



Mary-Kathryn Salameh <msalameh@monterey.org>

Please forward to wireless ord. subcommittee

Mon, Jul 8, 2019 at 4:44 PM

To: msalameh@monterey.org

Dear Ms. Salameh,

Please forward to wireless ordinance subcommittee please. Thank you.

Nina Beety

Dear Wireless Subcommittee Members:

I request these changes to the new version of the wireless ordinance:

p. 69

E Applications and Submittals

4c. Notice to all persons entitled to notice

4h. Radius map and list of Property Owners and Occupants:

Please expand the notice area to 1000 feet, and include all residents' addresses as well as property owners. This was extensively discussed. Not including renters deprives them of their due process rights.

p. 74

F Design and Dev. Standards

Staff changed 1. Preferred designs.

(b) Was "Building-mounted facilities... Staff changed to "Excluding single-family homes..."

At the very least, this must be changed to "Excluding residential buildings.."

p. 78

8. Public rights-of-way

There is no language about limiting wireless facilities in residential areas.

Staff deleted b. Impact on Public Use

Please restore that section.

p. 79

Staff added new language in d(ii) on equipment cabinet – 16 cubic feet and 50" and larger can be approved.

Please don't allow such large equipment.

e(i) Antennas, "shall not exceed the diameter of the pole" was eliminated. Please restore this.

Also staff added new section e(ii) extensions of structures and antenna height – 4' plus

p. 84

I Notices-Findings-Decisions

2. Use Permit Findings.

Staff removed all the previous required findings

a. Applicant's obligation to prove existence of prohibition of service (approved in Dec.)

b. Not detrimental to the public health, safety and welfare

c. Complies with design and development standards in the City Code

d. Minimizes noise impacts

e. Resistant to graffiti

f. Doesn't impair views

g. Necessary or desirable for, and compatible with neighborhood and community

Please restore these required findings.

p. 85

K. Additional Conditions (typo) of for Wireless Use Permits

1(ii) regarding changes to the law after a permit is issued – "...the City may amend the permit to include any condition..."

Please change this to "...the City will amend the permit to include any condition..."

p. 88

L. Municipally-Owned or Controlled Supporting Structures

This is a new section from staff.

1. "The City, as a matter of policy, will negotiate agreements for use of city-owned or controlled supporting structures"
Please don't approve this section. Don't allow city infrastructure to be used for these small cells and wireless equipment. This would be a staff-run process. Once a franchise agreement is in place, as happened in Santa Cruz, small cells could be installed without any due process for the public.

Use of city infrastructure would create yet another access barrier for me along city streets and sidewalks. Please don't allow the public commons to be taken by private companies.

p. 89

M. Pre-Approval of Designs

Please strike this new section from staff. It is related to the recommendation made by Mr. Van Eaton last year. He suggested developing "safe harbor" areas for small cells in different areas of the city and "approved" designs to streamline and virtually guarantee approval. At that time, he also recommended exempting temporary cell towers.

M. Severability

Staff deleted this section. Please restore this section.

The wireless ordinance is particularly vulnerable to changes in the law, unlike other parts of the city code. Therefore, it is critical to include severability in it, which you approved in December.

Finally, please don't exempt temporary cell towers.

Sincerely,

Nina Beety



ANN AHRENS BECK
Assistant Vice President -
Senior Legal Counsel

AT&T Services, Inc.
208 S. Akard Street
Room 3026
Dallas, TX 75202

Phone:
E-Mail:

July 9, 2019

VIA E-MAIL

City of Monterey Wireless Subcommittee
570 Pacific Street
Monterey, CA 93940

Re: AT&T's Comments on Monterey's Personal Wireless Service Facilities
Ordinance and Encroachment by Communications Facilities Ordinance

Dear Wireless Subcommittee:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to provide comments on Monterey's proposed Personal Wireless Service Facilities Ordinance and Encroachment by Communications Facilities Ordinance ("Proposed Ordinances"). AT&T appreciates the City's efforts to revise its wireless facilities siting regulations to address small cells, particularly given developments in technology and applicable laws, including the Federal Communications Commission's *Infrastructure Order* and regulations.¹ With more than 72% of Americans relying exclusively or primarily on wireless telecommunications in their homes, and 70% of 911 calls made from mobile phones, it is especially important to encourage responsible deployments consistent with applicable law. And with AT&T's selection by FirstNet as the wireless service provider to build and manage the nationwide first responder wireless network, each new facility will help strengthen first responder communications.

