



Date: May 26, 2016
To: Patrick H. West, City Manager *T.M.L.*
From: *C.A.B.* Craig A. Beck, Director of Public Works
A.J.B. Amy J. Bodek, Director of Development Services
For: Mayor and Members of the City Council
Subject: **Wireless Small Cell Installation**

The Departments of Public Works and Development Services have worked with the City Attorney's Office to streamline requests by wireless carrier companies to access the public right-of-way for installations of personal wireless telecommunication facilities ("small cell"), which consists of base station equipment and antennas. This proposal deals only with sites in the public right-of-way, and not sites on private property or publicly-owned, non-right-of-way property, such as parking structures, community centers, and other City facilities.

This memorandum describes staff's recommendation to the Planning Commission, and, if approved by the Planning Commission, to the City Council.

Background

Wireless carriers propose to place a single ("small cell") antenna, shrouding (an antenna cover), and equipment on more than 200 sites in the City. These sites would typically be on an existing streetlight pole, or on a new site in the public right-of-way that would require a new pole. These telecommunication systems are referred to as "small cells" and are used to provide faster data coverage and capacity for mobile phone and device users. These systems do not necessarily provide Wi-Fi capability. None of the carriers that have approached the City indicate small cell usage for Wi-Fi.

Currently, wireless carriers seeking to locate wireless facilities in the public right-of-way must follow the process set forth in the Long Beach Municipal Code (LBMC), Zoning Chapter in 21.56, established in 2011. Under the Zoning Code, this "by-right" process does not require a Conditional Use Permit (CUP) and deals extensively with the siting and aesthetic aspects of wireless right-of-way sites. However, it does not provide the necessary means for the City to approve multiple individual leases, collect revenue, and quickly expedite approvals, all while providing an adequate level of certainty for the wireless carriers. Additionally, the carriers have indicated the potential for a large volume of these sites to be proposed in the right-of-way in Long Beach (potentially upwards of 200 sites), and the current code process cannot adequately permit, lease, and manage such a large volume.

In light of the need to change this process for wireless telecommunication sites in the public right-of-way, staff in Public Works and Development Services, working in close consultation with the City Attorney's Office, have sought to address this problem by drafting a new ordinance for the Planning Commission's and City Council's consideration. This ordinance sets forth a streamlined procedure for wireless carriers seeking permits for small, low-impact, aesthetically acceptable wireless facilities in the public right-of-way, while at the same time increasing the level of review that would be required for large, aesthetically-inappropriate wireless facilities in the public right-of-way. Wireless telecommunication sites on private property, or public property that is not a public right-of-way, go through a separate review process, administered solely by Development Services. This would remain unchanged.

Proposal

Staff reviewed a number of other cities' ordinances, including the City and County of San Francisco, and the cities of Los Angeles, San Diego, and Anaheim. Staff determined that writing a new ordinance and establishing a model template of a master agreement or facility permit (agreement) would serve as an appropriate foundation for the City Council's consideration. Specifically staff recommends:

- Repealing Section 21.56.130 in the Zoning Chapter of the LBMC, related to the installation of small wireless devices in the public right-of-way. (This action requires Planning Commission approval before the City Council can take action.);
- Adding Section 14.50.100 in the Streets and Sidewalks Chapter of the Municipal Code to allow the Public Works Department to grant permits related to the installation of small wireless devices in the public right-of-way; and,
- Establish a common, non-exclusive agreement to more easily allow interested wireless small cell installers to receive approval.

Consequently staff proposes that the City Council adopt a new ordinance to streamline and establish a permit in the Public Works Department, issued by the City Engineer. Additionally staff proposes that the City Council adopt a common model template related to small cell installations, and authorize the City Manager to enter into agreements with wireless carriers. The agreement would provide the overarching framework governing the installations with Development Services and Public Works staff retaining the ability to review the installation sites. Additionally, the Parks, Recreation, and Marine Department would have review authority in this proposed ordinance for sites adjacent to City parks, in medians, at marinas, and near beaches.

For sites located in the Tidelands Area, the California Coastal Commission would require a Coastal Development Permit. Additionally, some sites outside of the Tidelands Area may be in a Coastal Appealable Zone, which would allow an appeal up to the Coastal Commission. The City has limited ability to expedite the process in coastal areas because of the Commission's jurisdiction.

Design Standards

The agreement will include standards to preserve the visual environment of the public right-of-way against negative aesthetic impacts. In order to qualify for this permit, the ordinance outlines the following design standards:

- 1) A requirement for installations on existing streetlight poles or pole replacement instead of new sites;
- 2) A preference for wireless facilities to be located on a major street and not in a residential neighborhood;
- 3) An unobtrusive, aesthetically-appropriate design;
- 4) Antennas no more than five feet tall;
- 5) The placement of necessary base station equipment components either underground, or above pedestrian height on the pole (limited to a size approximately no larger than a briefcase);
- 6) The prohibition of faux landscaping (artificial tree camouflage), or faux street lights or other faux decorative concealment schemes;
- 7) Any replacement of poles would require the new pole to be no more than five feet taller than the existing pole; and,
- 8) Scrutiny for sites located in historic neighborhoods, neighborhoods with decorative lighting fixtures, or streetlights adjacent to parks.

Staff recommends that the City Council adopt similar design standards for those applicants wishing to install on a non-City owned utility pole (e.g. Southern California Edison poles) in the City's right-of-way, as many of these utility poles sit in alleys.

