

ARLINGTON CITY COUNCIL
MEETING MINUTES
MAY 1, 2006

The meeting was called to order at 6:30 p.m., Mayor Czech presiding.

Members present: Mayor Czech, Borchert, Griep, Reetz, Voight, Wills

Members absent: None

Also Present: Administrator Krueger, Cemetery Board Members Pomplun & Goblirsch, Street Supt. Thomes, Engineer Hawbaker, Theresa Bjorklund, Good Sam Adm. Todd Howell, WW Supt. McCormick, Kurt Menk, Briget Hale

Motion by Griep, seconded by Borchert, and passed by unanimous vote to approve the agenda with the following additional item:

18.5 Card tables for Senior Building.

Motion by Voight, seconded by Griep, and passed by unanimous vote to approve the minutes from the April 17, 2006 meeting as presented.

Motion by Griep, seconded by Borchert, and passed by unanimous vote to approve the bills as presented.

Administrator Krueger explained that the Cemetery Board had met recently. At that meeting he informed the Board members how much money (\$4,997) they had to work with and that they would have to scale down the project. Cemetery Board members Pomplun & Goblirsch gave a summary of what the Board had decided on (trees around perimeter for natural screening, rock, edging, shrubbery around piers, signage, and gate). Reetz expressed concern about spending money to do landscaping this year only to change or remove it next year. It is not the intent of the Board to remove any of the landscaping next year.

Motion by Borchert, seconded by Voight, and passed by unanimous vote to accept and approve the recommendation from the Cemetery Board for landscaping (as presented above) up to \$4,900.

Engineer Hawbaker presented the bids for the 2006 Street Improvement Project. He stated that the bids came in considerably lower than his estimate and MJ Neisen Asphalt was the low bid at \$149,987.90. He explained the reason there was such a difference between his estimate and the bids was because he had figured everything based on fuel costs, which he realized later that there are not as many costs associated with bituminous work. He commented that more work could be added to the project seeing as how the City had initially planned for higher estimates. Mayor Czech suggested that the parking lot next to the fire hall or the small parking lot next to Shear Designs could be added to the project on a pro-rata basis. Reetz questioned if subcontractors had been listed on the bids. Engineer Hawbaker said yes they were listed and he only foresaw the need for a subcontractor for the crack sealing portion of the project. Voight questioned if Neisen's was able to do the concrete, curb and gutter work? Street Supt. Thomes commented that Neisen's had contracted with Butch Brist for the concrete work.

Motion by Voight, seconded by Borchert, and carried (Reetz opposed) to accept the low bid from MJ Neisen Asphalt, Inc. in the amount of \$149,987.90 for the 2006 Street Improvement project.

Discussion was held on the Arlington Good Samaritan Center expansion project. Engineer Hawbaker presented a map that showed the proposed expansion project, relocated water main, trees to be removed and proposed future hospital parking lot expansion. Attorney Arneson presented a memo that outlined what should be included in a Letter of Understanding from the Arlington Good Samaritan Center prior to the City's donation of the park land needed for their expansion project. He stated that a survey would have to be done so correct legal descriptions (property lines) could be determined for the paperwork associated with the land donation (approximately 20 ft. of Fairview Park).

Motion by Voight, seconded by Borchert, and passed by unanimous vote to accept the Park Board's recommendation to approve the Arlington Good Samaritan Center's expansion into Fairview Park as presented above.

Mayor Czech recessed the regular meeting to hold a public hearing.

At 7:00 p.m. Mayor Czech called to order the public hearing for increasing the liquor license fees. The Council reviewed a letter from the Arlington Haus regarding the possible fee increases. Administrator Krueger explained that a year ago, the Council entertained the idea of increasing the liquor license fees, but wanted to research and compare what other cities were doing with their fees. He and the Public Buildings Committee reviewed the information provided from other cities and found Arlington to be on the low side of what was being charged for said licenses. The current fees are \$1,100 for On-Sale, \$100 for Off-Sale and no fee for Sunday licenses. The Committee was recommending increasing the On-Sale to \$1,300, Off-Sale to \$200 and implementing a \$100 fee for Sunday licenses. Reetz questioned if some kind of criteria would have to be set to ensure that food is available and not just selling liquor if Sunday licenses are issued. Attorney Arneson commented that the city has an ordinance that covers this. Reetz expressed concern that one licensee has 2 businesses with separate addresses that are connected by an interior door and operating under 1 license. Administrator Krueger explained that according to the State, the licensee is in compliance with the liquor laws. Attorney Arneson will review his file on liquor laws.