Unfortunately, the Proposed Ordinances would establish rules at odds with state and federal laws. In particular, the City's very broad proposed prohibitions against siting small

¹ See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133 (September 27, 2018) ("*Infrastructure Order*").

cell facilities would violate federal and state laws. The City needs to take time to revise the Proposed Ordinances in order to comply with the law and to ensure its residents and businesses have access to vital wireless services. Small cells are low-profile, low-power wireless facilities that provide and improve vital wireless services for residents, businesses and visitors. Small cells are a win-win solution by providing and improving wireless services without cluttering the public rights-of-way. AT&T offers the following summary of applicable laws along with specific comments on the Proposed Ordinances.

Key Legal Concepts

The Federal Telecommunications Act of 1996 ("Act") establishes key limitations on local regulations. The Act defines the scope and parameters of the City's review of AT&T's applications. Under the Act, the City must take action on AT&T's applications "within a reasonable period of time."² The FCC has established and codified application "shot clocks" to implement this timing requirement.³ And the FCC has made clear that the City must grant all necessary approvals and authorizations within the applicable shot clock.⁴ The Act also requires that the City's review of AT&T's applications must be based on substantial evidence.⁵ Under the Act, state and local governments may not unreasonably discriminate among providers of functionally equivalent services.⁶

The Act also prohibits a local government from denying an application for a wireless telecommunications facility where doing so would "prohibit or have the effect of prohibiting" AT&T from providing wireless telecommunications services.⁷ The FCC has ruled that an effective prohibition occurs when the decision of a local government materially inhibits wireless services.⁸ The FCC explained that the "effective prohibition analysis focuses on the service the provider wishes to provide, incorporating the capabilities and

² 47 U.S.C. § 332(c)(7)(B)(ii).

³ See 47 C.F.R. §§ 1.6001, *et seq.*

⁴ See *Infrastructure Order* at ¶¶ 132-137.

⁵ 47 U.S.C. § 332(c)(7)(B)(iii).

⁶ 47 U.S.C. § 332(c)(7)(B)(i)(I).

⁷ 47 U.S.C. § 332(c)(7)(B)(i)(II).

⁸ See *Infrastructure Order* (The FCC rejected all coverage gap tests for an effective prohibition) at ¶ 40, n. 94; see also, *In the Matter of California Payphone Association Petition for Preemption, Etc.*, Opinion and Order, FCC 97-251, 12 FCC Rcd 14191 (July 17, 1997).

performance characteristics it wishes to employ, including facilities deployment to provide existing services more robustly, or at a better level of quality, all to offer a more robust and competitive wireless service for the benefit of the public.”⁹ Thus, a local government “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.”¹⁰

Under this *Infrastructure Order*, the FCC established a standard for appropriate fees related to small cells: (1) fees must be a reasonable approximation of costs, (2) costs must be objectively reasonable, and (3) fees must be non-discriminatory.¹¹ The FCC also established a standard for local aesthetic regulations that they must be (1) reasonable (i.e., has to be technically feasible), (2) no more burdensome than those applied to other infrastructure deployments, and (3) objective and published in advance.¹²

AT&T has a statewide franchise right to access and construct telecommunications facilities in the public rights-of-way. Under Public Utilities Code Section 7901, AT&T has the right to access and construct facilities in public rights-of-way in order to furnish wireless services, so long as it does not “incommode” the public use of the public right-of-way. And under Section 7901.1, AT&T’s right is subject only to the City’s reasonable and equivalent time, place, and manner regulations.

