

PIEDMONT CITY COUNCIL

Special Meeting Minutes for Tuesday, April 17, 2018

A Special Session of the Piedmont City Council was held April 17, 2018, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on April 12, 2018.

CALL TO ORDER

Mayor McBain called the meeting to order at 6:35 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bob McBain, Vice Mayor Teddy Gray King, and Councilmembers Betsy Smegal Andersen, Jennifer Cavanaugh, and Tim Rood

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, and City Clerk John Tulloch.

SPECIAL SESSION

Study Session on Wireless Technology and Regulatory Framework

Wireless technology & Regulatory Framework

City Attorney Michelle Marchetta Kenyon explained the format of the meeting including presentations from legal and technical experts in the field of wireless communication facilities. She indicated that the City Council and members of the public would have the chance to ask questions of the technical and legal experts presenting at this meeting. Ms. Kenyon then introduced Lee Afflerbach of CTC Technology and Energy as well as Harriet Steiner, a partner in the law firm of Best, Best and Krieger. She also provided the Council with the professional backgrounds of Ms. Steiner and Mr. Afflerbach.

Mr. Afflerbach provided an overview of wireless technology, including 3G/4G macro cell development, enhancing macro site performance, small cells, small cell deployment options, radio frequency energy exposure, 5G and other potential future technologies.

Ms. Steiner briefed the Council on state regulations regarding wireless communication facilities, including preemption in the public right of way, the rights of cities to regulate wireless communication facilities, as well as CEQA and Historic Resources and Preservation regulations. She then detailed federal regulations including local agency timelines and limits on consideration of applications, as well as the application and definition of significant gap in coverage and the least intrusive means standard. She also discussed the City of Piedmont's wireless communication facilities code provisions and other local regulations. She responded to questions submitted by the public regarding litigation, transferring the ownership of parks, moratorium, and municipal broadband.

In response to Council inquiries, Mr. Afflerbach suggested discussing monopoles with the carriers. He discouraged designing a system for a wireless carrier. He explained alternative models and study of appropriate locations. He discussed RF exposure.

In regard to Crown Castle's suit against the City of Piedmont regarding their applications, Ms. Steiner discussed the mediation process and indicated that both parties would have to agree on the outcome of the mediation in a public setting. Ms. Kenyon stated there was no risk to mediation and a lot of risk of the case proceeding to trial. She further indicated that litigation would be expensive with

the risk of a judge approving sites.

Public Testimony was received from:

Cameron Wolfe complimented the City on the workshop and suggested lobbying state and federal elected officials.

Stephen Kozinchik stated he had submitted nine questions that had not yet been answered. He asked why the revised code language included references to capacity; if there was a current significant gap; if the Crown Castle August 3, 2017 report was valid; and was there follow up on the City's requests for Crown Castle to amend the report. City Attorney Michelle Marchetta Kenyon explained the limitation on discussion regarding Crown Castle due to litigation. Ms. Steiner explained the means for determining a significant coverage gap and wireless companies' desire to expand business.

City Attorney Michelle Marchetta Kenyon stated she was interested in revising the ordinance and Mr. Kozinchik's questions would be useful.

Sherk Chung discussed Crown Castle's coverage map and questioned determination of significant gap in coverage. Mr. Afflerbach stated the burden was on the City and he explained the information he would request from the wireless companies. Ms. Steiner explained that the applicant had to provide evidence and that the City made the final decision.

Bruce Mowat expressed concern with a 35-foot tower next to his home and the possible impact on property value. He stated he was disappointed in the City's weak effort to protect residents and the lack of citizen input on the Crown Castle application.

Kirsten Myers stated her question had been answered.

Garrett Schwartz asked if aesthetics could take into account the sound from the facility. Ms. Steiner explained that the City could apply noise standards. Mr. Schwartz questioned distance from cell towers. Mr. Afflerbach discussed safe ranges of 15 feet for radio frequency and stated radiation was at its maximum in the horizontal plane. Ms. Steiner explained efforts to determine feasible sites. Mr. Afflerbach provided an example of determining the least objectionable location.

Chris Krenn asked if it was possible to place poles 45-50 feet away from bedrooms and for information on specific absorption rate. Mr. Afflerbach suggested reviewing the FCC regulations. He suggested a consulting engineer calculate based on the FCC procedure. City Attorney Michelle Marchetta Kenyon confirmed that the City had followed that procedure in reviewing prior applications.

Lisa Carnazzo asked how "least invasive means" was determined. Ms. Steiner explained the City's obligation was to see if there were other feasible locations if it was looking to deny. Ms. Carnazzo asked if the City Code previously prohibited cell sites near homes and schools. Planning Director Jackson stated the wireless code was updated in March 2017 to address technology and changes in state and federal regulations.

In response to Garrett Keating, Mr. Afflerbach discussed the radio frequency of

cell phones. He stated macro sites were not a problem due to height.

Anita Stappen expressed concern about multiple companies adding to small cell sites. Mr. Afflerbach stated it was unlikely based on the structure of the pole. Ms. Steiner explained restrictions on street level poles preventing significant expansion.

Emmy Weisner asked why Piedmont was different from Hillsborough and why fire fighters were exempt from placement of cell towers on their stations but schools are not. Ms. Steiner stated there was no logical reason for this exemption. She explained the application review and approval/denial process in Piedmont and Hillsborough.

The Council expressed appreciation for the public input. Ms. Kenyon thanked Ms. Steiner and Mr. Afflerbach for their briefings and for answering questions from the Council and the public.

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 9:27 p.m.