

Approved September 25, 2024



**CITY OF SCOTTSDALE
NEIGHBORHOOD ADVISORY COMMISSION
REGULAR MEETING MINUTES**

Wednesday, June 26, 2024

**Community Design Studio – Nave
7506 East Indian School Road
Scottsdale, AZ 85251**

PRESENT: Larry Hewitt, Chair
Bridget Schwartz-Manock, Vice Chair
Nancy Doty Brady
Louise Lamb
George Spatola
Craig Handzlik (MS Teams)
Richard Siegel

STAFF: Taylor Reynolds, Commission Liaison
Nick Carroll, Long Range Planning
Keith Niederer, Telecom Policy Coordinator
Karen Tyler, Senior Assistant City Attorney

GUESTS: BAM Broadband Representatives
Kelly Henshaw, BAM
Mike Palm, BAM

Call to Order

Chair Hewitt called the meeting to order at 5:05 p.m.

Roll Call

Members present as listed above.

Public Comment

There were no members of the public who wished to speak.

1. Approve Draft Summary Meeting Minutes

a. Regular Meeting: Wednesday, May 22, 2024

Commissioner Siegel noted that under item 2, he and Commissioner Doty Brady were not in opposition, but were voicing their concerns about the City applying for the use of NEGP funding.

COMMISSIONER DOTY BRADY MOVED TO APPROVE THE MAY 22, 2024, NEIGHBORHOOD ADVISORY COMMISSION MEETING MINUTES AS AMENDED. VICE-CHAIR SCHWARTZ-MANOCK SECONDED THE MOTION, WHICH CARRIED SEVEN (7) TO ZERO (0) BY ROLL CALL VOTE. CHAIR HEWITT, VICE CHAIR SCHWARTZ-MANOCK AND COMMISSIONERS DOTY BRADY, HANDZLIK, SIEGEL, LAMB AND SPATOLA VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

2. Telecommunication Facilities

Taylor Reynolds, Commissioner Liaison, reminded the commissioners that this item was brought to the attention of the Neighborhood Advisory Commission earlier this year. Keith Niederer, Telecom Policy Coordinator, gave a presentation on Fiber to the Home projects in the city. He also presented an overview of wireless communication facilities in the City and potential for smaller wireless facilities to enter neighborhoods in the future.

On November 21, 2022, City Council approved a wired telecommunications license agreement with Desert iNet, now called BAM Broadband, to construct, operate, maintain, and repair a telecommunications network within the city rights-of-way and utility easements. Plans have been submitted and approved for approximately 100 miles of new conduit and fiber, mostly within single family neighborhoods, and the construction is underway. He presented a map of the current project area which includes the communities of Buenavante and McCormick Ranch. There are additional routes planned.

Mr. Niederer gave an overview of the construction and installation process.

- Conduit is installed under the street or sidewalks using directional boring three to five feet below the ground
- Temporary steel plates or asphalt patching are placed until they can do full restoration of the street or sidewalk
- Handholes are placed behind the sidewalk adjacent to each lot to serve the homes
- There are occasional larger handholes and small Optical Line Terminal (OLT) cabinets
- Fiber optic cable is then pulled to the home through the conduits and handholes

BAM Broadband has placed notification signage and door hangers throughout the project area to inform the community of the upcoming construction. Construction is taking place within the public right of way outside of property lines.

Commissioners were given an opportunity to ask questions. Mr. Niederer shared background

on the company history, which began as a wireless internet company called Desert iNet; they recently began fiber services. Kelly Henshaw, Operations Manager with BAM Broadband in Arizona, added that Desert iNet was founded in 2004 as a fixed wireless business and have expanded into fiber services which is how BAM Broadband was created. BAM Broadband representatives confirmed that at least 30 days prior to construction several rounds of mailers were sent to the affected area, door hangers were placed, an official construction letter was sent, and posts were added to social media to notify residents. Installation is taking place in single-family neighborhoods as well as multifamily residential complexes.