Specific Comments on the City’s Personal Wireless Service Facilities Ordinance

1. Times for Action. In Section 38-112.4(A)(4) of the proposed Personal Wireless Service Facilities Ordinance, the City Manager can extend or shorten the time for action on applications. AT&T appreciates that this provision can be used to ensure compliance with the FCC shot clocks. But to provide clearer guidance to City Staff and applicants, the City should explicitly refer to the applicable FCC shot clocks.

⁹ *Infrastructure Order* at n. 95.

¹⁰ *Id.* at ¶ 37.

¹¹ *See Infrastructure Order* at ¶ 86.

¹² *See id.* at ¶ 86.

2. Mock-Ups. The City also should eliminate its requirement for constructing mock-ups for every wireless facility as stated in Section 38-112.4(E)(4)(u). Photo simulations along with site-specific plans should suffice, especially stealth facilities.
3. Significant Coverage Gap. AT&T objects to Section 38-112.4(E)(4)(v)(iii)-(vi), which require providers to show that denial would result in a significant gaps and to provide coverage maps. These requirements should be eliminated. The FCC rejected all coverage gap tests to justify wireless facilities, including the version endorsed by the Ninth Circuit that requires showing the proposed facilities are the least intrusive means for filling a coverage gap.¹³
4. Incomplete Applications. Section 38-112.4(E)(6) provides that if an application is incomplete, "all applications for permits that must be acted upon by the same date as that application will also be deemed denied." The City needs to delete this provision as the City must accept, process and take action on an application within the FCC shot clock.
5. Prohibited Locations. The City needs to strike its proposed ban on wireless facilities in residential districts, historic and design districts and open space districts, in Section 38-112.4(F)(3). The City can articulate appropriate location preferences, but these bans will combine to create a general ban on wireless facilities. Specifically, a review of the City Zoning Map highlights the breadth of these prohibitions, which will materially inhibit AT&T from providing and improving wireless services in very large portions of the City. While AT&T understands the City's intent to preserve aesthetics in certain historic areas, to comply with federal law the City needs to abandon these prohibitions and instead establish reasonable, nondiscriminatory and objective aesthetic criteria.
6. Concealment. Many of the City's design standards require concealment. But under the FCC's aesthetic standard for small cells, concealment cannot be required to a greater extent than impose on other infrastructure deployments in the right-of-way. Further, some wireless components cannot be concealed.

¹³ See *Infrastructure Order* at ¶ 40, n. 94.

7. Structure Preferences for Facilities in the Public Rights-of-Way. In Section 38-112.4(F)(8)(b), the City prefers locating facilities on existing light poles and other City-owned structures. And in Section 38-112.4(F)(8)(f)(ii), new poles must be non-wood poles unless the provider uses a stealth design. These requirements steer wireless installations onto City-owned structures in violation of state law.¹⁴ These restrictions are also preempted by the FCC's aesthetic standard to the extent they are more burdensome than rules applied to other infrastructure deployments.

8. Pole Top Requirement. Section 38-112.4(F)(8)(e)(i) states that antennas should be placed in a radome at top of the pole. There may, however, be a number of reasons that inhibit installations on the top of the pole. This requirement should, therefore, be limited to the extent practical and feasible.

9. Antenna Volume. In Section 38-112.4(F)(8)(e)(i), the *total* volume of antennas cannot exceed three cubic feet. This requirement is inconsistent with the FCC's definition for small wireless facility in 47 C.F.R. § 1.6100(b)(6), which states that *each* antenna cannot exceed three cubic feet.

10. Extensions of Structures and Antenna Height. Section 38-112.4(f)(8)(e)(ii) limits the overall height of small wireless facilities above an existing supporting structure to four feet above the existing structure. While AT&T appreciates the City's interest in protecting aesthetics, the limit may actually harm aesthetics by preventing AT&T's ability to deploy its most stealthy facilities. For example, AT&T's typical streetlight-top design extends up to six feet above the pole top.

