

**Town of Montreat  
Board of Commissioners  
Special Meeting  
October 29, 2008 – 5:00 p.m.  
Town Services Office**

The Montreat Board of Commissioners held a Special Meeting on October 29, 2008 at 5:00 p.m. in the Town Services Office. Present among the Board were Mayor Letta Jean Taylor, Commissioner Ruth Currie, Commissioner Jack McCaskill and Commissioner O'Neil Tate. Commissioner Bill Hollins arrived at 5:05 p.m. Mayor Pro Tem Eric Nichols arrived at 5:10 p.m. Representing Town Staff were Town Administrator Ron Nalley, Town Clerk Misty R. Gedlinske and Town Attorney Susan Taylor Rash. Four members of the public were also present. Mayor Taylor called the meeting to order and gave the invocation.

**Agenda Adoption**

Mayor Taylor asked that a Resolution Honoring Reverend Billy Graham be added to the agenda as an item of New Business. Commissioner Currie then moved to adopt the meeting agenda as amended. Commissioner Tate seconded and the motion carried 3/0.

**New Business**

Resolution Honoring Reverend Billy Graham: Commissioner McCaskill moved to adopt Resolution #08-10-0001 Honoring Reverend Billy Graham on the Occasion of his 90<sup>th</sup> Birthday. Commissioner Currie seconded and the motion carried 3/0.

**Old Business**

Lease Proposal for Telecommunications Tower Facility– Towers XX, LLC: Mr. Nalley referred to an e-mail from Matthew Traiser of Towers XX, LLC stating that the proposed tower could be constructed within four to six weeks once the lease agreement and zoning permits were approved. He said the tower sections would be transported to the site on flat bed trucks, minimizing the risk of pavement damage but advised that staff still recommended delaying repaving on Appalachian Way until after the tower's construction was completed. Mr. Traiser confirmed that the proposed lease agreement included language stating that Towers XX would be responsible for repairing any damage to the roadway incurred as result of the project.

Ms. Rash presented a revised draft of the proposed lease agreement and said that most of the changes were made to give the Town more control over the site, including the opportunity to review and approve the site survey before it became an exhibit to the lease. She also pointed out that some of the former title warranty language had been removed because she did not believe the Town had done a title search when the property was originally acquired from the Mountain Retreat Association. Mr. Traiser stated that Towers XX would perform a full title search of the lease site. Ms. Rash said that language was also added to the lease agreement draft to ensure that the tower did not interfere with the Town's use and maintenance of the existing water tank, and to give the Board of Commissioners the right to review and either approve or reject any subleases, assignment agreements and any plans for improvements or modifications to the tower. She also noted that the lease agreement specified that the type of tower allowed to be constructed

**Montreat Board of Commissioners**  
**Special Meeting**  
**October 29, 2008**

was limited to the type shown in the pictures submitted with the tower proposal, and that Towers XX must maintain both the leased space and any landscaping after the tower's construction was complete. Commissioner Tate asked for a copy of the Lessee's comprehensive public liability insurance policy referred to in Section 12 of the lease agreement, which Mr. Traiser agreed to provide.

Mayor Taylor asked which party would be responsible for dismantling and removing the tower at end of the lease term. Ms. Rash said that this would be Towers XX's responsibility. Mr. Nalley noted that one of the other municipalities he had spoken with concerning cell tower lease agreements had suggested setting aside a bond for this purpose to ensure the tower's removal at the end of the lease term. Mr. Traiser suggested adding language to the lease agreement which stated that if the tower were no longer in use and was not receiving signal transmissions for a certain period of time, then the tower would need to be removed at the Lessee's expense and that a bond would be set aside to cover the removal costs should the Lessee fail to do so. The Council agreed by consensus.

Mr. Nalley referred to a list of discussion topics gathered during his recent conversations with other municipalities that had entered into similar cell tower lease agreements, some of which he said were already addressed. He advised that monthly lease prices had ranged between \$1,000 and \$2,000 per month and said that Mr. Traiser could explain why certain towers had different lease values than others. Mr. Nalley stated that other municipalities recommended removing all references to personal property from the lease agreement for taxation purposes, and to ensure that all taxes were paid by the Lessee. Other recommendations included shorter initial leases with the option for multiple renewals, requiring that all generators used during power outages complied with the Town's noise ordinance regulations, incorporating site arrangement screening preferences into the lease agreement terms and being aware of the possibility that the tower may eventually become obsolete in response to future technological advances. Mr. Nalley also noted the importance of ensuring that all federal fall radius precautions and other safety inspections were being done appropriately and according to the prescribed schedule.

