

**TOWN OF PRESCOTT VALLEY  
REQUEST FOR COUNCIL ACTION  
Date: March 6, 2014**

**SUBJECT:** Siting of Wireless Telecommunications Facilities

**SUBMITTING DEPARTMENT:** Community Development Department

**PREPARED BY:** Richard T. Parker, Community Development Director

**AGENDA LOCATION:** Comments/Communications , Consent , Work/Study ,  
New Business , Public Hearing , Second Reading

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**ATTACHMENTS:** (a) Original Wireless Telecommunications Plan, and (b) Findings Denying Wireless Application May 8, 2003

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**SUMMARY/BACKGROUND:** The Federal Telecommunications Act of 1996 was adopted by Congress to reduce regulation in the telecommunications industry, promote competition and encourage rapid deployment of new technology. Expecting new applications for wireless telecommunications sites, Prescott, Prescott Valley and Yavapai County joined together to develop a new telecommunications plan. A consultant was brought in and the joint plan was developed. Afterwards, each jurisdiction took a slightly different approach to adopting and implementing its plan. Prescott Valley's implementation most closely resembled what had been developed by the consultant. The Town Plan was adopted on Jun 11, 1998 as Chapter 9 of the General Plan. [Res 832] Implementation was through amendments to the Town Code by Ord 439 (Jun 28, 1998).

The Plan encouraged placement of wireless facilities in areas zoned Public Lands (PL). The reasons were that such areas (a) provide service providers quick access to both commercial and residential areas with minimal impact on those areas, (b) allow greater government control over aesthetics and use of wireless facilities through lessor-lessee relationships, and (c) provide public revenues through rents. It was felt these benefits outweighed concerns of private owners who might wish to receive such revenues or any concerns by the general public about potential risks from increased exposure to radio frequency emissions. The related Ordinance sought to decrease proliferation of such facilities Town-wide by conditioning permission to build them on applicants' willingness to allow subsequent carriers to collocate. [Town Code § 13-21-160(B)(3)] It also established performance criteria relating to appearance and performance (particularly for facilities built on private property under special use permits). Because §332(c)(7)(B)(iv) of the Act prohibited local regulation of wireless facilities based on "environmental effects of" RFEs (as long as said facilities complied with applicable Federal Communications Commission (FCC) regulations), the Plan and Ordinance could only require facilities to meet or exceed the regulations. If those regulations changed, owners of facilities would have 6 months from the effective date to bring the facilities into compliance. [Town Code §13-21-160(B)(1)(e)] With regard to special use permits, applicants would also have to show that all their facilities within 25 miles complied with the regulations. [Town Code §13-21-110(C)(18)] Land owners in the PL zone would not need special use permits and could enter directly into lease agreements with wireless facility owners. Still, public notice would have to be given to residents located within 300 feet of the facilities. [Town Code §13-21-160(C)]

On Aug 13, 1998, the Town entered into an agreement with Allynx Corp granting it a right-of-first-refusal to lease Town property for constructing and subleasing wireless facilities. On Nov 18, 1999, the Town Council adopted Ordinance No. 481 rezoning all government lands within the municipal limits to PL designations. This included property owned by Humboldt School District, Central Yavapai Fire District,

the Town, and a community facilities district the Town had formed on Sep 24, 1998 to purchase the private water company which provided water service to most of the Town. This district (Prescott Valley Water District) had acquired the stock of Shamrock Water Company then converted Shamrock to a non-profit company with PVWD as its sole member. Then, on Dec 16, 1999 PVWD entered into its own agreement with Allynx Corp to grant it a right-of-first-refusal to lease PVWD property for constructing and subleasing wireless facilities. When PVWD was dissolved on Mar 13, 2008, the water system and related lands became Town property.

To-date, the Town has consistently followed the Plan in approving the siting of new telecommunications facilities. For example, on May 8, 2003 the Council voted to deny an application by VoiceStream for a wireless facility on a private site near Peddler's Pass because suitable PL sites were available. This ultimately led to approval on Jun 12, 2003 of a lease with Allynx (and sublease w VoiceStream) to place that facility on a new water tank site in Prescott Country Club Unit 6. From time to time, telecommunications companies will still propose private sites (inside and adjacent to the Town) because, for one reason or another, they believe those sites will be optimal to fill a perceived gap in the service they wish to offer. However, in each case staff has been able to show that there is an equivalent public site which will meet the company's needs and still comply with the Plan. Such a process is currently playing out with regard to a proposed site in unincorporated Yavapai County northwest of the Town limits. It is hoped by staff that the company involved will ultimately recognize the utility of the longstanding Plan and that neighboring government entities will continue to work together to administer that Plan.

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**OPTIONS ANALYSIS:** Discussion only

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**ACTION OPTION:** N/A

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**RECOMMENDATION:** N/A

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**FISCAL ANALYSIS:** The funds derived from implementation of the Wireless Telecommunications Plan benefit the general public.

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**REVIEWED BY:**

Management Services Director \_\_\_\_\_

Town Clerk \_\_\_\_\_

Town Attorney \_\_\_\_\_

Town Manager \_\_\_\_\_

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**COUNCIL ACTION:**

Approved  Denied  Tabled/Deferred  Assigned to \_\_\_\_\_