11. Prohibition on Decorative Poles and Strand Mounted Facilities. AT&T objects to Section 38-112.4(F)(8)(e)(v), which prohibits providers from siting facilities on decorative poles that are twenty feet or less, and Section 38-112.4(F)(8)(g) prohibiting strand mounted facilities. The FCC made clear that its interpretations apply to all government owned or controlled structures within the right-of-way.¹⁵ Moreover, many jurisdictions favor decorative pole designs for small cells, subject to a requirement that new or replacement decorative poles housing small cells are designed to look similar to nearby decorative poles. These

¹⁴ *California Govt. Code Section 65964(c)*.

¹⁵ *Id.* at ¶ 69.

categorical bans on attaching facilities to certain structures will also effectively prohibit wireless services in certain parts of the City in violation of the Act.

12. Time Period for Providers to Take Action. Throughout the City's ordinance, providers have thirty days in which to take action after the City provides notice. For example, in Section 38-112.4(H)(1)(a)(ii)&(H)(1)(c), providers have thirty days to respond when the City declares a facility to be abandoned or discontinued. AT&T respectfully requests these timeframes be changed so that applicants have 60 days to take applicable actions absent an emergency.

13. Notices. Section 38-112.4(I)(1)(a) requires the Planning Commission to conduct a noticed public hearing for pending applications. But facilities in the public right-of-way should be subject to a different, administrative process without a public hearing.

14. Appeals. In Section 38-112.4(I)(4), any interested party may appeal the City's actions. The City must take final action, inclusive of appeals, within the applicable shot clocks. The City should consider eliminating appeals for small cells that may otherwise add unnecessary pressure on the City.

15. Independent Consultant Review. Section 38-112.4(J) allows the City to retain an independent consultant to review applications and requires applicants to provide an advance deposit. While AT&T appreciates the City's desire to thoroughly review applications, consultants can unnecessarily increase the cost of deployment and slow down the permitting process. Use of consultants should limit review to appropriate and objective criteria, such as a structural safety assessment or compliance with FCC regulations of radio frequency emissions. And the City should be mindful that the cost of a consultant may not pass through to an applicant as only objectively reasonable costs can be passed on through application fees.

16. Permit Term. AT&T objects to Section 38-112.4(K)(1)(a)(i)'s requirement that permits for eligible facilities requests expire on the date the underlying permit expires, which conflicts with state law requiring a minimum duration of ten years for a wireless permit.¹⁶

¹⁶ See California Govt. Code Section 65964(b).

17. Additional Post Construction Reporting. Section 38-112.4(K)(1)(j) states that providers must submit a radio frequency compliance report to the City, and the City can require additional reports and independent technical evaluation of the facility. AT&T notes that providers will not be required to report if its facilities are categorically excluded. Additionally, providers only need to submit a post-installation compliance report consistent with the FCC's regulations.

18. Requests for Use. AT&T objects to Section 38-112.4(L)(2), allowing providers to submit a request for use of a City-owned structure before an application is submitted, "so long as the requesting party agrees that the request does not trigger any shot clock." There is no reason why providers must agree to this requirement, which is contrary to law.

Specific Comments on the City's Encroachments by Communication Facilities Ordinance

1. Undergrounding. Several provisions in the City's ordinances mandate undergrounding of equipment. These requirements must be revised to the extent necessary to avoid unlawful discrimination or effectively prohibiting wireless services. Wireless facilities cannot operate with all equipment underground. For instance, from a technical feasibility perspective, radio units must be placed above ground in order to be near enough to the antennas to function properly. In addition, Section 32-74 requires providers to apply for a deviation to place facilities above ground. Wireless providers should not be required to obtain a deviation where undergrounding facilities is not feasible.

2. Insurance. Section 32-72(i) requires insurance. AT&T should be permitted to self-insure.

3. Noninterference with Public Projects. AT&T must relocate or remove its facilities "by a time specified by the City" for any public project, as stated in Section 32-72(o). The City must revise this requirement to give a specific notice period, which should be no less than 90 days in non-emergency situations.