Ms. Henshaw outlined the speed and cost of their service plan packages, all of which include unlimited data, and noted the available discounts. She shared some of their strategies to compete with competitors. According to Net Promoter scoring, BAM Broadband has more favorable scores when compared to major competitors in the area. Currently, they have 6,000 fixed wireless customers. There is one neighborhood in the Desert Mountain area live for the fiber service with approximately 65 active fiber service customers. The goal is to have the Buenevante and McCormick Ranch neighborhoods live around July 12th. Ms. Henshaw explained the home installation process, which includes a cable buried approximately eight inches underground leading from a streetside handhole to the home. Mike Palm, director of construction for the project, shared that installation takes roughly six weeks for a typical 7,000-foot community. Ms. Henshaw said that, after the installation and restoration process is complete, the residential yards should look as they did prior to the project; the addition of a handhole would be the only change. Mr. Neiderer clarified that streets require a slurry seal at the locations of bore pits. He stated that the work permit is valid for a year, but the goal is to complete it within six to eight weeks. Mr. Palm added that they are trying to stick to a seven-day window to complete restoration after construction is completed.

Commissioner Handzlik expressed concern that the construction notifications and adherence to posted project timelines could have been executed more efficiently. Ms. Henshaw noted that they have teams in place to handle complaints, damage claims, and to provide residents with additional information. Mr. Palm added that they are available to remedy any concerns regarding street cleaning after installation. A Community Relations Specialist has reached out to HOA communities and is available to do community events to answer questions. Improvements are being made to notification procedures. A BAM Broadband representative confirmed that the company does not intend to sell to a larger service provider at this time. Ms. Henshaw shared that, due to the recent company name change, they are in the process of updating cones and are working with subcontractors to display new decals on crew trucks. BAM Broadband has a sister company in Colorado that is further along and providing service to a couple thousand customers

Mr. Neiderer continued the presentation and provided an overview of the City's wireless ordinance and state laws that have changed within the last few years regarding wireless facilities inside neighborhoods. The current wireless code, which took effect in 2003, encouraged the use of existing vertical elements such as streetlights, traffic signals, utility towers, and camouflage sights. Crown Castle worked with the city in 2008-2012, and completed a large outdoor distributed antenna system located mostly in the northern and central part of Scottsdale. This project consisted of artificial cactus, canisters on top of streetlight poles, and traffic signals.

He provided a summary of the 2017 State Legislature approved House Bill 2365, which granted wireless carriers the ability to collocate small wireless facilities and related equipment in all the Arizona city and county rights-of-way as well as public utility easements including local residential streets, and reviewed the elements of the bill. In response to a commissioner's question, Mr. Niederer clarified that the city charges a carrier an annual fee of \$50 per site, with an additional \$50 fee if attached to a city-owned light pole.

Mr. Niederer reviewed the Federal Telecommunications Act of 1996, which states that no state or local government can regulate the placement, construction, or modification of wireless facilities on the basis of environmental effects or radiofrequency emissions. In response to commissioner questions, he explained that small cell sites are as reliable as larger ones, but the signal does not travel as far; they are helpful in areas of high cell traffic. He clarified that the carrier does still have to get right-of-way permits from the city to build and must conform to aesthetic guidelines.

3. Neighborhood Enhancement Grant Program Criteria

Taylor Reynolds, Commission Liaison, provided background on this item and presented the proposed NEGP Criteria. Staff's recommendation is that the Commission approve the Neighborhood Enhancement Grant criteria as drafted, which would be implemented beginning FY 2024/25.

Commissioners were given an opportunity to discuss and ask questions. Mr. Reynolds clarified that, in terms of where funds can be administered, it must be in the right-of way which is, by default, public property.

