tonight, and I'm going to tell you about what I know different than what you heard. Keep in mind also that this is new technology; most communities have not seen any fiberoptic applications. There are no communities I am aware of anywhere in the United States that have banned these.

Mr. Fellman continued by addressing in detail the situation in Syracuse, Marin, and Millvalley County discussed in previous comments. He also mentions and gives a brief description of the lawsuit in San Francisco.

Commissioner True: The FCC is saying that they can't take into account the health effects, but we can take into account the property value. Is that correct?

Mr. Fellman: There is no grant of authority that you may take into account the property value. I think that's inherent with the county's police power under its general local government authority. I think anything in the land use code and how do you site something in a certain area subject of course to the state law that says, there's a right to in a zoning district. So, you can't just say no. They have a right to be somewhere. If the setback that you impose would preclude any of these things going on a residential street, then that would be in violation of the state law and probably be in violation of the federal law.

Commissioner Dougherty: If we put regulations in place requiring setbacks from residential property if 1500 feet, do you believe as an attorney office that we would be sued by providers?

Ms. Haug: I think if the reason that you put in setbacks 1500 feet from a school or something like that, is because you want to limit the exposure to the people of radio frequency emissions. I think it is contrary to what the FCC said, so I don't think you have the authority to say we're going to put in a 1500 foot spacing or setback requirement from one of those locations for the reason that we want to regulate based off of the exposure to radio frequencies. That's exactly what the FCC is saying you cannot do and so I think you'd be subject to litigation which would be difficult to win.

Commissioner Dougherty: If we did not give a reason for putting in 1500-foot setbacks, do you think that that would be something that would end up getting inferred?

Mr. Haug: It's hard to say.

Ms. Ellis: I might just add to this for a matter of practicality, we did similar analysis recently for another project and looked at residential properties and setbacks, and what that might leave available that could be built on. If there were setbacks that in effectively prohibit any building of these facilities in large parts of the county along the Front Range, Obviously the more rural areas would still open for potential application. But it would be very few properties even available to consider.

Commissioner Dougherty: That might unfairly prohibit a company from being able to install a system that works.

Mr. Fellman gave information on the history of past cases regarding wireless facilities.

Commissioner Dougherty: If we decide to put this on hold, for any reason, that could also be challenged under the same guide that you were just mentioning.

Mr. Fellman: It could.

Commissioner Stasiewicz: Mr. Fellman just that point, for those concerned citizens who feel like their hands are tied do you have any sort of advice as to what they could do in addition to showing up tonight.

Mr. Fellman: I think contacting congressional delegations are important. I think contacting state legislators and trying to get the state government behind Congress.

## **DISCUSSION :**

Commissioner Jensen: Based on page 2 of the packet that we have when we talked about abandonment and removal, where it says that we probably want to remove this modifying language, I agree that we probably want to remove that modifying language in [16.1.3.D](#) . I think that makes sense and follows along the direction that's been given by our County Commissioners. We don't want to be those ones out in front to be looking at being the test cause and we should be in front of some of those lawsuits. So, I think that follows along that and so I agree with your analysis and removing on the modifying language in 16.1.3.D. To continue the discussion piece of this, I just I want to start off by acknowledging the public participation in this it has been phenomenal. I don't think we've seen a day and certainly not several days in a row where someone has not contacted us. I appreciate that. You gave me this packet a months ago and I have read this packet several times to make sure that I understand it. I think modifications have happened from what we've began with here. We did put it on hold once because many of us on the dais did not feel that we had the ability to speak to somebody expertise that we had with that we needed and we did have an additional work session to help answer some of those questions. I'm not going to say that its unusual that we have a yearlong process when we are looking at these types of things but I think it's important that we step back and let the time sometimes take care of some of the issues that we have. I used to be one of those that would complain about how long it took the government to do something. I'm not quite sure that I complain about that so much because we make better decisions when we have more impact with more discussion and the ability to look deeper into some of these issues. The folks that had that big tower behind your house, some of these regulations probably would have stopped that that if we had that in place. Waiting and putting this on hold again, the wait that we already did and looking for additional answers, had someone come in. We put the risk out there and someone else could have had that happen to them. I think it's important that we proceed with this. I believe there's been some tremendous work on this. There's been a lot of call out of 5G. This is across-the-board, were not calling out one specific technology with a couple modifications and I would support those in your motion.