4. Movement for Others. Section 32-72(p) requires occupants to promptly relocate facilities as necessary for other users of the rights-of-way. AT&T asks that the City clarify this requirement as AT&T's right to occupy the right-of-way is not subordinate to other users.

5. Applications for Deviations. Section 32-76 requires complete applications for deviations to be filed at the same time as an application for a wireless permit. While AT&T will certainly strive to submit all applications together, if a need for a deviation arises later in the permitting process, the City must allow AT&T to apply for a deviation.

Conclusion

AT&T urges the City to revise its wireless siting regulations to accommodate new and emerging technologies and changes in law. By addressing the items we raise here, the City will go a long way toward encouraging deployments consistent with state and federal policies and to the great benefit of the City's residents and businesses.

Sincerely,



Ann Ahrens Beck

cc: Christine Davi, City Attorney



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: Wireless Sub-Committee review meeting on July 8th

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:37 AM

To: Mary-Kathryn Salameh <msalameh@monterey.org>, "COLE, Kimberly" <COLE@monterey.org>

Jenny Leinen

Administrative Assistant II
City of Monterey Engineering Department
580 Pacific Street
Monterey, CA 93940

(831) 646-3888
www.monterey.org



----- Forwarded message -----

From: **Sporleder** <

Date: Mon, Jul 8, 2019 at 1:17 PM

Subject: Wireless Sub-Committee review meeting on July 8th

To: <leinen@monterey.org>

Cc: <roberson@monterey.org>, <albert@monterey.org>, <haffa@monterey.org>, <smith@monterey.org>, <tyller@monterey.org>

Dear Ms Leinen:

Please forward this email today, to the members of the individual Planning Commissioners, as well as the wireless sub-committee members, so they have it before tonight's meeting.

My husband Howard and I are opposed to the size exemption for permitting wireless facilities in the Monterey area.

Nancy Sporleder

8 Linda Vista Place, Monterey



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: Wireless ordinance

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:37 AM

To: "COLE, Kimberly" <COLE@monterey.org>, Mary-Kathryn Salameh <msalameh@monterey.org>

Jenny Leinen

Administrative Assistant II
City of Monterey Engineering Department
580 Pacific Street
Monterey, CA 93940

(831) 646-3888

www.monterey.org

----- Forwarded message -----

From: **Nancy Johnson**

Date: Sun, Jul 7, 2019 at 8:56 PM

Subject: Wireless ordinance

To: <leinen@monterey.org>

Cc: <roberson@monterey.org>, <albert@monterey.org>, <haffa@monterey.org>, <smith@monterey.org>, <tyller@monterey.org>

Dear Ms Leinen,

Please forward this message to the Wireless Subcommittee members and members of the Planning Commission. Thank you.

Dear Members of the Wireless Subcommittee,

It has come to our attention that despite your hard work in drafting a sensible wireless ordinance for the city of Monterey, the city's outside attorney is recommending that all antenna devices sized two cubic feet and under be exempted from review. As you know, this would allow diverse providers to clutter our city with wireless equipment--without notice, hearing, public input, or appeal. We believe that

it is imperative that the citizens of Monterey preserve the right to participate in the creation of the regulations that affect the quality of our lives.

We are strongly opposed to national telecom corporations being allowed to defile our city--and perhaps endanger our health--at will. The City of Monterey should be working to underground utilities, making Monterey a safer and more beautiful city, not a blighted tribute to corporate profit.

Please reject the exemption from review proposed by the outside attorney.

