

September 30, 2020

To: Lori Bagwell, Mayor-Elect
John Barrette, Ward 4
Brad Bonkowski, Ward 2
Stacey Giomi, Ward 1
Lee Plemel, Community Development Director
Nicki Aaker, Director, Health and Human Services

RE: 10-01-20 Agenda Item 16A

People:

There is an alarming amount of dog-whistling circulating amongst the citizens regarding zoning changes. My comments on this topic may seem hypocritical, since you know me as one of the founding members of Save Open Space. However, I never intended my activism to encourage any kind of red-lining.

The following is a quote from an e-mail regarding Agenda Item 20B sent to some of you previous to last month's BOS meeting and forwarded to me. I will be happy to forward the entire e-mail to you if you wish. I am not acquainted with the writer, and in no way do I support this writer's opinion.

"CARSON CITY HOMEOWNERS BEWARE! The Board of Supervisors wants to disenfranchise you....this vote will make it permanent...that transient renters can sit on the Board. With only 6 months living here, any transient renter can run for a seat on the Board.

"You may have noticed that most of the new development going on is multifamily, i.e., apartments. If transient renters get seats on the Board, there will be more and more, higher and higher, more squashed and more squashed monster building developments coming to our beautiful valley. Our very identity as a single-family home community will be destroyed.

"I grew up in urban projects, which are now cesspools of crime, dirt, overcrowding, and poverty. Why bring this scourge down on Carson City? We are already facing problems with long-stay motels which are being used as apartments. Why make it worse?

"Transient renters put undo (sic) burdens on our city services, such as police, fire, schools and roads. We can barely afford these services now. Transients come and go, not caring for our town. There is a similar situation at our southern border, where illegal immigrants want to come into the U.S., use our social services and vote."

In the '50s, folks in the suburbs worried they'd marry their daughters. Same prejudice, different dogwhistle. My response was, "This is purely racist, and I will have no part of it."

Sincerely,



Suzanne Fox
1867 Maison Way
Carson City, 89703
775-750-3500

From: [Shank, Aaron M.](#)
To: [Public Comment](#)
Cc: [DI BENE, JOHN \(Legal\) \(jd3235@att.com\)](#)
Subject: FW: AT&T's comments on Carson City's draft small cell ordinance and policy
Date: Wednesday, September 30, 2020 11:58:51 AM
Attachments: [AT&T Comments September 30, 2020.pdf](#)

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Please accept this letter from John di Bene on behalf of AT&T to provide comments on Carson City's draft policy regarding placement of small cell wireless equipment in Carson City rights-of-way, Item #14 on the Board's October 1, 2020 agenda. Thank you.

Aaron M. Shank
Outside Legal Counsel for AT&T

AARON M. SHANK

Porter Wright Morris & Arthur LLP
[Bio](#) / ashank@porterwright.com
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From: Shank, Aaron M. <AShank@porterwright.com>
Sent: Wednesday, September 30, 2020 2:34 PM
To: bcrowell@carson.org; 'sgiomio@carson.org' <sgiomio@carson.org>; 'BBonkowski@carson.org' <BBonkowski@carson.org>; 'LBagwell@carson.org' <LBagwell@carson.org>; 'JBarrette@carson.org' <JBarrette@carson.org>
Cc: 'treese@carson.org' <treese@carson.org>; DI BENE, JOHN (Legal) (jd3235@att.com) <jd3235@att.com>
Subject: AT&T's comments on Carson City's draft small cell ordinance and policy

Dear Mayor Crowell and Supervisors Giomi, Bonkowski, Bagwell, and Barrette, and Mr. Reese: Please accept this letter from John di Bene on behalf of AT&T to provide comments on Carson City's draft policy regarding placement of small cell wireless equipment in Carson City rights-of-way. Please feel free to contact us if you have questions. Thank you.

Aaron M. Shank
Outside Legal Counsel for AT&T

AARON M. SHANK

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END OF NOTICE



JOHN DI BENE
Assistant Vice President-
Senior Legal Counsel
Legal Department

AT&T Services, Inc.
2600 Camino Ramon
Room 2W901
San Ramon, CA 94583

925.543.1548 Phone
jdb@att.com

September 30, 2020

VIA E-MAIL

Carson City Board of Supervisors
201 N. Carson Street
Carson City, NV 89701

Re: AT&T's Comments on Carson City's Policy Regarding Placement of Small Cell
Wireless Equipment in Carson City Right-of-Way

Dear Mayor Crowell and Supervisors Giomi, Bonkowski, Bagwell, and Barrette:

I write again on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to provide comments on the City of Carson City's proposed regulations referenced above ("Proposed Policy"). AT&T recognizes the City has been continuing its efforts to revise its wireless facilities siting regulations to comply with applicable laws, including the Federal Communications Commission's *Small Cell Order*.¹ With more than 78% of Nevada households relying exclusively or primarily on wireless communications in their homes,² and 70% of 911 calls made from mobile phones,³ it is especially important to promote advanced wireless services that are needed now more than ever.