COMMISSIONER SIEGEL MOVED TO APPROVE THE NEIGHBORHOOD ENHANCEMENT GRANT PROGRAM CRITERIA AS DRAFTED. CHAIR HEWITT SECONDED THE MOTION, WHICH CARRIED SEVEN (7) TO ZERO (0) BY ROLL CALL VOTE. CHAIR HEWITT, VICE CHAIR SCHWARTZ-MANOCK AND COMMISSIONERS DOTY BRADY, HANDZLIK, SIEGEL, LAMB AND SPATOLA VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

4. Commissioner Items

There were no commissioner items.

5. Staff Updates

Mr. Reynolds shared that the NEGP project that was recently approved at the Bent Tree Neighborhood is fully completed and finished under budget. He highlighted that the 13 notices of violation from code enforcement have been closed out.

He shared that the Audit Committee Sunset Review recommended to continue the Neighborhood Advisory Commission.

The next meeting is scheduled for September 25, 2024. There will be no meetings scheduled in July and August.

Adjournment

CHAIR HEWITT MOVED TO ADJOURN THE MEETING. COMMISSIONER LAMB SECONDED THE MOTION, WHICH CARRIED SEVEN (7) TO ZERO (0). VICE CHAIR SCHWARTZ-MANOCK AND COMMISSIONERS DOTY BRADY, HANDZLIK, HEWITT, SIEGEL, LAMB, AND SPATOLA VOTED IN THE AFFIRMATIVE. THERE WERE NO DISSENTING VOTES.

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 6:08 p.m.

Recorded and Transcribed by eScribers, LLC.



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June 26, 2024 – Neighborhood Advisory Commission

The Neighborhood Advisory Commission advises and makes recommendations to the city council on policies, plans, strategies and programs for the preservation, improvement and revitalization of Scottsdale’s neighborhoods.

Commissioners

- Nancy Doty Brady
- Craig Handzlik
- Larry Hewitt (Chair)
- Louise Lamb
- Bridget Schwartz-Manock (Vice-Chair)
- Richard Siegel
- George Spatola

City Staff

- Taylor Reynolds, Commission Liaison
- Nick Carroll, Staff Coordinator / Planner
- Keith Niederer, Telecom Policy Coordinator
- Karen Tyler, Assistant City Attorney





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Public Comment
Non-Agendized Items



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Item 1:
Approve Summary Meeting Minutes for May 22, 2024
Action Item



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Item 1 – Draft Minutes

- Confirm receipt of public comments submitted on this agenda item
- Action Item

Staff recommends the Neighborhood Advisory Commission:

- Review and approve the Draft Meeting Minutes for the regular meeting of Neighborhood Advisory Commission meeting that occurred on May 22, 2024.

CITY OF SCOTTSDALE
NEIGHBORHOOD
ADVISORY COMMISSION

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Item 2: Fiber to the Home Projects & Small Wireless Facilities

Kieth Niederer, Telecom Policy Coordinator
Information & Discussion Only

CITY OF
SCOTTSDALE

CITY OF SCOTTSDALE
NEIGHBORHOOD
ADVISORY COMMISSION

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Item 2

- Confirm receipt of public comments submitted on this agenda item
- Information & Discussion Only

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Fiber to the Home

- On November 21, 2022, City Council approved a Wired Telecommunications License Agreement for Desert iNet (now called Bam Broadband) to construct, operate, maintain and repair a telecommunications network within the right-of-ways and utility easements.
- Bam Broadband is currently constructing a fiber internet to the home network in some residential areas of Scottsdale.

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What is Fiber Internet

High speed internet service delivered over fiber optic cabling. Fiber optic cable is comprised of strands of glass that can transmit light signals over long distances.