Mayor Czech adjourned the public hearing and reconvened the regular meeting.

Administrator Krueger commented that Harry Melsha had contacted both Park Supt. Thomes and himself about allowing Frisbee Golf at the Sportsman's Park. Supt. Thomes explained how the sport is played (with weighted Frisbees and cages). He stated that the cages cost approximately \$300 each. Melsha would be willing to donate 4 cages to the City to be placed at the Sportsman's Park. Rene Moriarty (SE Physical Education Teacher) has expressed an interest in taking her students to the Sportsman's Park to play the game as part of her curriculum. Voight commented that she would like to see the game played in the other parks as well. Thomes explained that a large area is needed for this game, which the other parks do not have enough room.

Motion by Griep, seconded by Reetz, and passed by unanimous vote to accept the donation of the 4 Frisbee-Golf cages from Harry Melsha for the Sportsman's Park.

Park Supt. Thomes explained that the basketball (former tennis) court at Four Seasons Park is deteriorating and would like to see it replaced before the Sesquicentennial celebration due to all the activities planned for the park. He stated that there is one basketball court currently and the Park Board would like to have 2 courts. He had talked with 6 different individuals about bids to either overlay or crack fill and seal coat the surface. He found that crack filling and seal coating was the way to go financially (best for money). He recommended accepting the low bid from Hardline Asphalt in the amount of \$4,500 to crack fill and seal coat the basketball court with a 1 year warranty.

Motion by Reetz, seconded by Wills, and passed by unanimous vote to accept Park Supt. Thomes' recommendation to approve the bid from Hardline Asphalt in the amount of \$4,500 to crack fill and seal coat the basketball court at Four Seasons Park.

Street Supt. Thomes explained that the tires on Keith's truck (red Chevy) need to be replaced. He had obtained bids from Quast Amoco, Glenn's Service & Towing and Brau Motors. He recommended accepting the low bid from Glenn's.

Motion by Wills, seconded by Griep, and passed by unanimous vote to accept Street Supt. Thomes' recommendation to approve the low bid from Glenn's Service & Towing in the amount of \$75.00 (State Bid Price) per tire for Firestone Transforce tires, plus a \$60.00 mount and balance charge, and \$12.00 tire disposal fee.

Street Supt. Thomes stated that he and Councilmember Wills had looked at the handicap parking in the municipal parking lot (east side front corner). He stated that there is really not enough room for handicap individuals to maneuver within the spot, it does not meet regulation for handicap space. They were recommending moving the handicap spot to the west front corner of the parking lot.

Motion by Reetz, seconded by Wills, and passed by unanimous vote to authorize Street Supt. Thomes to move the handicap parking spot in the municipal parking lot from the east front corner to the west front corner.

Mayor Czech explained that the Utility Committee had met to discuss the need for a second handheld meter reading unit. Administrator Krueger explained that trying to juggle the existing handheld unit between 4 readers is not working too well, meters are not getting read in a timely manner. He explained that a second cradle would not be needed, the new handheld unit would work with the existing cradle. Voight questioned how many meters were being read with the handheld unit. Administrator Krueger explained that all meters are being read even though the automated reading devices are not connected yet. Staff walk their route as before, but punch the numbers directly into the unit versus writing them down, then bring it back to the office, place it in the cradle and the information is automatically downloaded to the computer. It was noted that staff has gone out on more than one occasion with the books manually writing down numbers just to speed things up; when essentially it slows things down as the numbers then have to be manually typed into the computer. Administrator Krueger commented that the automated reading devices will start going on very soon.

Motion by Wills, seconded by Reetz, and passed by unanimous vote to purchase a second handheld meter reading unit from Northern Water Works Supply in the amount of \$6,606.99.