Although we have made some progress on issues with City staff, AT&T suggests that the current proposal needs more time to achieve the City's goal of complying with applicable law. We briefly explain the most significant issues below. We respectfully request that the Board postpone action at this meeting and instead direct staff to work with the wireless industry to rework the Proposed Policy. We appreciate the City's consideration of this request.

AT&T's Specific Comments

1. **Application Fees Must Be Reduced.** The City's application fee for small cells must be reduced to come in line with federal law. Under the *Small Cell Order*, the FCC established a standard for lawful fees, which requires that: "(1) the fees are a reasonable approximation of the state or local government's costs, (2) only objectively reasonable costs are factored into those

¹ See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, FCC 18-133, 30 FCC Rcd 9088 (September 27, 2018) ("*Small Cell Order*").

² Center for Disease Control and Prevention, December 2019 National Health Interview Survey Early Release Program, available at https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_201912-508.pdf.

³ See *Eleventh Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges*, FCC, December 19, 2019, at 10 (available at <https://www.fcc.gov/file/17724/download>) (in 2018, nearly 150 million 911 calls came from wireless phones).

fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations.”⁴ To help municipalities avoid imposing unlawful fees, the FCC established a safe harbor for presumptively reasonable fees: (a) \$500 for the total of all nonrecurring fees for an application including up to five small cells, plus \$100 for each small cell beyond five, or \$1,000 for the total of all nonrecurring fees for a new pole to support small cells, and (b) \$270 per small cell per year for the total of all recurring fees.⁵ In fact, the FCC explained that these fees would be exceeded in “only very limited circumstances.”⁶ And just last month, the Ninth Circuit U.S. Court of Appeals upheld the FCC’s fee standard and safe harbor.⁷

The City’s proposed building permit application fee of \$1,400 is well above the FCC’s safe harbor, and the City has not justified how this extremely high fee complies with the FCC’s standard. This is an unrealistic estimate, and it falls well short of the requirement that such fees be objectively reasonable. Many small cells will be collocated on existing structures, which should require far lower costs for the City to process. And while the City has roughly estimated it will take **18 hours** to process each small cell application, there is no explanation for why the component tasks would take such an extraordinary length of time. The City’s Staff Report also explains that the \$1,400 fee is “consistent with the fees proposed by neighboring regional municipalities.” Federal law, however, requires fees to be based on the City’s *actual* costs.⁸ The City cannot justify excessive fees based on charges of nearby jurisdictions, which may or may not be based on reasonable costs; the fees charged by others are simply not relevant to the question of the City’s costs.

AT&T also cautions that the City cannot recoup costs that are not objectively reasonable.⁹ In fact, we understand that City staff anticipates actual costs will be much lower once it gains some experience in handling these types of applications. In other words, the staff effectively concedes that its cost estimates are excessive. AT&T is happy to work with the City to identify reasonable costs, and if the City is willing to do so, the City can bring its fees within the FCC’s safe harbor.

2. Other Fees. AT&T also urges the City to reconsider its building permit extension fee of \$500 and its recurring \$691 electricity fee for use of City-supplied power, both of which the City requires without proper cost-based justification. It should not require significant costs to issue an extended or renewal building permit. It is worth noting that the extension fee is **5 times** the FCC’s safe harbor per application for a batch of five small cell sites. And although AT&T recognizes that providers can submit a load study to adjust the electricity fee, AT&T estimates that \$50 per year is a reasonable cost for bringing electricity to these low-powered facilities. Because the City’s proposed fees are so high, the City needs to revisit and revise them before enacting the Proposed Policy.

⁴ *Small Cell Order* at ¶ 50.

⁵ *Id.* at ¶ 79.

⁶ *Id.* at ¶ 80.

⁷ *City of Portland v. United States*, 969 F.3d 1020, 1037-39 (9th Cir. 2020).

⁸ 47 U.S.C. § 253(c).

⁹ *Small Cell Order* at ¶ 70 (the FCC specifically cautioned local governments that “any unreasonably high costs . . . may not be passed on through fees even though they are an actual ‘cost’ to the government”).