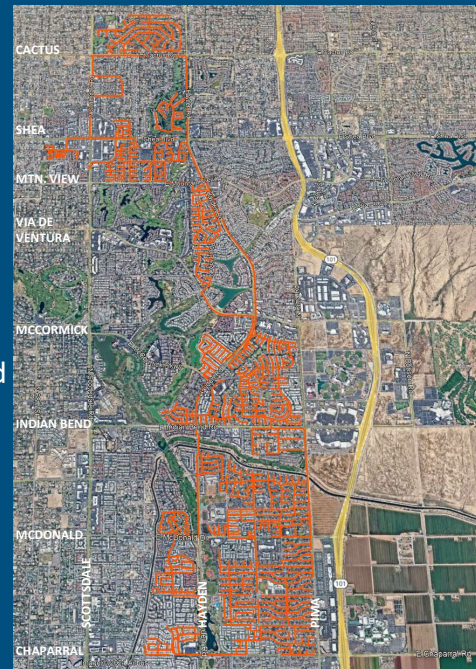
Data transmitted by light is faster than traditional internet cables and do not rely heavily on electrical power.



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Fiber to the Home

- Plans have been approved for approximately 100 miles of new conduit and fiber in mostly single-family neighborhoods in Scottsdale for BAM Broadband, and construction is well underway.
- Boundaries generally are between Sweetwater Av and Chaparral Rd between Scottsdale Rd and Pima Rd
- Includes communities of Buenavante and McCormick Ranch among others.
- There will likely be additional routes in the future.



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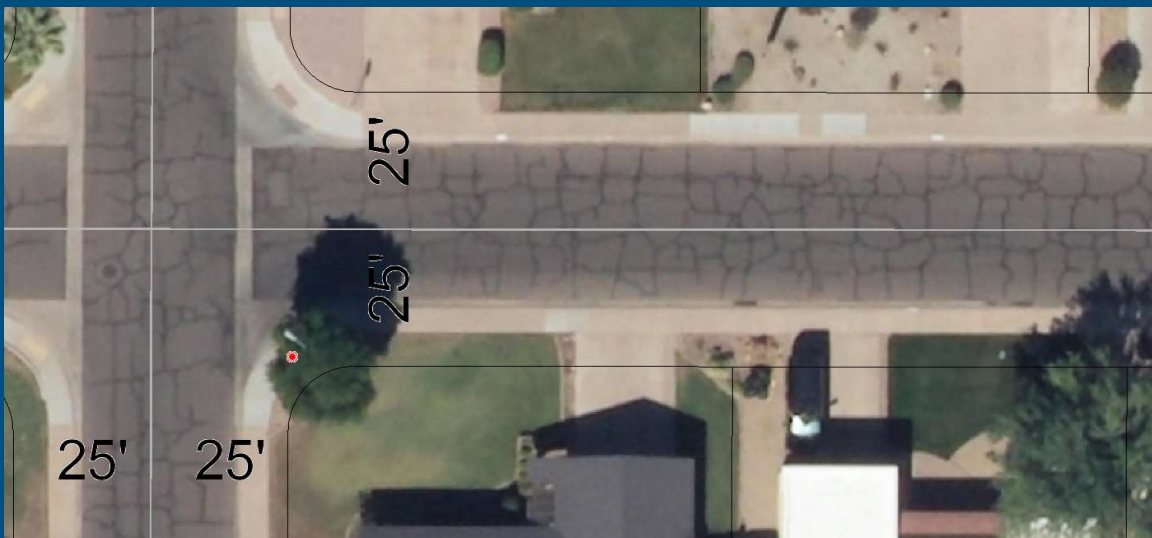
Fiber to the Home Construction

- A conduit is installed under the street or sidewalks within the right-of-way using directional boring. To do this, bore pits are necessary to be cut into street or sidewalks, and well as potholing to verify existing utility location and depth. Temporary asphalt patching and steel plates are put in place until full restoration occurs.
- 13" x 20" x 12" fiber handholes are placed behind sidewalk adjacent to each lot to serve the homes if they want service in future.
- Occasional 24" x 36" x 36" handholes and OLT (Optical Line Terminal) cabinets are installed where needed.
- Fiber optic cable is then pulled through the conduit.



