

**BOARD OF COUNTY COMMISSIONERS
OF
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 05-74

A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #0506-515 (FRANKLIN COUNTY) TO PERMIT THE CONSTRUCTION AND OPERATION OF A 140 FOOT HIGH COMMUNICATION TOWER IN AN "A-1" AGRICULTURE ZONE

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on June 22nd, 2005 that public hearing would be held to consider Special Use Permit application #0506-515 (Franklin County) as required by K.S.A. 12-757 and Article 17, Section 17-3.03 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on July 14th, 2005 hold a public hearing for the consideration of Special Use Permit application #0506-515 to permit the construction and operation of a 140 foot high communication tower; and

WHEREAS, the Planning Commission, after reviewing and considering all reports and testimonies did, by a majority vote of those present, approve said Special Use Permit based on certain findings and subject to certain conditions; and

WHEREAS, the Board of County Commissioners of Franklin County, after duly reviewing the recommendation of the Planning Commission together with all public comments for and against said Special Use Permit finds:

1. That the Special Use Permit is consistent with the County Zoning Regulations.
2. That the Special Use Permit is in conformance with and would further enhance the County Comprehensive Plan.
3. That as conditioned, the Special Use Permit will not overburden the county roads and other public services.
4. That as conditioned, the Special Use Permit will not unduly affect the character of the surrounding community.
5. That as conditioned, the Special Use Permit will not impact property values of surrounding properties.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit Application #0506-515 (Franklin County) to permit the construction and operation of a 140 foot high communication tower in an "A-1" Agriculture Zone as follows:

Section 1: Special Use Permit #0506-515 (Franklin County) is granted for the following described property:

EASEMENT DESCRIPTION: Commencing at a ½" rebar at the Southwest Corner of the Southwest Quarter of Section 30, Township 15 South, Range 21 East of the 6th Principal Meridian, Franklin County, Kansas; THENCE North 02 degrees 03 minutes 24 seconds West for a distance of 1842.01 feet along the West line of said Southwest Quarter to the POINT OF BEGINNING; THENCE North 02 degrees 03 minutes 24 seconds West for a distance of 50.00 feet to a point on said West line; THENCE South 81 degrees 04 minutes 28 seconds East for a distance of 50.93 feet; THENCE North 87 degrees 36 minutes 09 seconds East for a distance of 158.71 feet; THENCE South 02 degrees 03 minutes 21 seconds East for a distance of 40.00 feet; THENCE South 87 degrees 36 minutes 21 seconds West for a distance of 208.71 feet to the POINT OF BEGINNING. Together with and subject to covenants, easements and restrictions on record. Said easement contains 8597.4 square feet or 0.20 acres more or less, Franklin County, Kansas as shown on survey by Taylor Design Group, P.A. dated April, 2005.

Section 2: The real property described above shall be authorized to construct and operate a 140-foot high communication tower pursuant to the Franklin County Zoning Regulations and the following conditions:

That the tower base be enclosed with a 6' high chain link fence with security barbed wire access.

The enclosed area shall be locked at all times except when being used by company employees.

That the communication facilities comply with all requirements of the Federal Communication Commission.

That a sign be placed on the security fence around the tower base to include a telephone number of a responsible party in the event of an emergency.

That the tower base and access easement be kept free of noxious weeds, litter and debris.

In the event the applicant should decide to rent out space on the tower to a private for-profit entity, then the applicant agrees to provide notice to all owners of property within 1,000 feet of the tower. If the owners of 50% of the land within the 1,000 feet of the tower shall request it, a public hearing shall be held by the Board of County Commissioners not later than 30 days following the receipt of the request by the Board of County Commissioners. All landowners within 1,000 feet of the tower shall be provided notice of hearing by first class mail, postage prepaid.

If the applicant should sell or donate the tower to Franklin County Rural Water District #1 or its successors or assigns, then the new owner shall be required to reapply for a Special Use Permit. Said application shall be made in accordance with the policies and procedures contained in the then current Franklin County Zoning Regulations.

That the Special Use Permit shall be null and void by operation of law if said permit has not been initiated and utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 1st day of August, 2005. This action shall become effective upon publication in the official county newspaper.

/s/ Donald E. Waymire /s/ John E Taylor#9; Donald E. Waymire
John E. Taylor#9; Commissioner District 1 #9; Commissioner District 2

 /s/ Roy C. Dunn 9; /s/ Donald C. Hay
Roy C. DunnDonald C. Hay
 Commissioner District 3#9; Commissioner District 4

/s/ Donald R. Stottlemire
 Donald R. Stottlemire
 Commissioner District 5

Received and recorded this the 1st day of August, 2005.

 /s/ Shari Perry
 Shari Perry
 County Clerk