3. Building Permit Application Process. The Proposed Policy’s application review process states that the City will “make all reasonable efforts” to process applications and “anticipates completing” application reviews within 60 or 90 calendar days. But federal law provides a presumptively maximum period of time for review. The FCC’s established 60 and 90-day “shot clocks” for small cells, which are codified in the FCC’s regulations,¹⁰ give effect to the requirement in the Telecommunications Act of 1996 (the “Act”) that local governments act “within a reasonable period of time.”¹¹ Specifically, the FCC has ruled that local governments *must* take final action on all aspects of a small cell application by the shot clock deadline.¹² Failure to do so effectively prohibits wireless service in violation of the Act.¹³ The Ninth Circuit also recently upheld the FCC’s small cell shot clocks.¹⁴

The Proposed Policy should provide these same time limits. Understating the importance of the shot clocks, as the current draft does, will only create confusion and set staff up to miss deadlines. If certain applications do present shot clock problems for staff, the FCC allows the time period for review to be extended by mutual agreement between the jurisdiction and applicant.¹⁵ AT&T will of course work with the City to toll the shot clock where necessary and appropriate, but the Proposed Policy needs to clearly guide staff to act within the shot clocks.

4. NV Energy Poles. The Proposed Policy also mistakenly allows 90 calendar days for staff to process applications for attachments to NV Energy poles rather than 60 calendar days. The FCC’s shot clocks apply to collocations on NV Energy poles, so the City needs to rework its permitting process to review all collocation applications within 60 calendar days.

5. Wood Poles. The City prohibits new wood poles in the rights-of-way, and bans attachments to existing wood poles within certain areas. AT&T will certainly work with the City on design preferences, but the City should not impose blanket bans on attachments to wood poles, which runs a substantial risk of materially inhibiting wireless services. What’s more, the prohibition on new wood poles might adversely affect aesthetics where a new pole is needed in an area of the City with existing wood poles.

6. Above Ground Cabinets. Section 2.0.A.3 still requires above ground cabinets to include “creative design solutions,” such as incorporated into a bus stop or bench or the use of murals or landscaping. This requirement is unreasonable. For example, there are above-ground cabinets without “creative design solutions” throughout the City, and the City should not apply more restrictive standards against small cell installations than it imposes on its traffic lights, or its electrical utility transformers, or cable equipment.

¹⁰ See 47 C.F.R. §§ 1.6003(c)(1)(i), (iii).

¹¹ 47 U.S.C. § 332(c)(7)(B)(ii).

¹² See *Small Cell Order* at ¶¶ 132-137, 144 (the shot clocks apply to “all aspects of and steps in the siting process”).

¹³ *Id.* at ¶ 118.

¹⁴ *City of Portland*, 969 F.3d at 1043-44.

¹⁵ See 47 C.F.R. § 1.6003.

7. Site Reservation Process. AT&T requests again that the City revise the Proposed Policy's site reservation process in Section 3.0.B to allow providers to reserve up to 10 sites per month, perhaps with a maximum of 30 total sites at a time. In addition, rather than authorizing various discretionary permit extensions, the process should ensure that once a provider submits its building permit application, the reservation stays in place until the site is approved and constructed (or until the site is denied).

8. Purpose of New Poles. AT&T objects again to Section 2.0.A.6, which states that new poles cannot function for the sole purpose of accommodating a small wireless facility. While AT&T is happy to sit down with staff to discuss designs, it is unreasonable to require AT&T to erect a street light or a pole that serves some different purpose from its intent as a wireless support structure.

Conclusion

AT&T appreciates the City's intent to develop small cell regulations that balance community and industry needs, but the Board should grant a continuance to allow staff an opportunity to collaborate with the industry. Collaborating with the industry will allow the City additional time to identify objectively reasonable fees and to incorporate other revisions into the Proposed Policy that will avoid violations of federal law and the potential disputes that could result. AT&T is confident that, working with the industry, the City can craft reasonable regulations that will encourage responsible deployments and comply with all applicable legal requirements.

Very truly yours,

/s/ John di Bene

John di Bene

cc: Todd Reese, Deputy District Attorney

From: [Denise Suglia](#)
To: [Public Comment](#)
Subject: Title 18 CCMC Public Comment
Date: Wednesday, September 30, 2020 9:13:09 AM

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

I believe that the CCMC, Title 18, currently permits a single family home owner (or tenant) to convert a landscaped front yard and/or front side yard into a parking lot for vehicles by parking on the grass until the vegetation is destroyed. If so, this should no longer be permitted. Once a homeowner parks a vehicle on the yard, the existing vegetation is quickly destroyed and will not return until the soil is no longer compacted and the vegetation is actively restored.