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Typical Residential Street



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Fiber to the Home Construction/Restoration



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Fiber to the Home Notification



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Questions for Staff or BAM Broadband on the Fiber to the Home Project

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Wireless Communication Facilities in Scottsdale

- 2003: Current WCF Ordinance takes effect



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Crown Castle Project: 2008-2012

- Crown Castle Distributed Antenna System (DAS) Project
- 270 sites total (170 in public ROW)



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State Legislature approved HB 2365 in 2017

Arizona State Legislature approved House Bill 2365 effective August 9, 2017

- Grants wireless carriers the ability to collocate small wireless facilities and other related equipment in all Arizona City or County Rights-of-Ways (ROW) and public utility easements. (Including local residential streets)



NEWS RELEASE

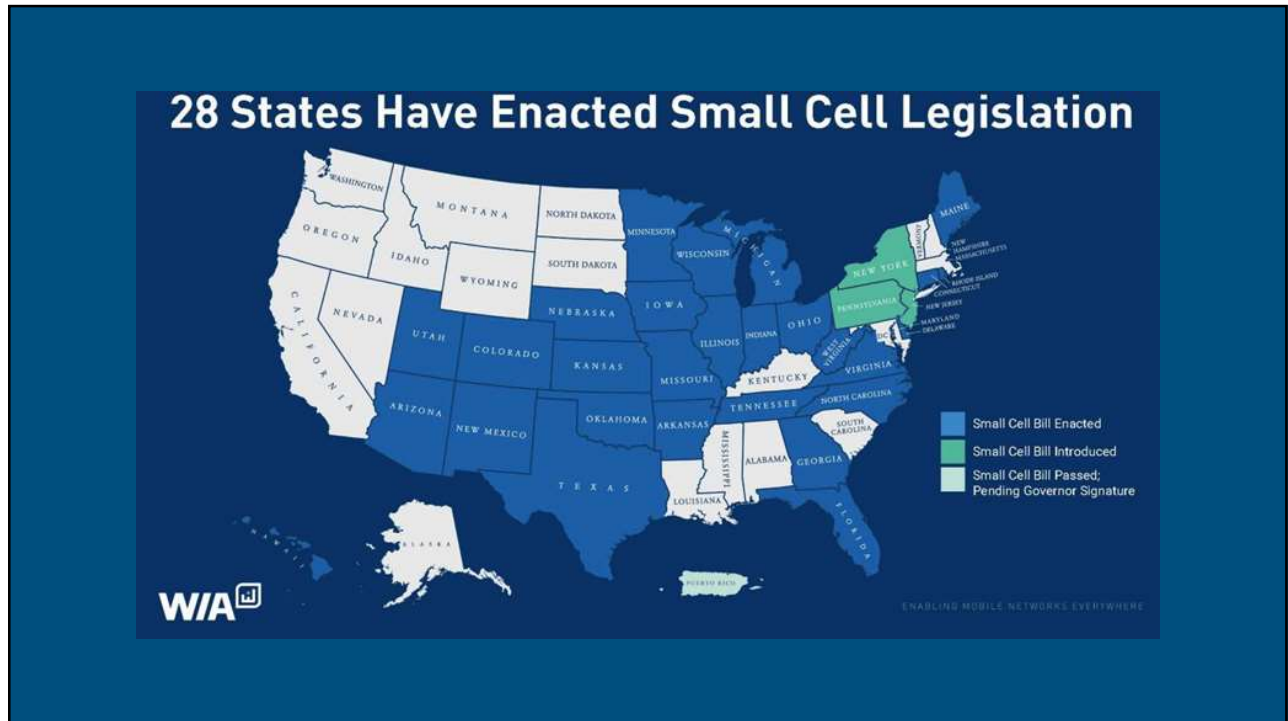
Arizona House of Representatives
Representative Jeff Weninger (R-17)
1700 West Washington • Phoenix, Arizona • 85007-2844