Ordinance for Wireless Facility at New Sites in the Public Right-of-Way

City staff involved in developing this proposed ordinance intend to have most applicants seek installation on existing streetlights. Specifically, staff recommends that the City Council establish three tiers of review based on intrusion requested and areas impacted, such as historic neighborhoods and park adjacent areas.

Staff modeled this tiered system after the County and City of San Francisco, which has been at the forefront of managing requests to install small wireless facilities in its public right-of-way. This tiered system balances a need for expediency, while recognizing the potential impact to residential areas and the City's parks.

However, applicants who wish to place a wireless facility in the public right-of-way not in compliance with the above conditions for the agreement, would be required to follow the CUP process (administered by the Department of Development Services), which requires a public hearing by the Planning Commission. This process would be substantially the same as the CUP required for a new major wireless telecommunications facility located on private property. If such a CUP were approved, the applicant would then return to the Public Works Department for construction permitting.

Municipal License Agreement for Licensing Revenue

In addition to a streamlined ordinance, staff proposes to establish a one-time permit fee and an annual license fee for the use of the City's infrastructure in the public right-of-way for wireless telecommunications sites. First, wireless carriers would pay a one-time permit application fee to the City for each site. This fee, as adopted by City Council, would provide cost recovery for staff time to review the applications and issue the permits.

Second, if the application is approved, the wireless carriers would pay an annual license fee (established by the City Council) to the City for each site in exchange for use of the public right-of-way. Based on a survey of cities, staff recommends an annual license fee of \$4,000 per streetlight pole. Staff is also exploring opportunities to waive the fee if the City has access to the wireless small cell for its own purposes with City Council approval. Exhibit B showcases the peer benchmarking of license fees.

Challenges to Implementation

Staff continues to work with Southern California Edison (SCE) on implementation challenges related to powering the small cell devices. The City currently receives a discounted electricity rate for its streetlights and traffic signals. Small cell installers who tie in directly with the electricity of the streetlight pole would trigger a rate change, thereby fiscally affecting the City. While a separate meter would resolve this issue, this meter would require a refrigerator-sized cabinet on the sidewalk, resulting in a significant intrusion to pedestrians, and jeopardizing the City's advancements in complete streets related to the public right-of-way. Staff is investigating the potential of wireless metering for the small cell wireless devices with SCE or a flat rate arrangement between the small cell installer and SCE. City staff is facilitating these conversations.

Next Steps

Streamlining this process requires amendments to the existing Zoning Chapter of the LBMC, which require that the City's Planning Commission review the changes before the City Council can take action. Staff proposes the following timeline:

- Write a new ordinance and establish a model template of a master agreement or facility permit. (90-120 days)

Wireless Small Cell Installation

May 26, 2016

Page 5

- Planning Commission reviews staff's recommendations, and makes recommendations to the City Council if the Commission approves the recommendations. *(30 days)*
- The City Council reviews the Planning Commission's recommendations, and may instruct the City Attorney to draft the necessary ordinance changes. *(30-60 days)*
- Assuming the City Council approves the ordinance for the first and second reading, the ordinance will take into effect 30 days after the second reading. *(30 days)*

If you have any questions, please contact Meredith Elguira in Public Works at (562) 570-6561 or Scott Kinsey, Planner in Development Services, at (562) 570-6461.

ATTACHMENTS:

EXHIBIT A – PHOTOS OF SMALL CELL FACILITIES
EXHIBIT B – FEE BENCHMARK

CC: CHARLES PARKIN, CITY ATTORNEY
LAURA DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
ARTURO M. SANCHEZ, DEPUTY CITY MANAGER
JOHN GROSS, DIRECTOR OF FINANCIAL MANAGEMENT
MARIE KNIGHT, INTERIM DIRECTOR OF PARKS, RECREATION, AND MARINE
BRYAN M. SASTOKAS, DIRECTOR OF TECHNOLOGY AND INNOVATION
JOHN KEISLER, BLOOMBERG INNOVATION TEAM DIRECTOR
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER

CAB:jc

EXHIBIT A – Examples of Small Cell Installations



Photo Credit: (L) Verizon installation, photo courtesy of Verizon; (R) Small Cell Installation, photo courtesy of Omar Masry, San Francisco Planning Department.

Wireless Small Cell Installation Fee Benchmarking

City	State	Permit Fee (One-Time)	Permit Fee Frequency	License Fee (\$/site/year)	Comments
Anaheim	CA	Variable	One-time per site	\$93.40	Escalates at 2% annually
Los Angeles	CA	\$500.00	One-time per 10 sites	\$700	Exchange for LED fixtures
San Antonio	TX	Variable	One-time per site	\$1,500	Escalates at 3% annually
San Diego	CA	\$4,292.00	One-time for all sites	\$4,000	1-80 sites, escalates at 3.5% annually
				\$3,750	81-250 sites, escalates at 3.5% annually
San Francisco	CA	\$891.00	One-time per site	\$4,000	Not inclusive of new poles by carrier
				\$3,000	Smaller Installation (small arm)
				\$4,500	Small Cell with Sidewalk Pedestal
				\$5,000	Rooftop sites

PROPOSED

Public Works staff recommends the adoption of a \$4,000 per site per year licensing fee. At this time, staff is investigating the per site one-time permit fee.