I live on Tahoe Drive and over the years have personally observed the destruction caused to lawns on my street by vehicular parking on residential front yards.

About 10 or 11 years a full sized pick-up truck parked on the front yard of 180 Tahoe Drive. The entire front yard remained compacted and unsightly and unable to support any vegetation until sometime in 2018. At that time, new homeowners hired a professional crew of laborers and heavy equipment to fully restore and re-sod the entire front yard to the current lush green yard that now demonstrates a great pride in ownership. The point of this example is that just a few weeks of truck parking on the front yard completely destroyed this yard for many years. The yard did not revive without a great cost and effort by the new and current homeowner. While the neighbors are pleased to see the effort of the new homeowners, until they came along, the existing neighborhood had to live with an unsightly mess for 8 or 9 years.

One current example of a conversion of landscaped yard to dirt driveway is 156 Tahoe Drive. Over the past few years, the homeowner utilized his truck to destroy the entire east side of his front yard. The side yard was once heavily landscaped with flowers, ornamental shrubs and lawn. The current side yard now supports a few invasive trees, dirt and an accumulation of garbage cans, tree branches and other trash. When it rains the dirt from the de-vegetated area washes onto the side walk and street making an even bigger mess. This conversion of a landscaped yard to a compacted dirt driveway is both unsightly and unnecessary.

Our zoning code reflects the values of the community and we apparently find that landscaped yards in the SF Residential zone are beneficial to the neighborhood. A well landscaped residential neighborhood will add to property values. Turning a front yard into additional parking area that destroys the visual benefit of a well maintained yard will at some point will adversely impact neighborhood home values. The "truck trashing" of a front yard can be easily accomplished in a few weeks, but the restoration of the harm can only come with a great expenditure of time and money. At a minimum, any lawn conversion to a driveway should require the surface to be covered with rock, gravel, concrete or other similar material to minimize dust and erosion and to minimize the adverse visual impact of compacted dirt. There should also be restrictions on the amount of area that can be converted, so that the entire front yard is not a driveway devoid of vegetation or

other landscaping features.

I appreciate your consideration of my comments.

Mike Suglia
128 Tahoe Drive
Carson City



Virus-free. www.avast.com

From: [Hannah Borris](#)
To: [Public Comment](#)
Cc: [Todd Reese](#); [Dan Stucky](#)
Subject: Public Comment - Item #14.A & Item #14.B - Small Cell Policy & Form MLA - Verizon Comment Letter for 10/01/20 BOS Hearing
Date: Tuesday, September 29, 2020 5:26:59 PM
Attachments: [CC NV BOS Hearing VZ Continuance Request \(FINAL 09-29-2020\) Signed..pdf](#)

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good evening City Clerk,

On behalf of Verizon Wireless, please accept the attached comment letter for consideration and inclusion in the record for the October 1, 2020 Board of Supervisors meeting. If you could forward this letter to the Board of Supervisors, it would be greatly appreciated.

We have read the City's COVID policy and a Verizon representative will be available at the virtual meeting to provide additional comment and answer any questions.

Best regards and thank you,

Hannah

Hannah Borris

Wireless Policy Group, LLC

Cell: 925-364-0910

hannah.borris@wirelesspolicy.com

www.wirelesspolicy.com



September 29, 2020

Via Email

publiccomment@carson.org

Carson City Board of Supervisors
Robert Crowell, Mayor
Brad Bonkowski, Supervisor
John Barrette, Supervisor
Stacey Giomi, Supervisor
Lori Bagwell, Supervisor

RE: Request for a Continuance for Agenda Item 14.A – Proposed amendments to the “Carson City Public Works Placement of Small Cell Wireless Equipment in Carson City Right-of-Way” policy and Agenda Item 14.B – Form Small Cell Master License Agreement

Dear Mayor Crowell and Supervisors,

On behalf of Verizon Wireless, we would like to thank the Board and staff for its efforts on this important topic. We have appreciated the opportunity to engage with Todd Reese, Deputy District Attorney and Dan Stuckey, Deputy Public Works Director and to provide information about Verizon’s wireless network evolution and the improvements that are necessary to enhance public safety and ensure quality, reliable service for your residents and businesses.