Friday, March 31, 2017
FOR IMMEDIATE RELEASE

**Arizona Legislature Passes Bill Making Arizona
Pioneer for 5G Technology Deployment**

Rep. Jeff Weninger Champions First-of-Its-Kind Legislation

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Additional elements of HB 2365 / ARS 9-591

- Exempts Small wireless facilities from zoning process/hearings.
- Introduced a Shot Clock.
 - 20 days for City Staff to determine and notify is application is complete.
 - 75 days for City Staff to approve or deny the application, or application is automatically deemed approved.
- Requires ROW and City owned poles (such as streetlights and signal poles) to be made available.
- Prohibits cities or counties from issuing moratoriums.
- Does not allow for a “significant gap” test that developed under federal law.
- Limits annual use fees to \$50 per site, with an additional \$50 if attached to a City owned pole.
- Limits plan review and permitting fee to \$750.

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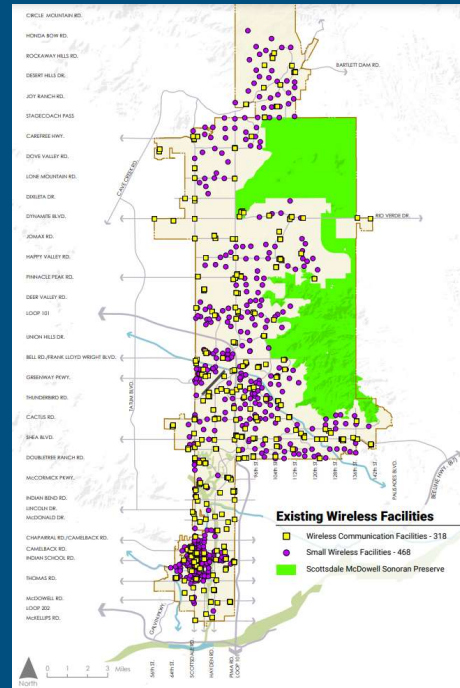
Additional elements of HB 2365 / ARS 9-591

- Preserves ROW management functions for public safety.
- Allows for reasonable aesthetic and screening requirements.
- Zoning Ordinance requirements continue to apply to non-SWF sites, and sites located outside of the ROW.
- Each SWF shall follow the Standard Terms and Conditions for wireless sites in the ROW, which was approved by City Council in January 2018 with Resolution 11005.
- Standard terms include insurance and indemnification requirements and requires compliance with FCC rules.

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Permitted Wireless Sites

- 318 Macro Wireless Facilities in Scottsdale (yellow squares)
- 468 permitted Small Wireless Facilities in Scottsdale (purple dots)



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Federal – Telecommunications Act of 1996

There are also Federal laws and FCC Regulations/Orders. These laws/regulations do not directly address 5G but address wireless communication facilities in general.

Telecommunications Act of 1996

- 47 U.S.C. Sec. 332 addresses mobile (wireless) services and preserves state/local authority over wireless tower siting.
 - Local govt. shall not unreasonably discriminate among providers of functionally equivalent services.
 - Local govt. shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - **Expressly prohibits Radiofrequency regulation by state or local government. Sec. 332(c)(7)(B)(iv)**
 - **No State or Local government may regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC’s regulations concerning such emissions. This would include any alleged health impacts from environmental exposure to radio frequency emissions.**

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Item 3: Neighborhood Enhancement Grant Program Criteria

Taylor Reynolds, Commission Liaison
Information, Discussion and Possible Action



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Item 3 – NEGP Criteria

- Confirm receipt of public comments submitted on this agenda item
- Information, Discussion and Possible Action



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Item Background

September 2023 – NAC Direction

- Administer Neighborhood Enhancement Grant Funds for FY 2023/24 with criterion previously established by the Commission.
- Review and consider modifying Neighborhood Enhancement Grant Program criteria by June of 2024.
 - Implement new criteria for FY 2024/25

May 2024 – Draft Criteria Review



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Existing NEGP Criteria

- Established criteria can be utilized for comparing applications seeking program funding:

Primary Criteria

- Improvements must be located within the City's public right-of-way.
- Improvements must be visually accessible to the pedestrian realm.
- Non-home owner association single family neighborhoods.
- Visually significant roadway as designated by the General Plan or visibility from primary arterials in other areas of the city.
- Minor collector or greater based on the city's street classification.
- Adjacency to canal/park/public school.