Thank you,

Nancy and Robert Johnson

Monterey, California



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: My OBJECTION to celltowers in Monterey neighborhood

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:36 AM

To: Mary-Kathryn Salameh <msalameh@monterey.org>, "COLE, Kimberly" <COLE@monterey.org>

Jenny Leinen

Administrative Assistant II
City of Monterey Engineering Department
580 Pacific Street
Monterey, CA 93940

(831) 646-3888

www.monterey.org

----- Forwarded message -----

From: **Susanne Piccari**

Date: Sun, Jul 7, 2019 at 5:26 PM

Subject: My OBJECTION to celltowers in Monterey neighborhood

To: roberson@monterey.org <roberson@monterey.org>, albert@monterey.org <albert@monterey.org>, haffa@monterey.org <haffa@monterey.org>, smith@monterey.org <smith@monterey.org>, tyller@monterey.org <tyller@monterey.org>, leinen@monterey.org <leinen@monterey.org>

Susanne Piccari
845 Jefferson St
Monterey, CA 93940

Ms. Leinen,

I am writing to oppose the changes to our ordinance regarding DANGEROUS CELL TOWERS in our neighborhoods. We must strengthen, and not weaken, this ordinance. I am copying this letter to:

albert@monterey.org, haffa@monterey.org, smith@monterey.org, tyller@monterey.org

All wireless facilities must be subject to review and due process, including notice and a hearing!

I want to be on the record that I oppose this hasty change in city ordinance to accommodate the ambitious plans of cell service providerst, for the July 8th meeting.

We need governance!

We need prudence!

We need the leadership of our local community to step forward and say: "We will review this proposal, in due course!"

Ms. Leinen, please:

forward my request to the individual Planning Commissioners.

Also, please forward my request to the individual City Council Members:

roberson@monterey.org,

albert@monterey.org,

haffa@monterey.org,

smith@monterey.org,

tyller@monterey.org

Thank you,

Susanne Piccari



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: Wireless Sub-Committee Meetings

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:35 AM

To: Mary-Kathryn Salameh <msalameh@monterey.org>, "COLE, Kimberly" <COLE@monterey.org>

Jenny Leinen

Administrative Assistant II

City of Monterey Engineering Department

580 Pacific Street

Monterey, CA 93940

(831) 646-3888

www.monterey.org



----- Forwarded message -----

From: **Julie Dalton**

Date: Sun, Jul 7, 2019 at 1:38 PM

Subject: Wireless Sub-Committee Meetings

To: msalameh@monterey.org <msalameh@monterey.org>

Cc: roberson@monterey.org <roberson@monterey.org>, albert@monterey.org <albert@monterey.org>,

haffa@monterey.org <haffa@monterey.org>, smith@monterey.org <smith@monterey.org>, tyller@monterey.org

<tyller@monterey.org>, leinen@monterey.org <leinen@monterey.org>

Dear members of the Wireless Subcommittee, Planning Commission, and City Council:

I am writing to express my opposition to the proposed insertion of an exemption for wireless antenna devices under two cubic feet in the Wireless Ordinance. The intention of the City Council when it appointed the Wireless Subcommittee was to strengthen the ordinance, but this proposed exclusion severely weakens the ordinance. The outside legal counsel is attempting to insert this clause at the last minute undermining the draft the Wireless Subcommittee which was a result of over two dozen meetings. This clause would mean that such devices could be put up anywhere at any time without the public's right to know, without review, permit or any consideration as to the impact on the aesthetics, safety and peace for the residents of Monterey. This is the opposite of what was intended. This is unacceptable.

These devices would be twice the size of the splice boxes already there, adding dramatically to the existing visual blight. Telecom companies would be allowed to put them hanging on the wires between every two poles, in every residential, commercial, historic, mixed use, open space and industrial district in Monterey, along all public rights-of-way, and elsewhere, with no notice, no hearing, no appeal, and no public input. This is unacceptable.

These devices have nothing to do with improving wireless calling. They are essentially large outdoor routers that the telecom companies would charge customers to use, but they would be emitting 24/7. These systems are new technology. We cannot go forward assuming they will not negatively impact residents as these assumptions are based on old technology, not this newer technology. The permit process is the only way residents and city officials can review how these devices work and whether they fit into the city's ordinances.