We are at this time requesting a continuance of the pending policy amendment and form small cell master license agreement scheduled for the October 1, 2020 Board of Supervisor’s hearing so that we have additional time to work and consult with staff on the remaining provisions which may not result in the best aesthetic outcome for the community or do not comply with the FCC Order.¹

We would like an opportunity to meet with staff to discuss the issues outlined below:

1. Prohibition of attaching to wooden poles in special districts

Section 2.0(A.2)(b) of the policy prohibits attachment to wooden poles within the Downtown Redevelopment Area or within the limits of planned corridor beautification projects. While we understand the City’s desire to minimize visual impacts in these special districts, this prohibition may

¹ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order (September 26, 2018) (“FCC Order”).*

inadvertently create the need for wireless carriers to propose new poles where they may otherwise not be required. All existing vertical infrastructure in the Right-of-way (“ROW”) should be open to attachment. The use of existing vertical infrastructure minimizes the need for placement of new poles in the ROW. Verizon requests that the City consider an exception process for these special districts where the City may consider requests to attach to wooden poles that are not planned for removal within 6-months of the date application, with the Applicant assuming the risk that a particular pole may be selected for removal and utility undergrounding. In such event, the Applicant would be required to remove and relocate the small cell equipment at its sole cost and expense.

2. Fees

Section 4.0 of the policy and section 4 of the master license agreement establish fees for small cell facilities. The below fees are of particular concern:

- Building permit application fee: \$1,400
- Building permit extension fee \$500

The FCC Order established a standard for lawful fees, which require that 1) the fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly situated competitors in similar situations.² The FCC provides a safe harbor for presumptively reasonable fees of \$500 for an application including up to five small cells, plus \$100 per facility thereafter and \$1,000 for an application involving new poles.³ Cities may charge fees above these levels only where they can demonstrate that their actual costs exceed the presumptive levels. In fact, the FCC explained there “should be very limited circumstances in which localities charge higher fees.”⁴

The City’s building permit application fee for small cells is greater than the fees charged for applications for some macro facilities, which is a much more intensive use as compared to small cell facilities. Macro wireless facilities located on an existing tower, monopole, electric utility transmission tower, water tower, or other existing structure or public facility are permitted upon approval of a building permit and administrative permit.⁵ The fee for an administrative permit is \$750 + \$60/hr. over 10 hours. This fee is also much greater than the building permit fee for other commercial structures, which is 1% of the total value of commercial construction.

While the City has provided a cost estimate that anticipates 18 hours of staff time to review small cell applications, it does not account for the difference in review time between small cells collocated on existing poles and small cells proposed on new poles, or why the estimated review time is greater for a small cell facility than a macro facility. Additionally, small cell design configurations are typically comprised of a few standardized designs, and over time, it’s expected that application review will become routine and efficiencies will be gained. Therefore, in order to comply with the FCC Order,

² *Id* at ¶ 50.

³ *Id* at ¶ 79.

⁴ *Id* at ¶ 80.

⁵ See *Carson City Municipal Code §18.15.025*.

September 29, 2020
Page 3

Verizon suggests restructuring the fee to be structured as a deposit or as a standard fee consistent with the FCC safe harbor limits, plus an hourly rate for any time spent above the amount recovered under the established fee.

We would appreciate the opportunity to have additional time to work with staff on changes related to the above issues in order to bring the proposed policy amendment and form master license agreement into compliance with federal law and allow the industry to provide reliable service to your residents while preserving the look and feel of your community. We thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Hannah Borris". The signature is written in a cursive, flowing style.

Hannah Borris
Wireless Policy Group, LLC on behalf of Verizon Wireless

Cc: Todd Reese, Deputy District Attorney
Dan Stuckey, Deputy Public Works Director

From: [Halinski, Timothy](#)
To: [Darren Schulz](#)
Cc: [Public Comment](#); [Delarosa, Rodrigo](#); [Murphy, Doug](#)
Subject: Board of Supervisors October 1 Meeting - Agenda Item 14 - T-Mobile Comments
Date: Tuesday, September 29, 2020 3:55:50 PM
Attachments: [image002.png](#)
[T-Mobile Comments Re Carson City Small Cell Guidelines and Master License Agreement.pdf](#)

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good evening Darren,

T-Mobile was made aware of several small cell items on the Board of Supervisor's agenda for the October 1 meeting (Agenda Item 14). We have attached to this email comments which outline concerns with a few provisions, and also request a continuance to engage with staff further. I've copied the Public Comment email address to ensure our comments are contained in the record for tomorrow's meeting. We appreciate the City's willingness to engage with industry on bringing these guidelines and agreement to completion, and look forward to continued partnership moving forward. Please don't hesitate to reach out with any additional questions. Thanks,