Secondary Criteria

- General need.
- Code enforcement history.
- Existing conditions.
- Scope of work and linear feet of planned improvements.
- Length of time in residence (deed date) / average residency in home.
- Traffic count of adjacent public right of way.
- Established neighborhood organization (i.e. Neighborhood Watch, GAIN, Nextdoor presence).
- Does the applicant qualify for Operation Fix It.
- How sustainable a proposal may be.

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Proposed NEGP Criteria

Location Criteria

Project must be seen by the overall public.

- Improvements must be located on City-owned property or within the City's public right-of-way.
- Improvements must be visually accessible to the public.
- Improvements must be located adjacent to:
 - A minor collector or greater based on the city's Transportation Action Plan; and/or,
 - A canal/park/public school/city-owned property.

General Need Criteria

Project should benefit areas where funding mechanisms are not available.

- Improvements must be located within non-Homeowners Association (HOA) neighborhoods.

Other Considerations

Existing conditions, history, and ongoing maintenance may all be considerations of project approval.

- Code enforcement history – Assess whether the location currently holds an active "Notice of Compliance" from Code Enforcement and determine if the proposed project improvements will bring the site into full compliance.
- Existing conditions – Assess whether the project improvement enhances the location and aligns it with the surrounding context
- Scope of work – Assess the requested linear feet and/or area for planned improvements
- Ongoing Maintenance – Evaluate the continuity of ongoing maintenance, including the presence of an established neighborhood organization (i.e. Neighborhood Watch, GAIN, Nextdoor presence), and long-term sustainability of project improvements

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Item 3- Marketing & Awareness

Office of Communication Coordination:

- Developing an outreach program to solicit interest from the community to apply for funds;
- Listing previously funded projects on the NEGP webpage; and,
- Spotlighting recently finished projects on social media.

Work with Code Enforcement to heighten awareness

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Item 3- Recommendation & Discussion

Implementing the purpose, powers, and duties of the Commission, pursuant to Section 2-323.b and Section 2-323.c of the City Code regarding the establishment of criteria for determining how Neighborhood Enhancement Grant Funds are allocated, staff recommends the Commission approve the draft Neighborhood Enhancement Grant Program Criteria, implementing such criteria beginning in fiscal year 2024/25.



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Item 4: Commissioner Items

Taylor Reynolds, Commission Liaison
Information, Discussion and Possible Action



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Item 4 – Commissioner Items

NAC Bylaws (Section 205) provide the Commission an opportunity to consider future agenda items, the process may include:

1. Request that the Commission Liaison agendaize the item for a future meeting;
2. Request that the Commission Liaison investigate the matter and prepare a written response to the Commission; or
3. Take no further action.

No Commissioner Items were submitted to staff for Commission consideration.

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Item 5: Staff Updates (A.R.S. 38 - 431.02(K))

Taylor Reynolds, Commission Liaison
Information & Discussion Only

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Item 5 - Staff Updates

- NEGP Project – Bent Tree Neighborhood
 - Completed & under budget
 - \$20,243.15 approved, \$18,087.50 paid
 - 13 NOV Cases Closed Out
- Audit Committee – Sunset Review
 - 6/4/2024, City Council Continuation of Commission
- Upcoming Meeting Schedule –
 - Per Sec. 201 of NAC Bylaws, the Commission may recess during the same time frame as the City Council – Summer Break July / August
 - September 25, 2024



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Adjournment

June 26, 2024



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