WW Supt. McCormick talked about the load management system. He stated that when the new substation was completed, the controls to run the load management system were not put in. He explained that the old substation was put in at a lower voltage and the new substation was at a higher voltage, which the existing program is not compatible with. He presented a quote in the amount of \$39,644.35 (included computer equipment, software, training, setup, and conversion from old system) from Cannon Technologies that would be able to control the entire town (both substations). Reetz pointed out that the city receives a credit each year from the power company if they have the load management system in place.

Motion by Voight, seconded by Reetz, and passed by unanimous vote to accept the quote from Cannon Technologies in the amount of \$39,644.35 to upgrade the load management system.

WW Supt. McCormick explained that the software/computer system at the Community Center that controls the heat and air conditioning needs to be upgraded/changed. He explained that there have been problems with controlling the heating and cooling of the facility. He explained how the system was currently setup with sensors and 2 separate units (heating and cooling, which don't communicate to each other). By upgrading the system the 2 units would be connected to each other (1 unit) and staff would be able to adjust the temperatures accordingly.

Motion by Wills, seconded by Griep, and passed by unanimous vote to upgrade the CSI Control system at the Arlington Community Center.

WW Supt. McCormick talked about the 2 older lift stations (school and Highway 5). He explained that the pipes that the pumps slide up and down on are deteriorating and need to be replaced. He explained that one also has a rubber boot that needs to be replaced as it does not seal properly anymore. He commented that if these parts are not replaced soon, problems such as sewers backing up into homes could start happening. He had obtained a quote from Braun Pump & Controls in the amount of \$4,085 to fix the 2 lift stations.

Motion by Reetz, seconded by Voight, and passed by unanimous vote to accept the quote in the amount of \$4,085 from Braun Pump & Controls to fix the 2 lift stations (school and Highway 5).

Administrator Krueger stated that Bridget Hale and her husband had contacted the City about selling concessions at games in the city parks. Administrator Krueger commented that there really has not been anything like this in the past that he could find. He did find an ordinance, but it did not cover peddlers on public property very well. He had Attorney Arneson research his files also. There really was no fee schedule either. He had obtained a copy of an application/permit from another city that could possibly be used for Arlington with some changes. Ms. Hale was present and talked about her business (sells concessions at games for smaller children) and where she currently does sell concessions. Voight liked the idea. Attorney Arneson made some recommendations about the application. He suggested revising Ordinance No. 88 and presented a proposed revised ordinance for the council to look over. Voight questioned if the Chamber would have to apply for a permit when they have activities in the park and sell concessions. Attorney Arneson said yes they should. Voight questioned if they have ever gotten a permit. Administrator Krueger commented that probably not, as they usually come to the Council and ask permission to have their activity in the park, but no formal permit process has been followed. Administrator Krueger was asking the Council to establish a formal permit process for now and then the first/second reading of the proposed ordinance could be held at the next meetings. Reetz suggested adding an administrative section to the application (basically establishing conditions for the peddler to follow).

Motion by Voight, seconded by Wills, and passed by unanimous vote to authorize Administrator Krueger to issue a Peddler's Permit to Bridget Hale to sell concessions during games at city parks as long as she does not interfere with the big games.

Attorney Arneson gave a brief history on the Arlington Public Cemetery. He stated that the Board had taken some time to revise the Cemetery Rules of Operation. He presented Ordinance No. 197 – Cemetery Rules of Operation for the first reading.

Attorney Arneson held the second reading of Ordinance No. 195 – An Ordinance to Control and Eradicate the Growth of Noxious Weeds and to Regulate Excessive Growth of Other Weeds and Nonagricultural Grasses within the City of Arlington and Providing for the Administration and Enforcement of Such Regulations. He stated that no changes had been made after the first reading.

Motion by Reetz, seconded by Wills, and carried (Borchert abstained) to approve the following:

ORDINANCE NO. 195

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

AN ORDINANCE TO CONTROL AND ERADICATE THE GROWTH OF NOXIOUS WEEDS AND TO REGULATE EXCESSIVE GROWTH OF OTHER WEEDS AND NONAGRICULTURAL GRASSES WITHIN THE CITY OF ARLINGTON AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF SUCH REGULATIONS.

1.01. Purpose. The purpose of this ordinance is to control and eradicate the growth of Noxious Weeds and regulate the Excessive Growth of other Weeds and Nonagricultural Grasses within the City of Arlington.