Tim Halinski
Siting Advocacy Manager

T Mobile

Direct 678.690.3590 | Mobile 770.891.0499 | timothy.halinski1@t-mobile.com
T-Mobile.com | Follow T-Mobile on [Twitter](#), [Facebook](#) and [Instagram](#)



Via Email to Dschulz@carson.org

September 29, 2020

Darren Schulz
Public Works Director – Carson City
201 N. Carson St.
Carson City, NV 89701

Re: T-Mobile Comments on Carson City’s Proposed Small Cell Design Guidelines and Master License Agreement

Dear Mr. Schulz

I write on behalf of T-Mobile West, LLC (“T-Mobile”) regarding Carson City’s (the “City”) Proposed Guidelines for Small Cell Wireless Equipment in Carson City Right-of-Way (the “Draft Design Standards”) and the Proposed Master License Agreement (the “Draft MLA”). T-Mobile appreciates the opportunity to review these items (together, the “Draft Documents”) and provide feedback.

As you know, T-Mobile provides wireless communication services across the City to its residents, business community, and visitors. Like the City, we are constantly striving to provide the services our customers, and your constituents, expect while also responding to the ever-changing demands and expectations placed on wireless infrastructure in the 21st century. As individuals become ever more reliant on wireless services exclusively and their data demands continue to grow, this new infrastructure becomes increasingly important. It is also critically important to the deployment of 5G. As a result, T-Mobile actively encourages jurisdictions to put measures in place that will enable wireless providers to densify their networks using a range of technologies to achieve the coverage, capacity, and performance their networks need. This densification will require the deployment of, and upgrades to, traditional macro sites and the deployment of new infrastructure (e.g., small cells).

While T-Mobile appreciates the City’s desire to consider ways to improve and clarify its existing small cell wireless equipment guidelines (“SCWE”), unfortunately the Draft Documents still contains some issues that may discourage investment in next generation wireless infrastructure. Specifically, T-Mobile would like to highlight the following significant concerns:

Application Fees: T-Mobile, having reviewed the Draft MLA and attached fee structure, appreciates that the City’s attempt to base the fees on estimated costs. However, we are concerned that the chart of City staff review times and rates is not reasonable or realistic, particularly the scope of review or applicable rates for typical small wireless deployments. The



12920 SE 38th Street, Bellevue, WA 98006
www.t-mobile.com



total amount of staff time (18 hours per facility) exceeds what we would expect in the review of a single SCWE application.

Most significantly, the fees incorrectly assume that every staffer listed would need the exact amount of time listed, even if an application covered multiple facilities. As Staff reviews applications, whether batched or individually, we would expect the review process to become more efficient and total hours to decrease. In addition, the Resolution appears to impose the full application fee for each application, even if an applicant batches together applications for multiple facilities—as is expressly allowed by the FCC’s September 27, 2018 Declaratory Ruling (the “Declaratory Ruling”). The Resolution’s failure to reduce the fee for batched applications runs contrary to the FCC’s conclusion that batching could lead to administrative efficiencies and reduce review timelines.

Recommended Design Elements: Sec. 2(A)(5) of the Draft Design Standards includes certain requirements for the size of the equipment on the pole and where/how it may be placed. The FCC has required, and the 9th Circuit affirmed, that aesthetic requirements be “reasonable.” To be reasonable, those requirements must also be technically feasible. Furthermore, what is “technically feasible” is dictated by the performance characteristics that the Provider chooses, and a local government may not dictate the design of a Provider’s network.

T-Mobile appreciates the City’s efforts to adopt standards that meet the FCC requirements. While we generally believe the City has accomplished its goal, we would urge the City to consider additional changes that may more clearly accommodate the different configurations deployed by different carriers. For example, T-Mobile often deploys a single side-mounted cabinet containing all equipment and antennas (the “Unified Enclosure”). This Unified Enclosure ensures, amongst other considerations, proximity between T-Mobile radios and antennas to achieve the desired performance.

While T-Mobile believes the deployment of the Unified Enclosure would meet the City’s current standards, we would be happy to offer additional language that could more clearly allow that configuration.

In conclusion, T-Mobile appreciates the opportunity to provide comment and assist the City in its efforts. T-Mobile would welcome the opportunity to engage with the City further on these issues. To that end, T-Mobile respectfully requests that the City consider a continuance on this matter so that T-Mobile, and additional industry stakeholders, may work with City staff on additional revisions. Please feel free to contact me at Timothy.Halinski1@t-mobile.com.