## **DETAILS :**

Commissioner Johnson: So, there are five details that I have heard discussed that would make me feel more comfortable. One would be to provide a mechanism for bonding to ensure that any abandoned facilities can be removed at a cost of the facility owner. I would like to add a time and qualifier to Table 16.B regarding notice to surrounding property owners and in particular for a public process before the hearing occurs consistent with other land-use cases in the county. At a timing qualifier to Table 16.B regarding notice to referral agencies within 14 business days following a determination that an application is complete and business days not calendar days. The

next item is clarifying the property owners are providing authorization to the application and that's found in 16.1.7.C3 found a page 22 of our original packet. Then clarify timing for submission and review for that completion, is 10 business days and not calendar days and that is found on 16.1.6.C4C.

Commissioner Wallace: I think we should take a vote on the bonding issue because I don't think the bonding issue should be required. I don't think the county has done bonding on a regular basis with the exception of gravel pits. I would like to vote against that.

Commissioner Choate: My experience with bonding is that it's when there is more likely to be a substantial financial obligation over and above a standard type of facility. If they were to just leave even just a building out there is not typically enough, like with gravel pits, it's really reclamation as to the division minor reclamation requirements. I've seen it for solar farms because they have chemicals in their facilities that can cause damage to soil and I've seen it in wind farms because of the difficulty in on remediating if they do become dilapidated. I don't really think that it's necessary for this, I don't think these are particularly expensive things that would potentially leave the county with a big financial burden.

Commissioner Jensen: I think we also have within our systems a code compliance way to still go after someone. We aren't talking about hundreds and hundreds of millions of dollars, but 3,000 dollars that may be to require to remove that, should that be the case. I think we already have those processes in place.

Commissioner Johnson: I just want to clarify that that's for everything not just small, that would be for large towers for everything that would be approved from this moment on.

Commissioner Jensen: That doesn't change it for me.

Chairman Dougherty: I'm up in the air I could go either way honestly. I know I brought up the bonding piece of this and I don't think it should be codified but if we have a mechanism to be able to collect and there is a likelihood that there would be an entity to collect from, I can stick with what is currently there.

Commissioner Johnson: I agree.

Commissioner Miller: I lean towards not doing the bonding. I was the opposite opinion earlier on but due to discussion, I'm in agreeance.

Chairman Jensen: Is there anyone who would be against us removing that piece if we moved forward on this?

Commissioner Johnson: I'd like to hear from the other commissioners, but I would prefer to leave it but of course the majority rules.

Commissioner Barnett: I think of basically given the idea that what we're dealing with is primarily very large entities and large corporations that injunctive relief that's available will suffice in most cases. I think that one of the things is dealing with bond issues, one of the hardest things and maybe more difficult in forcing the injunctive relief against the tower owner, might very well be to get the bond issued or to pay off the bond. I don't think it gets us much.

Commissioner True: I agree I don't really ever have a preference to add it in.

Commissioner Stasiewicz : I have the same opinion.

Commissioner Choate: So, I am of the opinion that you cannot possibly conceal in any manner a tower of greater than 60 feet. I think that it is impossible. I think that it looks like what we saw in the picture that you brought in today and I think that these new rules will give staff more tools to say what is concealed and I think that's great. It doesn't always have to be fake tree branches. Which is not concealed in my respect because nobody who grew up on earth thinks that it's a real tree. I also think that there's no reason to even make an option for an 80-foot-high or 100-foot-high concealed and alternate tower structure. My recommendation is to change it to 60 at a maximum. I just don't think you can do it and I think it's a fiction. The other one is that in tables 16A, just says with that one is that, there's an artificial cap of 120 feet height in the commercial industrial and in PUD district and an artificial cap of 160 feet in height in the open zoned district for these towers. I think at least in the open zone it should say anything over 120 feet is subject to