1.02. Definitions. For purposes of this ordinance the following terms have the meanings given.

Subd. 1. "Control" means to destroy the aboveground growth of noxious weeds by a lawful method that prevents the maturation and spread of noxious weed propagating parts from one area to another.(Minnesota Statutes Chapter 18.77, Subdivision 3)

Subd. 2. "Eradicate" means to destroy the aboveground growth and the roots of noxious weeds by a lawful method that prevents the maturation and spread of noxious weed propagating parts from one area to another.(Minnesota Statutes Chapter 18.77, Subdivision 4)

Subd. 3. "Excessive Growth" means the growth of weeds or nonagricultural grass measured 12 inches or more in height.

Subd. 4. "Nonagricultural grass" means grasses that are not used or intended to be an agricultural commodity.

Subd. 5. "Noxious Weed" means an annual, biennial, or perennial plant that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.(Minnesota Statutes Chapter 18.77, Subdivision 8)

Subd. 6. "Weed" means any unwanted or unsightly plant that hinders the growth of cultivated plants.

1.03. Public Nuisance. Any Noxious Weed or excessive growth of weeds and nonagricultural grasses measuring 12 inches or more in height is hereby declared to be a public nuisance affecting public health, safety and welfare in the City of Arlington.

1.04. Enforcement. When any condition exists on any parcel of land, both public and private within the City of Arlington, as described in Section 1.03, it shall be the duty of the Code Enforcement Officer of the City to serve a notice to the owner, occupant and/or agent of said parcel, ordering said owner, occupant and/or agent to cut and remove said weeds or grasses on the parcel within ten (10) days upon service of the notice. Noxious weeds must be controlled or eradicated within ten (10) days upon service of notice.

1.05. Abatement. Upon failure of the owner, occupant and/or agent of said parcel to comply with said notice, the city shall cut and remove said weeds and grass and bill the owner of the parcel for all costs associated with such abatement, plus an additional 25% to apply to the City's costs for administration. In addition to any other legal remedy, the City may recover costs by civil action against the owner of the parcel or by assessing such costs as a special assessment against the property pursuant to Minnesota Statutes Section 429.101.

1.06. Penalties. Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to the misdemeanor penalties set forth in Minnesota Statute Section 609.02, Subdivision 3, or any laws amending or replacing such law.

1.07. Severability. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

1.08. Repeal. The City of Arlington Ordinance No. 123 is hereby repealed.

This Ordinance shall become effective immediately upon publication.

For City of Arlington

/s/ David Czech
By David Czech
It's Mayor

/s/ David L. Krueger
By David L. Krueger
It's City Administrator

Attorney Arneson held the second reading of Ordinance No. 196 - An Ordinance Regulating Telecommunication Towers, Antennas and Related Facilities within the City of Arlington and Providing for Administration and Enforcement of such Regulations. He stated that no changes had been made after the first reading.

Motion by Voight, seconded by Wills, and passed by unanimous vote to approve the following:

ORDINANCE NO. 196

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

AN ORDINANCE REGULATING TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES WITHIN THE CITY OF ARLINGTON AND PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF SUCH REGULATIONS.

1.01. Findings. The City Council finds:

Subd. 1. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 (“the Act”) governs the construction, placement, and modification of personal wireless service facilities. Consistent with the Act, the general purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

Subd. 2. In furtherance of the goals of the city and within the framework of the Act and state law, the city will give due consideration to the city’s comprehensive plan, zoning districts, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are:

- a) to manage the location of telecommunication towers and facilities;
- b) to protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;
- c) to minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;
- d) to promote and encourage shared use and collocation of telecommunication towers and antenna support structures;
- e) to avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;
- f) to ensure that telecommunication towers and facilities are compatible with surrounding land uses; and
- g) to facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

1.02. Definitions. For purposes of this section the following terms have the meanings given them, except where the context clearly indicates a different meaning:

Subd. 1. “Antenna” means any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose, and which does not exceed 10 feet in height. Any such device which exceeds 10 feet in height shall be deemed a “tower” as used herein.

Subd. 2. “Antenna support structure” means a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

Subd. 3. “Applicant” means a person who applies for a permit to develop, construct, build modify or erect a tower or antenna under this section.

Subd. 4. “Application” means the process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.