Sincerely,

Tim Halinski





Tim Halinski, Siting Advocacy Manager

cc: Doug Murphy, Sr. Manager – Sacramento Market
Rodrigo de la Rosa, Sr. Siting Advocacy Manager – West Region



12920 SE 38th Street, Bellevue, WA 98006
www.t-mobile.com

From: [John Newman](#)
To: [Todd Reese](#); [Public Comment](#)
Cc: [Nancy Paulson](#); "WELLS, KRIS A"; "Tressa Bader"; john.newman@newmangroup.biz; hong.hoang@newmangroup.biz; "Mary Lynn DeLapa"
Subject: Board of Supervisors Agenda Item 14B - AT&T Request For Revisions of Three (3) Sections of the MLA
Date: Sunday, September 27, 2020 2:34:15 PM

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good afternoon Todd/City of Carson City Stakeholders,

In reviewing the revised Master License Agreement for Small Cells agendized as Item 14B on the Board of Supervisors Agenda, the following three (3) topics are identified for further consideration by the Board:

1. **Section 4.1 (a) Application Fee - \$1,400**

AT&T requests the pre-determined amount of the Application Fee be removed from the MLA. The Application Fee should simply be the City's reasonable and actual costs as determined in accordance with the FCC Order. As noted in the information provided this past Friday, this proposed solution is present in the predominant number of MLAs completed in the West Region where AT&T is advancing 5g technology.

2. **Section 4.2 (b) and 4.2(c)(iii) Electricity Use Fee - \$691**

AT&T requests the pre-determined amount of the Electricity Fee be removed from the MLA. The Electricity fee should simply be the City's reasonable and actual costs of the City's electricity as determined in accordance with the FCC Order.

3. **Section 7.8 (d) Licensor [City] Interference**

Section 7.8(d) contains no City covenant of any kind to try and minimize Interference with AT&T' Equipment on a Municipal Facility where the City has approved the installation of AT&T Equipment. It is submitted that some reasonable City covenant should be included in the MLA to encourage AT&T investment in the City particularly when the City has considered AT&T's application and granted approval to AT&T to install its Equipment..

AT&T's proposed solution for this issue is the addition of the following sentence at the end of Section 7.8(d).

“While Licensor’s use of its Municipal Facilities will always be of paramount to Licensee’s use of Municipal Facilities, once Licensee’s Equipment is installed on a Municipality Facility, Licensor shall use reasonable efforts to minimize Interference with the operation of Licensee’s Equipment to the extent that Licensor determines that it is reasonably feasible to do so.”

Conclusion

AT&T appreciates the efforts to date of the City Attorney to resolve a number of other issues of concern to AT&T. If the three (3) topics above are satisfactorily addressed by the City, then the MLA would be promptly recommended to AT&T management to sign and deliver the MLA.

Thank you for your consideration of these three remaining issues and AT&T's proposed solutions to them.

Very truly yours,

John D. Newman
Attorney at Law
Newman Group
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(415) 290-4292 (PCS)
john.newman@newmangroup.biz

From: John Newman

Sent: Friday, September 25, 2020 9:49 AM

To: 'Todd Reese' <TReese@carson.org>

Cc: 'Nancy Paulson' <NPaulson@carson.org>; 'Public Comment' <PublicComment@carson.org>; 'WELLS, KRIS A' <kw2734@att.com>; 'BADER, TRESSA' <tbader@qualtekwireless.com>; 'Hong L. Hoang' <hong.hoang@newmangroup.biz>; 'Mary Lynn DeLapa' <marylynn.delapa@newmangroup.biz>

Subject: RE: City of Carson City Master License Agreement (MLA) - Sharing Requested Information Pertaining to Application Fees In Other Completed MLA Transactions

Good morning Todd,

Introduction

As part of our conversation this past Wednesday, you inquired if AT&T would be willing to share some of the outcomes of Application Fees that AT&T management has approved as a business matter as part of total resolution of MLA content. AT&T management has authorized the release of the requested information this morning.

High Level Explanation of Application Fees In Other Completed MLAs

1. The predominant number of MLAs do not contain a specific dollar amount per Application. Instead the MLAs reference a Fee Schedule adopted by the municipality in accordance with the FCC Order.

