

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
WEDNESDAY, AUGUST 07, 2019**

MINUTE ORDER NO. 6

**SUBJECT: NOTICED PUBLIC HEARING:
SMALL CELL WIRELESS FACILITIES - ZONING ORDINANCE UPDATE
(POD-19-003) (DISTRICTS: ALL)**

OVERVIEW

This is a request for the County of San Diego Board of Supervisors (Board) to consider and adopt amendments to the Zoning Ordinance for Small Cell Wireless Facilities (Amendments).

In September 2018, the Federal Communication Commission (FCC) issued the Declaratory Ruling and Third Report and Order 18-133 (FCC Order), that limits a local jurisdiction's ability to regulate the placement of Small Cell Wireless Facilities (SCWs) and establishes maximum permit fees and permit processing timelines of 60 to 90 days. The FCC Order became effective on January 14, 2019. On February 27, 2019 (2) the Board amended the Zoning Ordinance to comply with the FCC Order. At that hearing, staff was directed to return to the Board within 180 days with additional requirements to reduce cluttering, avoid certain sites, encourage co-locating SCWs within existing infrastructure, establish distance requirements between poles, limit the placement of equipment on poles, establish preferred locations, require undergrounding of equipment, and require additional public noticing.

County staff has conducted additional outreach to stakeholders and Community Planning and Sponsor Groups, evaluated other jurisdictions' SCW ordinances, met with wireless industry representatives and evaluated SCW operational characteristics, and developed additional requirements for SCWs within the unincorporated county. The proposed Amendments contain several modifications to the Wireless Telecommunications Facilities section of the Zoning Ordinance to address the Board's direction. Options to the proposed Amendments are included for the Board's consideration.

On July 19, 2019, the Planning Commission considered the proposed Amendments and recommended the Board adopt the staff recommendation, with six modifications. Staff concurs with three modifications made by the Planning Commission: comply with maximum permissible exposure requirements for radiofrequency (RF) emissions set by the FCC; submit an annual RF report by each carrier; and require signs with SCWs warning of RF emissions. Staff does not concur with the following recommendations made by the Planning Commission: require SCWs in the public right-of-way to have a 100-foot setback from all residential buildings; reduce the proposed setback of SCWs within the public right-of-way from 1,000 feet from the property line to 100 feet from the nearest building for sites containing schools, religious facilities, daycare centers, and hospitals; and require wireless carriers to submit master plans for placement of SCWs.

**RECOMMENDATION(S)
PLANNING COMMISSION**

On July 19, 2019, the County of San Diego's Planning Commission considered the proposed amendments to the Zoning Ordinance for Small Cell Wireless Facilities (Amendments); and information contained in the Final Program Environmental Impact Report (EIR), dated August 3, 2011; the Addendum, dated January 30, 2019; and the Environmental Review Update Checklist Form dated January 30, 2019. The Planning Commission made the following recommendations to the Board of Supervisors (Board):

1. Find that it reviewed and considered the information contained in the Final Program EIR, dated August 3, 2011, on file with Planning & Development Services (PDS) as Environmental Review Number 02-ZA-001, the Addendum thereto, dated January 30, 2019, on file with PDS as PDS2017-POD-17-004, and the Environmental Review Update Checklist Form, dated January 30, 2019, on file with PDS as Environmental Review Number PDS2017-POD-17-004, prior to making its recommendation on the Amendments.
2. Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003) (Attachments A-1 and A-2, on file with the Clerk of the Board).

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services concurs with Recommendation 1 of the Planning Commission and recommends that the Board take the following action:

Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003) (Attachments B-1 and B-2, on file with the Clerk of the Board).

FISCAL IMPACT

There is no fiscal impact associated with today's requested actions. There will be no change in net General Fund costs and no additional staff years in Fiscal Year (FY) 2019-2020.

Funds for the establishment of a ministerial process for Small Cell Wireless Facilities permits, including a new inspection deposit and annual fee consistent with the September 26, 2018 FCC Small Cell Wireless Report and Order (FCC-18-133) were adopted as part of the actions by the Board on February 27, 2019 (2). The funding source is fees paid by applicants. Actual costs will be monitored and included in future fee updates.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors closed the hearing and took the following action:

1. Adopted Ordinance No. 10622 (N.S.), entitled: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL CELL WIRELESS FACILITIES (POD 19-003);
2. Adopted the recommendations of the Department of Planning & Development Services which concurs with recommendation #1 of the Planning Commission related to the Final Program EIR, with the following modifications to the implementation options (matrix): Condition 1.2 (Site Avoidance): Adopt Option 2, to modify the proposed amendments to establish a 300 foot buffer from avoidable sites and include fire stations and sheriff stations to the site list.
3. Directed the Chief Administrative Officer and the Office of Strategy & Intergovernmental Affairs to continue their strong advocacy in support of the two bills previously mentioned (HR 530 and S. 2012) by sending a new letter to our Federal legislative delegation restating our support for these bills and to express our continued opposition to the FCC's take of the land use authority of local governments.

4. Directed the Chief Administrative Officer to prepare a letter for the Chair's signature to the FCC to express concerns about 5G and the potential health impacts as mentioned in the public testimony and inquire about what type of analysis the FCC utilizes when approving regulations for small cell wireless facilities and 5G as it relates to health and safety and proximity to residents.
5. Directed staff to explore and investigate the concept and return to the Board regarding establishing master license agreements with carriers and explore the ability to identify coverage gaps.
6. Directed staff to make the minor correction to Section 6992.A.8 of the ordinance, as noted in the staff presentation, which incorrectly references location preferences and will be corrected to reference the configuration preferences.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Marvice Mazyck, Chief Deputy