Andy Ward explained that because of the "line of sight" technology used to send and receive cellular communications signals, the proposed tower must be 180 feet tall to allow the antennas mounted at the lowest position to function properly in this location and that all additional antennas would be mounted above this level. Commissioner Currie noted that the proposed tower would be 20 feet taller than the sample tower shown in the photographs Towers XX had previously provided. Mr. Ward presented photo-simulation pictures of a 180-foot tall tower and explained how its appearance would differ from the sample tower. Mayor Taylor suggested that a flat gray color for the outside finish on the tower would be less obtrusive than the green color shown in the photo-simulation. Commissioner Currie asked whether the tower's color and surface finish was specified in the lease agreement. Mr. Traiser said this was not currently set forth in the lease agreement but could be added to specify whatever color and surface finish the Council felt was most suitable.

**Montreat Board of Commissioners  
Special Meeting  
October 29, 2008**

Robert Shaw commented that his home was about 75 feet away from the site of the proposed tower and said he was concerned about possible disturbances caused by light, noise and vehicular traffic. Mr. Traiser advised that the Federal Aviation Administration (FAA) did not require lights on the top of cellular towers less than 200 feet in height, and that he did not plan to install any other additional lighting on the tower. He said that fencing would be installed to serve as a noise buffer and offered to add language to the lease agreement requiring compliance with Town noise ordinance regulations for clarity. Mr. Traiser also estimated that tower maintenance crews would only need to visit the site about once per month, and presented a survey drawing of a proposed stacked equipment cabinet arrangement which he felt may offer more room at the site for access and maneuverability.

Commissioner Hollins asked what the average tower lease rate was for the surrounding area. Mr. Ward replied that his company had paid between \$300 and \$1,000 per month with additional revenues for each tenant leasing space on the tower. Mr. Traiser said the current lease income offer to the Town was for \$600 per month with an additional \$200 for each additional tenant and agreed to further review those figures. He cautioned that the projected construction costs for a tower at the proposed site were much higher than average and would limit the amount of any additional lease income he would be able to offer. Mr. Traiser also explained that the size and style of the proposed tower would limit the maximum number of tenants and antennas to six tenants and no more than 12 antennas. He said that all antennas would be flush-mounted in an effort to make them as unobtrusive as possible and agreed to provide plans detailing how the antennas would be connected and installed along with measurements of the outside diameter of the tower with the antennas in place.

Commissioner Currie left the meeting at 5:45 p.m. No motion was made to excuse her.

Commissioner Hollins pointed out that the draft lease agreement currently provided a 3% annual rent increase and felt this amount should be raised. Mr. Ward explained that this percentage matched the amount of rent increase the cell phone companies who leased space on the tower were charged each year. Mr. Traiser said he could consider a possible increase in the ground rent amount but did not believe the annual rate increase percentage could be raised. In response to Ms. Rash's questions about the definition of "broadband tenant," Mr. Traiser said that any emergency communication equipment the Town installed on the tower would not be considered as a tenant and would not be included in monthly rental income calculations.

In response to Mayor Pro Tem Nichols' inquiry, Mr. Shaw estimated that five households in his neighborhood would be able to see the ground area of the site from their properties. Mayor Pro Tem Nichols suggested getting input from those households about their preferences for screening and landscaping. Mr. Traiser said several screening options were possible, such as privacy or other opaque fencing. Mayor Taylor said that staff would need to consult with Public Works Director Charlie Caldwell to ensure the selected fencing provided proper security and safety. After discussion, the Board agreed to consider a revised lease agreement at their November Town Council meeting. Mr. Nalley also said that he had been working with Ms. Rash on a text amendment to the Town's Ordinance Regulating Wireless Communication Technology that

**Montreat Board of Commissioners  
Special Meeting  
October 29, 2008**

would allow the Board to exercise final approval over lease sites on Town-owned property. He said he would like to present the text amendment to the Board for consideration at either their November or December meeting, to be followed by a more extensive review of the ordinance after the lease agreement and zoning permits process for the Towers XX project was completed. The Board agreed by consensus.

**Public Comment**

Charles Nance was recognized and said that he also lived near the proposed tower site and felt that his concerns about light and noise had been adequately addressed.

**Adjournment**

There being no further items of business to discuss, Commissioner Hollins moved to adjourn the Special Meeting. Commissioner McCaskill seconded. The motion carried 5/0 and the meeting was adjourned at 6:02 p.m.

---

Letta Jean Taylor, Mayor

---

Misty R. Gedlinske, Town Clerk