2. In some MLAs, there is no specific dollar amount per Application, but the municipality will require a deposit which is paid at the time of the filing of the Application. The municipality will then apply its reasonable and actual costs adopted in accordance with the FCC Order against the deposit and then either refund the balance of the deposit, or provide a credit against future Applications.
3. In two completed transactions, specific Application Fees were included as part of a larger integrated resolution of the MLA. This means the applicable jurisdiction provided very workable terms and conditions in the MLA to encourage AT&T's capital investment in the community. In exchange, stipulated Application Fees were established.
 1. City of Fremont (CA) - \$400 per Application;
 2. City of San Ramon (CA) - \$500 per Application

Note: The San Ramon MLA was completed in early 2019 BEFORE the FCC Order took effect. As such, the terms and conditions were designed to achieve specific outcomes between the parties BEFORE the parties were required to comply with the more rigid limitations for the charging of fees in the FCC Order.

These Application Fee amounts are materially different from the \$1,400 Application Fee currently advanced by Carson City's Department of Public Works.

One final and important observation. The summary of the Carson City Application Fee that has been agendized before the Board of Supervisors proposes to justify the \$1,400 Application Fee in part because it is comparable to Application Fees charged by other municipalities.

Not only is this statement incorrect, but the statement may serve as an admission that Carson City may be violating the FCC Order per se. The FCC Order is clear that the Application Fee must be based on Carson City's reasonable and actual costs. ***The reasonable and actual costs of other jurisdictions is irrelevant to the cost-based study process that Carson City must undertake.***

Conclusion

AT&T is pleased to provide this information openly with your office per your request. The \$1,400 Application Fee in the MLA is one of the outstanding issues of concern. Other issues still remain as well.

This explains why a formal request for a continuance was filed with the Board of Supervisors yesterday so that AT&T stakeholders may work through remaining issues in the MLA in good faith.

Very truly yours,

John D. Newman
Attorney at Law
Newman Group

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john.newman@newmangroup.biz

From: Todd Reese

Sent: Thursday, September 24, 2020 12:49 PM

To: John Newman <john.newman@newmangroup.biz>

Cc: Nancy Paulson <NPaulson@carson.org>; Public Comment <PublicComment@carson.org>; 'WELLS, KRIS A' <kw2734@att.com>; 'BADER, TRESSA' <tbader@qualtekwireless.com>; 'Hong L. Hoang' <hong.hoang@newmangroup.biz>; 'Mary Lynn DeLapa' <marylynn.delapa@newmangroup.biz>

Subject: RE: City of Carson City Master License Agreement (MLA) - AT&T Request For Continuance of Hearing

John,

Thank you. I will make sure that this get routed correctly. It was a pleasure meeting you yesterday, and I look forward to working with you further and hope to run into you around Carson City or Reno one day.

-Todd

Todd E. Reese
Deputy District Attorney
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This message, together with any attachment(s), is intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privilege or the confidentiality of the message and any attachment(s), and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by email at treese@carson.org and delete the message and any attachment(s) from your computer and network. Thank you.

From: John Newman <john.newman@newmangroup.biz>
Sent: Thursday, September 24, 2020 12:41 PM
To: Todd Reese <TReese@carson.org>
Cc: napaulson@carson.org; Public Comment <PublicComment@carson.org>; 'WELLS, KRIS A' <kw2734@att.com>; 'BADER, TRESSA' <tbader@qualtekwireless.com>; john.newman@newmangroup.biz; 'Hong L. Hoang' <hong.hoang@newmangroup.biz>; 'Mary Lynn DeLapa' <marylynn.delapa@newmangroup.biz>
Subject: City of Carson City Master License Agreement (MLA) - AT&T Request For Continuance of Hearing

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good afternoon Todd,

Further to my email to your office yesterday, attached is a letter on behalf of AT&T dated September 24, 2020 to your office with a copy to the City Manager and Clerk of the Board of Supervisors requesting that hearing on the MLA scheduled for next Thursday, October 1, 2020 either (1) be withdrawn by City staff from the Board Agenda, or (2) the Board vote to continue the hearing on the MLA until the next available Board meeting date. Reasons for the request are briefly set forth in the letter.

Thank you Todd and to your client for consideration of this request.

Sincerely,

John D. Newman
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From: [Marianna Greeson](#)
To: [Public Comment](#)
Subject: Small cell wireless equipment
Date: Sunday, September 27, 2020 8:54:09 AM

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hello,

I have commented before on the 5g technology and the fact there is NO testing that says it is safe.

I understand we city people cannot stop this because of state and federal laws at this time.

Can SOMETHING be put into our enforcement that 5G should and can be removed when health issues start to make themselves evident?

Concerned,

Marianna Greeson

Sent from my iPhone