special review and that it comes through us and goes through the Board of County Commissioners. I'm personally aware of multiple towers that exceed 300-feet in length that are in very very rural areas and have absolutely no detrimental impact to the communities. Being so high they serve a greater area and there are fewer of them and I just think that there's no reason to put 160 feet cap on there, it means that you will have more of them and that's not what we've heard from the public tonight. Their concerns are not about whether is something is 160 feet or 300 feet. The technology is there, and it is valuable, and we use it. Whether it's our first net, whether it's some other competitor. I just think that there's any reason to put a cap, at least in the open zone. Imagine if you're out there and your nearest neighbor is 4 miles away, we have areas throughout Larimer county that are like that. If you limit it to 160 feet, they may not be able to get service out of that tower regardless, whereas if it's higher it's going to be more economically advantage and contagious to actually do it. I think that there's a possibility that we will actually extend service to areas that wouldn't otherwise get it and with no detrimental effect on the community.

Commissioner Wallace: I agree with you as long as it's with Special Review. I can tell you two towers where there was a huge outcry about the radio tower close to Red Mountain and the other tower that is on 287, north of Livermore. Those were two towers that required a lot of discussion about whether they were compatible. People didn't want to look at them, people didn't want to have them. But, if we do them by Special Review, we could do that.

Commissioner Miller: I agree with that.

Commissioner Johnson: Commissioner Choate, what I think I heard you say is that for concealed towers, in any zone district, they shall not exceed 60 feet in height. That should be the cut off limit for height.

Commissioner Choate: That is my recommendation. I think that if you just take anything in the concealed column that's greater than 60 and make it 60.

Commissioner Johnson: Then in the Open zone, what I believe I heard you say is that any cell tower non-concealed over 120 feet you would recommend that that come before a Special Review process.

Commissioner Choate: Any special review in the open zone anything greater than 120 feet instead of saying anything less than 160.

Chairman Dougherty: I am good with the greater than 120 for special review. I don't want to restrict 60 feet for concealed. I think that there are possibilities for grain silos, there's a possibility for areas where you could have 100-foot structure that concealed an antenna. If it's concealed, I honestly don't know where the problem would be 60 verse 100. It might allow that longer distance less towers that have to be rebuilt.

Commissioner Barnett: I'm not sure I agree with that. I tend to agree with Commissioner Choate about towers over 60-feet basically, being impossible hide. To some extent you know I look at that tree we saw a slide up earlier and I think what would I rather see you there and in all honesty let's just be honest about it it's tower and no matter how we paint it the matter what we did to it. It would be a tower. I've seen 150 foot or so high windmills, so it doesn't fool anybody. Everybody knows what that is, and we might as well just be honest about it. The other interesting thing is when we get to the bigger towers that we're talking about doing out in the open area, we have somewhere in the regulations discussion that says monopole's are preferred and I did in the last century I did some research on sighting power facilities. To some extent, especially when you've got the distance open lattice work structures actually tend to be less visible than monopole's might be just because the outline is all broken up and you don't see it against its own background so that at least in those kinds of areas we should be thinking about lattice work maybe appropriate and even with guide wires. You don't want that next to a house, and you don't want that in a city but out in some of the area that we are talking about, yeah that's appropriate. It's probably OK.

Mr. Haug: This addendum memorandum and some of the amendments in there, I'm assuming that you're you are incorporating. I just wanted to clarify.

Commissioner Jensen: I have a question for Commissioner Barnett. Are you saying that we should not specify monopoles? That we should leave that open as part of the special review process and allow someone to come in with something other than a monopole?

Commissioner Barnett: When we're doing a special review and when it's out really in the rural areas, I'm talking about way out and not in our suburban areas at all but in our rural areas and all open zone. We you're a long way from anybody, and I think in those locations we figure out how to incorporate and I don't think we need to say monopoles.

