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Small cell wireless facilities ordinance improvements

By Vera Kochan

The topic of small cell wireless facilities within town has been a sore spot for many residents with regards to radio frequency emissions safety. The town council continues to recognize that its hands are tied by Federal Communications Commission regulations with respect to the new 5G facilities within Moraga's borders, however by updating an existing ordinance (Chapter 8.144), it hopes to take back some control of the situation.

The update allows for improvements to location preferences, aesthetic and landscaping requirements, design standards and noise. The small cell facilities are typically smaller antennas attached to existing infrastructure with additional equipment cabinets.

The bulk of the Nov. 10 council meeting discussion centered on radio frequency emissions and the testing of 5G equipment for possible malfunctions. According to the staff report provided by Planning Director Afshan Hamid and Assistant Town Attorney Denise Bazzano, the 1996 Telecommunications Act states: "No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions."

The staff report continues, "The FCC has promulgated specific guidelines for human exposure to RF radiation. Furthermore, courts have held that the FCC has exclusive jurisdiction over RF interference issues and thus local zoning ordinances and permit conditions cannot regulate RF interference."

Town staff consulted with Hammett & Edison, Inc., an expert in RF site evaluations since 1985. According to H&E, having conducted over 20,000 of these tests, it has never found any wireless telecommunication base station or small cell node with RFs exceeding their projected levels.

An additional expert, Specialist/Senior Analyst Michael Afflerbach with CTC Media Group stated that as long as the facility was properly installed and sited, RF exposure would still fall well below the FCC emission standards for public exposure, and it is not likely for a completed facility to later exceed the FCC emission standards after the wireless facility had been constructed, without some external modification.

During the town council's Sept. 8 meeting they requested that staff look into the possibility of having the wireless carriers install a fail-safe device in the event that one of the facilities exceeded RF emission standards. Both H&E and Afflerbach explained that there was no need for such a device as the wireless facilities are designed to be within FCC limits even while operating at maximum levels.

Still not completely comfortable with the "expert" advice and their test results given the fact that 5G has only been around for approximately three years and the small cell equipment is relatively new, the town council worried about what could happen 10 years from now if the devices could potentially begin to fail and exceed RF emissions. The FCC does not require the installers to perform periodic testing.

Looking to avoid potential health issues for its residents, the council requested that staff look into the possibility of the town performing independent spot testing at an estimated cost of \$1,500 per site. As there are no applications at this time from any telecommunications company to install 5G facilities in Moraga, the issue of town sponsored testing will be revisited.

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