Subd. 5. “Engineer” means an engineer licensed by the state of Minnesota.

Subd. 6. “Person” means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Subd. 7. “Stealth” means design features that blend a structure into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees or other vertical structures as they normally appear in their existing environments.

Subd. 8. “Telecommunications facilities” means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include:

- a) a satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;
- b) a satellite earth station antenna one meter or less in diameter, wherever located; or
- c) a tower.

Subd. 9. “Telecommunications tower” or “tower” means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities.

1.03. Development of towers; approvals required.

Subd. 1. General construction prohibition. Towers may not be constructed in any zoning district unless such use is a conditional use in the zoning district in which construction is proposed.

Subd. 2. Conditional use permits required. Towers may not be constructed in any zoning district unless a conditional use permit has been issued by the city council.

Subd. 3. Building permit required. Towers may not be constructed in any zoning district unless a building permit has been issued by the building official.

Subd. 4. City property. The city may authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.

Subd. 5. Zoning districts. A tower is not a permitted use in any zoning district. A tower is a conditional use in industrial districts and on city property.

1.04. Application process.

Subd. 1. A person desiring to construct a tower must submit an application for a building permit and a conditional use permit, to the zoning administrator.

Subd. 2. An application to develop a tower must include:

- a) name, address, and telephone number of the applicant;
- b) name, address, and telephone numbers of the owners of the property on which the tower is proposed to be located;
- c) legal description of the parcel on which the tower is proposed to be located;
- d) written consent of the property owner(s) to the application;
- e) a scaled site plan indicating the location, type and height of the proposed tower, the existing land uses and zoning of the subject parcel, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, drawings of the proposed tower showing elevation and other structures, topography, parking, and depicting the proposed tower design;
- f) a landscape plan showing specific landscape materials, method of fencing, and finished color and, if applicable, the method of camouflage and lighting;
- g) documentation such as coverage maps showing the need for a tower at the proposed site in order to close a gap in the applicant's wireless telecommunications service, or a gap in the service provided by a person intending to place telecommunications facilities on the tower;
- h) an inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the city or are sited in a location from which the applicant could provide service within the city, including specific information about the location, height and design of each tower and documentation showing that such existing facilities are unavailable or unsuitable to meet the applicant's need for a tower;
- i) separation distance of the proposed tower from the other towers described in the inventory of existing sites;
- j) a structural engineering report certifying the ability of the tower to accommodate co-location of additional wireless service provider facilities and a statement by the applicant regarding accommodation for co-location of additional antennas for future users;
- k) the setback distance between the proposed tower and the nearest platted residential property, and unplatted residentially zoned properties;
- l) proof that all necessary consents or approvals have been applied for from appropriate federal, state or other local agencies;
- m) an application fee established from time to time by resolution of the city council. In the event the city elects to consult with its attorney or a radio frequency (RF) engineer in review of the application, the applicant shall be required to fully reimburse the city for all such expenses;
- n) other information deemed by the zoning administrator to be necessary;

1.05. Performance standards.

Subd. 1. Colocation capability. A new tower may not be built, constructed or erected in the city unless the tower is capable of supporting additional telecommunications facilities other than what the applicant proposes.

Subd. 2. Setback requirements. A tower must comply with the following setback requirements:

- a) Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.
- b) Towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, unless otherwise provided in this section.
- c) A tower located next to a residential zone shall have a setback equaling the height of the tower plus 100 feet.
- d) The minimum spacing between tower locations is one mile.
- e) A tower setback may be reduced by variance to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

1.06. Engineer certification. Towers must be designed and certified by an engineer to be structurally sound and in conformance with the Uniform Building Code, and any other standards set forth in this code.

1.07. Tower design. A tower shall be designed to ensure that visual intrusiveness and impacts on nearby properties is mitigated to the greatest extent feasible.

Subd. 1. Height Restriction. A tower may not exceed the lesser of 195 feet in height or the minimum height necessary to provide adequate coverage in the city by the provider of wireless service. Measurement of tower height must include the tower structure itself, the base pad, and any telecommunications facilities attached thereto. Tower height is measured from grade.

Subd. 2. Lighting. Towers may not be artificially lighted except as required by the Federal Aviation Administration. If so required, lighting shall be of a type, color and intensity so as to minimize visual intrusiveness, particularly at night.

