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Small cell wireless facilities - the future is coming to Moraga

The term 5G (5th Generation) is the latest term for the next generation of cellular mobile communication. It targets high data rate, reduced latency, energy savings, cost reductions, higher system capacity and massive device connectivity.

During the April 10 Moraga Town Council meeting, Planning Director Derek Farmer gave a presentation regarding the Small Cell Wireless Facilities Ordinance in compliance with the Carr Order adopted in September 2018 by the Federal Communications Commission.

The Carr Order preempts a city's control over permitting small cell facilities by requiring cities and towns to allow its own facilities, such as street lights and traffic signals, to be used by wireless carriers to attach their new 5G antennas. The only aspect of control a town has over these antennas is for aesthetic purposes.

The town will implement strict aesthetic standards: antennas and other equipment must be concealed with materials resembling the supporting structure; all cables must be concealed; all other equipment must be located in underground vaults when feasible; all venting for underground equipment must be concealed; above-ground equipment must be covered with landscaping and any paving/landscaping disturbed by installation of a facility must be repaired or replaced.

Farmer stated, "The rollout of this technology is not even hitting bigger cities at this point. This is a new emerging technology and the way the Carr Order reads is that this is designed to address this sort of emerging technology." He added, "This is designed to keep the U.S. technologically at the forefront and competitive."

Vice Mayor Kimberleigh Korpus pointed out that several cities are attempting to dispute the Carr Order. If Moraga attempted to do so and were taken to court by a wireless carrier, the town doesn't have the funds to fight the lawsuit.

Mayor Roger Wykle felt that additional research into state laws and the public's rights was essential and suggested that Moraga and Orinda legal counsels meet to discuss options.

Town Manager Cynthia Battenberg said, "I'd like to recommend that we don't rush back in a month or two. That we actually observe what's happening with the lawsuits that are underway, as well as the changes and modifications that other people are making, and when things seem to have stabilized, then we can bring back something that's been vetted so that we don't have to come back multiple times."

Staff's recommendation to the town council was to review the proposed Muni Code amendments and planning commission suggestions and either adopt the two proposed ordinances or identify additional desired amendments while remaining consistent with the limitations of the Carr Order. The first ordinance is an urgency ordinance that would go into effect immediately upon adoption. The second is a standard ordinance that would go into effect 30 days after a second reading and adoption, but remain in effect even if a court found that urgency ordinance standards were not met by the town for any reason.

The council unanimously voted to adopt the first ordinance as amended and, with regards to the second ordinance, unanimously waived the first reading and introduced the ordinance as amended.

Reach the reporter at: info@lamorindaweekly.com

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