Commissioner Jensen: So, only in the open non concealed, special review category, you would say it would not be restricted to monopole only.

Commissioner Barnett: Yes.

## **DISCUSSION :**

Commissioner Wallace: The Radio tower up by Red Mountain which is really tall tower, and nobody wanted it back there. It was approved and it's become part of the landscape. After a period of time the cell towers along 287 and it's always visually intrusive you can't help but the truth is that within the process the public wants these towers they want to have these, they want to have the service is it a private provider. There was that the cell tower because they want to be able to drive from Fort Collins to Laramie and still be able to use their cell phones. Public Safety was an issue because nobody wants to be on the roads these days without their cell tower and the idea that there are a lot of problems medically. The truth is that when I talked to the people in my community, they move there where I live because Verizon has a cell tower 3 1/2 miles to the south west of us that we get our broadband from. I think there is an interest in people that really want to have the service provider by and people who are really concerned about the medical issues and it makes it difficult for us to make decisions but when we take the overall county, the county benefits by having the services available. What we try to do with these regulations is to make it as appropriate as possible within the circumstances that we have, and so it's obvious from my comments that I'll be voting for these regulations because I don't think we have a choice; we really want the regulations, and we want to be able to control this issue.

Commissioner True: I acknowledge what you're saying Commissioner Wallace, but I do find it interesting that no one's here speaking on behalf of 5G that they want the towers. I understand you know what you're saying but it is interesting that nobody here is asking for them. I'm feeling like I'm being blackmailed in that there's no win here and so I echo what the attorney said and that is we have to speak to our elected officials to get them to fund research on not just 5G but what's going on with all of these towers. I hope that the County can help people who come forward with their own measurements of the towers that are not in compliance because it sounds like that is something that can happen. So, if you're if you go out and you find that one of these towers is not in the FCC regulations that I do hope that the county can assist people in taking on the FCC or making whoever owns the towers to be in compliance. That's my ask of the county, is that we really do help people who find out that they are not in compliance that we can assist them in some way.

Commissioner Barnett: One of the difficulties we have is that we're subject to the federal regulation, the FCC regulations that limit what we can do. I'm one of only a few people in this room who might be old enough to remember seeing chesterfield ads cigarettes on TV that advertise the doctors preferred Chesterfield to other cigarettes and we've come a long way since that, Now that particular education campaign if you will and political campaign took a very long time to happen but it did happen I think those kinds of things happen much quicker. We have 36,000 local governments of which some significant number will be adopting regulations something like these and of these probably 10,000 or maybe 15,000 will have public hearings in that process that are going to look a lot like this public hearings where the citizens come out and they say, health, nuisance, setbacks and those kinds of things and unfortunately a staff team is confined to say pre-emption. These regulations are the best we can do for now. I don't think this is the last time we're going to see this issue. I think this will come back to us a number of times. I think that because of what I see as being frustration that the citizens are going to feel when they walk away and these regulations are in place and they don't do everything the citizens think needs to be done, if there's going to be some pressure brought at the federal level from the local level to actually allow the local jurisdictions to address these or two uncapture some of the federal entities that are in fact captured by the folks that they're supposed to be regulated. I don't think this is over by any means. Having said that, I end up thinking that having these regulations is a whole lot better than not having them. I think you know tweaking and adjusting and also looking back and looking at these and staying current with the law as it evolves and everything else, I think it's going to be really encumbered us. I think the issue is too important not to make it a priority as we continue forward. There are real issues out there, I mean you folks out there have told us and provided us with that information so I think even if we can't address that right now I think it's in coming on everyone on all this to keep on top of that issue moving forward.