Subd. 3. Exterior finish. Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.

Subd. 4. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed as approved in the site plan.

Subd. 5. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 6. Accessory buildings and equipment. No more than one accessory building is permitted per tower. Accessory buildings may be no more than 200 square feet in size.

Subd. 7. Security. Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations.

Subd. 8. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of vertical structures in the vicinity of the proposed site.

Subd. 9. Signs and advertising. The use of any portion of a tower for signs other than warning or equipment information is prohibited.

Subd. 10. Types of towers. Towers must be self-supporting without the use of guys, wires, cables, beams or other means.

Subd. 11. Tower materials. All metal towers shall be constructed of, or treated with, corrosion-resistant material.

Subd. 12. Equipment housing. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated as to be screened from view by landscaping. All support structures shall be reasonably protected against climbing.

1.08. Non-tower facilities. Telecommunications facilities are permitted only as follows:

Subd. 1. Telecommunications facilities are a conditional accessory use in the industrial districts and city property, provided that the owner of such telecommunications facilities, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- a) that the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;
- b) that the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and
- c) that telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may not protrude more than six inches from the side of the antenna support structure.

Subd. 2. Notwithstanding anything to the contrary contained in this section, telecommunications facilities are a permitted accessory use on antenna support structures owned or otherwise under the physical control of the city, a school district, or the state or federal government provided a conditional use permit has been issued by the city council and provided further that the owner of such a telecommunications facility, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- a) that the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;
- b) that the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and

- c) that telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may not protrude more than six inches from the side of the antenna support structure.

1.09. Removal of towers or telecommunication facilities. Abandoned or unused towers and associated above-ground facilities must be removed within 90 days of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the city council. Any tower and associated telecommunications facilities that are not removed within 90 days of the cessation of operations at a site are declared to be public nuisances and may be removed by the city and the costs of removal assessed against the property pursuant to state law and the code. The conditional use permit shall establish an amount to be posted by bond, letter of credit, cash or equivalent by the applicant that will cover the projected cost of removal of towers or telecommunications facilities in the event of abandonment.

1.10. Additional requirements.

Subd. 1. Structural inspections. The city may conduct inspections at any time, upon reasonable notice to the property owner and the tower owner to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code, federal and state law. The City's expense related to such inspections will be borne by the tower owner or property owner. Based upon the results of an inspection, the building official may require repair, modification or removal of a tower.

Subd. 2. Radiation Emission Inspections. The owner of a telecommunications facility shall provide the City with current, technical evidence of compliance with FCC radiation emission requirements at the City's reasonable request.

Subd. 3. Maintenance. Towers and telecommunication facilities must be maintained in accordance with the following provisions:

- a) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.
- b) Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.
- c) Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.
- d) Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.
- e) All tenants on towers must comply with radio frequency emissions standards of the Federal Communications Commission.
- f) If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

1.11. Failure to comply; permit revocation.

Subd. 1. If the permittee fails to comply with any provision of the city code, federal or state law or the conditional use permit requirements, the city may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions.

Subd. 2. Except as provided in subdivision 3 below, a permit revocation shall be preceded by written notice to the permittee of the alleged violation(s), the opportunity to cure the violation(s) during a period not to exceed 30 days following receipt of the written notice and a hearing before the city council within 15 days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show cause as to why the permit should not be revoked.

Subd. 3. If the city finds that exigent circumstances exists requiring immediate permit revocation, the city may revoke the permit and shall provide a post-revocation hearing at least 15 days after permittee's receipt of written notice of the hearing.

Subd. 4. Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.

1.12. No permits required. No permits are required for the following:

Subd. 1. Household television antennas extending less than 15 feet above the highest point of a residential structure.

Subd. 2. Satellite dish receiving antennas two meters or less in diameter.

Subd. 3. Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.

Subd. 4. Antennas and antenna support structures used by the city for city purposes.

Subd. 5. Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.

Subd. 6. Two-way communication transmitters used on a temporary basis by a "911" emergency services, including fire, police and emergency aid or ambulance service.

Subd. 7. Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.