Why would we want to give up the city's ability to regulate what goes into the public-right-of-ways and thereby also give up the public's right?

As you are aware, there have been no long-term studies of EMF at the frequency of mm waves at this type of residential densification, nor any pre-market safety testing by the FCC. This mad rush to deploy, to the extent Telecom wants to be exempt from the permitting process, needs to be resisted. It would also open the door for every Telecom company to install such devices without any oversight at any time. Our streets could very soon be littered with unsightly, untested

We look to our government to watch out for our well-being. Please do so.

I ask that this letter be forwarded to all individuals on the Planning Commission and be placed in the record for the July 8th and 9th meetings.

Thank you,
Julie Dalton



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: Wireless Ordinance meeting July 8-9

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:33 AM

To: "COLE, Kimberly" <COLE@monterey.org>, Mary-Kathryn Salameh <msalameh@monterey.org>

Jenny Leinen

Administrative Assistant II
City of Monterey Engineering Department
580 Pacific Street
Monterey, CA 93940

(831) 646-3888

www.monterey.org



----- Forwarded message -----

From: **Leslie Rosenfeld**

Date: Sat, Jul 6, 2019 at 4:49 PM

Subject: Wireless Ordinance meeting July 8-9

To: leinen@monterey.org <leinen@monterey.org>, msalameh@monterey.org <msalameh@monterey.org>

Cc: roberson@monterey.org <roberson@monterey.org>, albert@monterey.org <albert@monterey.org>,

haffa@monterey.org <haffa@monterey.org>, smith@monterey.org <smith@monterey.org>, tyller@monterey.org <tyller@monterey.org>

Please forward to all the Wireless Subcommittee members and the Planning Commissioners, and enter into the record for the July 8-9 meeting.

I live in the Skyline Forest area and I support the work that Monterey's Wireless Subcommittee has done to redraft and strengthen the city's wireless ordinance. I strongly oppose the last minute addition to the ordinance by the city's outside attorney to exempt all wireless antenna devices at or under two cubic feet, installed on preexisting structures and wires between utility poles. Please don't undercut the Subcommittee's work to date and give carte blanche to the telecom industry to install equipment without a permit process and all application requirements.

Sincerely,
Leslie Rosenfeld

791 Dry Creek Rd
Monterey, CA



Mary-Kathryn Salameh <msalameh@monterey.org>

Fwd: Important Issue

1 message

Jenny Leinen <leinen@monterey.org>

Tue, Jul 9, 2019 at 8:33 AM

To: "COLE, Kimberly" <COLE@monterey.org>, Mary-Kathryn Salameh <msalameh@monterey.org>

Jenny Leinen

Administrative Assistant II
City of Monterey Engineering Department
580 Pacific Street
Monterey, CA 93940

(831) 646-3888

www.monterey.org



----- Forwarded message -----

From: **Kimberly Sims**

Date: Sat, Jul 6, 2019 at 4:24 PM

Subject: Important Issue

To: <leinen@monterey.org>, <roberson@monterey.org>, <albert@monterey.org>, <haffa@monterey.org>, <smith@monterey.org>, <tyller@monterey.org>

Dear member of the Wireless Subcommittee, Planning Commission, and City Council:

The Wireless Subcommittee, appointed by the City Council, drafted a strengthened Wireless Ordinance after meeting at least two dozen times at the end of last year. However, the outside attorney that the City hired to do legal review of the strengthened ordinance is attempting to insert a clause into the draft that would exempt all wireless antenna devices at or under two cubic feet, installed on preexisting structures and wires between utility poles. These devices would be twice the size of the splice boxes already there, adding dramatically to the existing visual blight. AT&T and Comcast, and presumably others, would be allowed to put them hanging on the wires between every two poles, in every residential, commercial, historic, mixed use, open space and industrial district in Monterey, along all public rights-of-way, and elsewhere, with no notice, no hearing, no appeal, and no public input.