Commissioner Jensen: One of the struggles that we have up here in making some of these decisions is that we have function in front of us in this room sometimes many more than this and we have to weigh what's not said as well as what's side. True, there's 17,18,19, 20 people here that spoke against this, but there's a reason why this is being moved forward. There's a large demand for it and there are people that need that and want that in our county. In our comprehensive plan we've talked about folks that want to stay in the rural areas and age in place and things like that, and with this type of technology it allows them to do that. So, when we look at the totality, I believe we do have the other side of that argument. Looking on Facebook earlier today, the post that was put in the Wellington town or whatever it is, there were many folks to comment and they want it. There was a guy that said put it on my house. That may be because they don't know, but there certainly is that desire to do that. We can't sit here and say, because 20 people showed up and spoke against it, we should stop this. So, it does not speak to long-term that we are challenged here.

Commissioner Choate: I'm supportive of the regulations, I think they're a heck of a lot better than what we have. I think that they're going to make our community better. I think from my

perspective, I agree with the County Attorney's office that there's stuff that we can't be looking at and it's unfortunate. It's probably a problem, I hope that there's a solution. I don't think Larimer County is the one that needs to fight that fight, and I think that if we were to recommend that we try to fight that fight, the commissions would ask how much that is going to cost. I just think that it's based on my understanding of this based on my legal understanding of that issue and I'm a local land-use attorney and I've looked at it. I agree with them and you know it kind of sucks and for people who suffer from some substantial health effects it really sucks. This isn't in my opinion the proper form to deal with that, so I'm limiting my comments in my analysis of what's in front of us to take that out. When I look at what's provided to us with the minimal changes, that I recommend, I think our staff has done a fantastic job. I think this is going to be great for Larimer County. I'm supportive.

Chairman Dougherty: I agree with just about everything that my fellow Commissioners have said. I don't like that we have got our hands tied by the FCC. I'm here to work on the Land Use Code for Larimer County, I am here to look out for Larimer county and the citizens of Larimer County and I think that putting these regulations in place at this time will help the county in the future but I want to reiterate something that Ms. Ellis said earlier these regulations can be changed. As is in life everything changes and as things do change at a higher level, these regs to can be changed. So, please do not think that if this moves forward, if the commissioners vote on this and approve this that this is it. It's not set in stone.

## MOTION

Commissioner Johnson moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission recommend to the Board of County Commissioners approval the proposed list of amendments, found on File #19-CODE0240 to re-appeal and replace this section 16 of the Larimer County Land Use Code as found in attachment A with the addendum found in the memo provided on September 11, 2019 from Ms. Ellis, with additional direction to staff to do the following items.

1. Add a timing qualifier to table 16.B regarding notice to surrounding property owners during the public process if that happens before the hearing as applicable to other land use cases that have public hearing.
2. Add a timing qualifier to table 16.B regarding notice to referral agencies within 14 business days following determination of an application being complete.
3. Clarify that the property owner provides authorization to the application found on page 22 of our original packets. Section 16.1.7.C.3

4. Clarify timing for submission review, that it's 10 business days as found in 16.1.6.C.4.C.in Table 16A that the concealed height maximum is 60 feet tall and table 16A in the open zone that structures greater than 120 feet would require a special review process.
5. The open zone for non-concealed that the structure or the architecture of the facility does not have to be restricted to monopole.

Commissioner Miller seconded the motion.

Commissioners Wallace, True, Stasiewicz, Miller, Johnson, Jensen, Choate, Barnett, and Chair Dougherty all voted in favor of the motion.

Motion passed 9-0.

**REPORT FROM STAFF :**

Ms. Ellis: I don't have anything specific to update or report on. I believe you and asked for information on court case maybe that Frank is prepared to give some information on that. Otherwise I think we are ready to adjourn for the evening.

Chairman Jensen: I am noting that our next meeting will be Wednesday, October 16, 2019 for a Planning Commission hearing at 6:30 PM unless we have a work session scheduled prior to then.

With there being no further business, the hearing adjourned at 10:04 p.m.

These minutes constitute the Resolution of the Larimer County Planning Commission for the recommendations contained herein which are hereby certified to the Larimer County Board of Commissioners.

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Sean Dougherty, Chairman

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Nancy Wallace, Secretary