1.13. Right-of-way. Except as approved by the city, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

1.14. Insurance. The applicant shall provide evidence satisfactory to the city that its tower and telecommunication facilities thereon are adequately insured for personal injury and property damage liability. Upon request, the holder of a conditional use permit issued under this chapter shall submit to the city clerk a photocopy of a certificate of insurance showing that the tower or antenna facility is insured for that calendar year.

1.15. Variances.

Subd. 1. The applicant may apply for a variance from the provisions of this section to the extent expressly indicated herein.

Subd. 2. A variance may be granted if the applicant shows by clear and convincing evidence that it or its tenants cannot meet reasonable service quality needs of end users in the city without a variance from the requirements of this section.

Subd. 3. If the applicant makes the showing required by subdivision 2 the city council must consider the following additional factors in determining whether to grant a variance:

- a) Whether there are exceptional or extraordinary circumstances that apply to the property because of lot size or shape, or topography, or other circumstances over which the owners of the property have no control;
- b) Whether special conditions or circumstances exist that were not created by the applicant or the owner of the property or their predecessors;
- c) Whether the variance would be detrimental to the public or to the owners of other property in the vicinity; and
- d) Whether the variance requested is the minimum variance that would alleviate the hardship.

Subd. 4. A variance will be granted only in instances where the strict enforcement of the requirements of this section would cause undue hardship. Economic consideration alone will not constitute an undue hardship if reasonable use of the property exists under the terms of this section.

1.16 Penalties.

Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to the misdemeanor penalties set forth in Minnesota Statute Section 609.02, Subdivision 3, or any laws amending or repealing such law.

1.17. Severability. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

This Ordinance shall become effective immediately upon publication.

For City of Arlington

/s/ David Czech

By David Czech

It's Mayor

/s/ David L. Krueger
By David L. Krueger
It's City Administrator

Attorney Arneson reviewed the Police Committee Rules. He presented a memo which gave some recommendations/changes. Wills commented that he did not recall any discussion being held on dropping the Sheriff from the committee. He feels that the Sheriff or appointee from within his department would be very beneficial on this committee. Wills had spoke with Sheriff Ponath earlier in the year and he expressed an interest in this. Attorney Arneson addressed private/confidential information issues. Voight questioned if a police officer has the right to give out the name of a complainant to the party the complaint is about, she feels this information should be kept private. Attorney Arneson said it is the general understanding that if the complainant asks to be kept anonymous, the officer should respect that request. However, depending on the circumstances and the subject matter goes to trial they would be called as a witness, and therefore would not be kept anonymous. Reetz expressed concern for those individuals that may come to the committee with a complaint, but are unable to put it in writing. Attorney Arneson commented that it was not his intent to make the complainant write the complaint, but rather someone (complainant or committee member) should put it in writing for recording purposes. Attorney Arneson will make the suggested changes and present a revised copy at the next meeting.

The Council reviewed the following correspondence:

- a) April Building Permit Report from P&Z Administrator Jenness;
- b) Invitation from Arlington Fire Department.

Voight commented that she and Wills had received a complaint from a County Commissioner about P&Z Administrator Jenness. They were told that he went to Seneca Foods and told them they had to take care of the odor from their silage pile so the City could get a hotel in. Administrator Krueger explained that Seneca Foods has a permit allowing them to have a silage pile for a specified time during the year and had applied for a Conditional Use Permit to extend the time to year round. The City had been sent an invitation to attend a public hearing on this subject. He had asked P&Z Adm. Jenness to check into this and instructed him to attend the hearing. He was instructed to listen to the information presented and let them know that he was not making an "official" statement on behalf of the City, but the City did not favor the pile year round due to odor problems. The City would like to work with Seneca Foods and the County on this subject matter. Voight questioned if this was actually how it was conveyed to the County. Administrator Krueger stated that when the subject first arose, Mr. Jenness had taken a strong stance on the subject, but has since softened his position as he was informed the City and Seneca have ongoing partnerships and try to work with each other, not against each other. Administrator Krueger commented that the City was given the correct legal 10 day notice, however we were not given the appropriate time to react through our committees and could not offer an official statement, but has asked the County to give more consideration to the City in the future as they are trying to look ahead at their long range planning process.