These are EMF-emitting antenna systems that would blanket the city and add to the already unbearable visual clutter hanging from poles and wires. Further, they would add to the wind load on wires and poles, increasing fire risk. They have nothing to do with improving wireless calling. They are essentially large outdoor routers that the telecom companies would charge customers to use, but they would be emitting 24/7. These systems are new technology. It is always a mistake to give carte blanc to the telecom industry without a permit process and all application requirements. Essential information, like how they operate and what they will be used for, is only shared during a permit process.

This new insertion that came out at the last minute must be blocked. The draft was created by the Wireless Subcommittee who was tasked with strengthening the existing ordinance, not weakening it, as this exemption would do, in direct opposition to the stated goals set by the City Council and the Subcommittee. This would exempt all small antenna systems. It may include all 5G antenna deployments as the equipment gets smaller and smaller but continues to emit electromagnetic radiation in the microwave spectrum. Since Big Telecom say everything is going to 5G in the future, what is the point of having a wireless ordinance that exempts all small cell antenna devices?

The accumulated beam-forming antennas will likely be a potential danger to our community and will destroy the character of our beautiful neighborhoods, which are becoming increasingly impacted due to the unregulated addition of huge strands, splice boxes, dangling cables hanging off boxes attached to wires, transformers and electric smart meter antennas. That's what happens when there is little regulation or oversight. Does the city even have a full accounting of everything that is on the wires? But these new devices with wireless *antennas* would even fall under the old Wireless Ordinance, which gives the City the legal right to require a permit first. Again why would we want to weaken and not strengthen the wireless ordinance? Why would we want to give up the city's ability to regulate what goes into the public-right-of-ways and thereby also give up the public's right?

As you are aware, there have been no long-term studies of EMF at the frequency of mm waves at this type of residential densification, nor any pre-market safety testing by the FCC. This mad rush to deploy, to the extent Telecom wants to be exempt from the permitting process, needs to be resisted.

Support your Wireless Subcommittee — urge them to resist this exemption from permitting based on size before it's too late to protect your homes, your views, your neighborhoods, and your city. You have a right to know, a right to due process, and to use your democratic powers to influence what equipment goes up right outside of your homes and throughout your city.

Best Regards,
Kimberly Sims
Monterey

Laurie Hambaro,
New Monterey Neighborhood
Association

At our July monthly meeting, New Monterey Neighborhood Association was able to review and discuss the variety of 5G small cell phone tower design alternatives considered by the Planning Commission in May.

As staff and community members craft a draft of the city's ordinance that will guide future installations of small cell towers in Monterey, we suggest the following:

- The City allow for a mix of tower styles (as appropriate for the location). Top of the Pole and Integrated Pole appear to be the least 'obvious' and therefore preferable, but we can imagine the possibility that there might be locations where mid-pole or bottom of the pole would be less expensive and unobtrusive.
- Bottom of the Pole, in our opinion, would take too much of sidewalk width, so would be undesirable in those areas.
- Blanketing our residential neighborhoods with countless radio-wave producing installations is not the direction we would encourage. (i.e. fiber optic would be preferable.)
- That the pole style for each location be **unobtrusive**, visually and for sound – fan-cooled towers turning on day and night could be as irritating as a mass of equipment in one's view.
- permanent introduction of any of these poles would, at minimum, be of interest to nearby residents and/or property owners. For some, it could raise concerns.
We, therefore, strongly support a requirement that there be a public process for any permits.
- all small cell towers, whether temporary or permanent, should be required to get a permit which would trigger public notification. (e.g. Posting a notice at the site of a temporary installation a week in advance could perhaps meet that public notification requirement.)
- Owners and/or residents of adjacent properties and properties that might reasonably view it as an 'irritant' or 'obstruction' should be notified.
- We would want small cell poles only where poles already exist, including in parks.
- We want the city to clarify the health effects of this technology. What is the cumulative effect if half a dozen companies blanket a residential neighborhood? What is the maximum number an area can accommodate before the public begins to show physical health effects? These would be emitting 24/7 in addition to other technologies already in place.