Brief discussion was held on Letter of Understanding that had been received from the City of Green Isle with regard to the supervision of the water system. Attorney Arneson explained the reason for the letter was to resolve the City of Arlington from all liability related to Green Isle's water system (did not include the sewer system) as of May 15, 2006 seeing as their city employee was now licensed for this.

Councilmember Voight introduced the following resolution and moved for its adoption:

RESOLUTION NO. 10-2006

RESOLUTION SUPPORTING THE FRONTIER COMMUNITY CONNECTIONS PROCLAMATION

WHEREAS, local schools and non profit organizations need ongoing financial support to continue and enhance the good community work that they do for residents and,

WHEREAS, Frontier Communications Solutions is the local telephone company with long ties and a moral interest in the well being and growth of the communities in which we provide service and,

WHEREAS, it becomes more challenging for community groups to raise funds and,

WHEREAS, communications, entertainment and Internet services are important parts of the social and economic vitality of our community and,

WHEREAS, by raising public awareness of Frontier Community Connections, Frontier can assist schools and local organizations in their ongoing fundraising efforts and,

NOW, THEREFORE, I, Mayor David Czech, City of Arlington, Minnesota do hereby proclaim May 2006, as

FRONTIER COMMUNITY CONNECTIONS
AWARENESS MONTH

In the City of Arlington.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Reetz and upon vote being taken thereon the following voted in favor thereof: Borchert, Griep, Reetz, Voight, Wills; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: None.

Adopted by the City Council of the City of Arlington this 1st day of May, 2006.

Signed: /s/ David Czech
Mayor

Attested: /s/ David L. Krueger
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

Mayor Czech asked the Council to plan to be on the float with him for the Sesquicentennial Parade. A float needs to be rented. He stated that there will be a wagon train on August 18th and the Council was asked to dress up in older attire from way back and then a proclamation would be held after. Mayor Czech also updated the Council on the progress of the Sesquicentennial Book that this being put together.

The Council reviewed a letter from Marie Kreft asking for financial support for the Story Hour program that is held during the summer. Her previous funding has been cut. She was working with the City of Green Isle for similar assistance. Voight questioned where the money would come from. It was noted that it could possibly come from the summer recreation fund or capital outlay, if needed.

Motion by Voight, seconded by Griep, and passed by unanimous vote to pay \$720 out of the summer recreation fund for the Story Hour Program put on by Marie Kreft.

Voight gave an update on the most recent Hospital Board meeting. She stated that a doctor was leaving the hospital staff as his 1 year contract was ending. She added that a husband and wife team were very interested in coming to Arlington.

Mayor Czech spoke briefly on the various committees. He stated that they have been working very hard. Reetz expressed his feelings about the fire hydrant flushing. He commented during a recent Utility Committee meeting, that he would like to see the City get back on schedule with flushing hydrants twice a year and start as soon as possible as there are 2 employees within the water/wastewater department that can do this simultaneously and not stretch it out over 5-6 weeks. He commented that he feels it is unnecessary to pull in summer help to do this. Administrator Krueger commented that flushing was to be starting and he would obtain a schedule from Supt. McCormick. Reetz suggested that when complaints about the water come in, they are handled professionally and put in writing and should include: who the complaint came in from, who it was handed off to, and what was done for record keeping purposes.

Voight stated that both she and Mayor Czech met with Doreen Willmsen of the Golden Agers Club about replacing the card tables at the Senior Citizens Building. The club was asking for 6 new tables.

Motion by Voight, seconded by Borchert, and passed by unanimous vote to purchase 6 new card tables from Thomes Bros. in the amount of \$36 (each).

Mayor Czech recessed the regular meeting and opened the closed portion of the meeting.

Administrator Krueger and Attorney Arneson spoke on the Fair Labor Standards Act (FLSA). The FLSA guides cities and counties on how to govern employees. Administrator Krueger handed out some information regarding emergency personnel (fire, ambulance, police) and how they should be paid in conjunction with being full-time government employees.

Minutes Incomplete - See Council Folder for Complete Information

Motion by Voight, seconded by Wills, and passed by unanimous vote to adjourn the closed meeting.

Motion by Voight, seconded by Reetz to re-open the regular meeting.

Motion by Voight, seconded by Griep, and passed by unanimous vote to adjourn the regular meeting.

Administrator David L. Krueger

Mayor David Czech