

PLANNING COMMISSION
City and Borough of Juneau
Michael Satre, Chairman

COMMITTEE OF THE WHOLE
Wireless Telecommunications Master Plan and Ordinance
March 25, 2014

I. ROLL CALL

Dennis Watson, Vice Chairman, called the Committee of the Whole (COW) meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:00 pm.

Commissioners present: Dennis Watson, Vice Chairman; Karen Lawfer, Ben Haight, Bill Peters, Paul Voelckers, Dan Miller, Gordon Jackson

Commissioners absent: Mike Satre, Chairman; Nicole Grewe

A quorum was present

Staff present: Hal Hart, Planning Director; Travis Goddard, Planning Manager; Eric Feldt, Planner II

I. REGULAR AGENDA

TXT2009-00007: Continued discussion of Draft Wireless Telecommunications Master Plan and introduction of Draft Ordinance.
Applicant: City and Borough of Juneau
Location: Borough-wide

Mr. Feldt provided the Commission with a summary of what happened last week at the first public meeting held March 20, 2014, to discuss the Draft Wireless Communications Master Plan. The draft ordinance was not yet available from CityScape, the contractors. The Community Development Department (CDD) staff presented the draft Master Plan to the individuals at the meeting, and provided opportunities for questions both before and after the presentation, said Mr. Feldt.

The staff asked the public to help define what was harmonious in a neighborhood. Mr. Feldt displayed a slide showing various definitions of “harmonious” in terms of cell tower acceptance. There were ten stations with surveys for the public to fill out regarding their thoughts on each different cell tower appearance, such as camouflage.

The purpose of this exercise was to help the staff determine what the public felt was harmonious when they were looking at a cell phone tower, said Mr. Feldt.

Mr. Miller asked if the surveys were followed up with any survey of tradeoffs the public may be willing to make regarding cell towers; such as accepting less efficient service for less of a cell tower presence.








Mr. Goddard said the staff tried to preface their presentation with the idea that cell towers cannot be prevented from locating within the community. The point of view of the staff was that if the cell towers are coming, they would like to know from the public which design elements would best preserve community and neighborhood harmony, said Mr. Goddard.

This was a visual exercise, said Mr. Feldt, with cell service not really presented as a topic of the survey.

Mr. Goddard said the results of the survey had not been analyzed yet, but that there were some patterns emerging indicating that some of the categories had very clear public preferences, while some of them were greatly diversified. For example, said Mr. Goddard, there were no clear opinions about the noise criteria. Respondents did not seem to care too much where a backup generator was situated regarding the type of fence or screening in relation to the cell tower.

Mr. Feldt said they are creating a single comment sheet regarding the date the comment was received, and the issue and the origin of the comment; public, industry, Assembly, etc. It will also state how the comment may relate to the Master Plan policies and to the Ordinance. So far there are 45 comments, said Mr. Feldt, with about ten more comments that still needed to be added to the list.

Thursday, March 27, 2014, will be the second and last neighborhood meeting, said Mr. Feldt. The Master Plan contains the policy, and links the Ordinance to the Comprehensive Plan. The Ordinance is the document that provides the actual regulations, said Mr. Feldt. He explained that public comment was concentrated in the areas of:

-  Safety of emissions
-  Public notice
-  Lighting, aviation safety and view shed
-  Height of towers
-  Effects to bird migration
-  Tower structural strength
-  Abandonment of towers (cessation of use)

There is currently one version of the draft Ordinance, said Mr. Feldt. It contains:

- 1) Purpose and intent
- 2) Types of wireless communications and facilities
- 3) General standards, permit types, required submittals for an application
- 4) Effects to existing wireless communication facilities
- 5) Facilities on publicly owned property

- 6) Distributed antenna systems (DAS)
- 7) Definitions

Mr. Miller asked if there was any data on the effects that wireless towers have on birds in comparison to the effects of wired facilities.

Mr. Feldt said there are guidelines published by the US Fish and Wildlife , which considers aviation barriers such as cell phone towers.

Mr. Miller asked if wireless facilities are a bigger hindrance to birds than wired facilities.

Mr. Feldt said he did not know the answer to that question, but that he would research it.

Mr. Voelckers said his initial comment would be to be smart and pre-emptive regarding the public's perception of emissions and other concerns. He said that he had found the recently adopted ordinance on wireless facilities for the city of Salem, Oregon, which was very similar to Juneau's proposed ordinance. Mr. Voelckers said on the first line of the Salem ordinance it states that one of the missions is to protect public health and safety. He said the Salem ordinance is also very specific regarding the allowable level of emissions. He said he felt this level of specificity should also be outlined in the Juneau Wireless Telecommunications Ordinance.

Mr. Jackson said he agreed with Mr. Voelckers that the health and safety of the residents should be a primary part of the mission. Mr. Jackson said he felt the policy of cessation of use and abandonment was proactive.

Ms. Lawfer said that she agreed with Mr. Miller and Mr. Voelckers regarding the potential effects on bird migration and on the health and safety issue for the community. Ms. Lawfer noted that she has not seen any mention on the potential effect of the towers on property values.

Mr. Watson asked if the item on Page 7 of the Ordinance on line six was appealable.

Mr. Goddard answered in the affirmative.

Mr. Watson asked if on Page 14, starting with line 7, if this was an attempt to control private property as well as public property.

Mr. Feldt said the paragraph is silent on the issue. He said when a tower is constructed, that part of the application could address the removal of the structure and the condition that land must be put back to its natural state. Mr. Feldt said that this addresses the applicant, not the property owner. It is the applicant who would be responsible for complying with the regulations, said Mr. Feldt, not the property owner.

Mr. Watson asked for clarification about the designated scenic corridor and view shed on Page 17.

Mr. Feldt said this only applies to mapped view shed corridors which are on public land, that carry the restriction of uses within the corridors.

Mr. Watson asked if a tower could be seen anywhere within that defined view shed corridor, if it needed to meet the regulations.

Mr. Feldt said the restriction is only within the corridor, it does not include the view outside of the corridor.

Mr. Miller said he has a hard time with this Ordinance. He said he did not find the survey specifically helpful. It asks the public what it prefers but is not grounded in tying those preferences to the reality that some things would need to be given up to gain other concessions. Mr. Miller said Juneau is a community with limited flat land. It is not comparable to Salem, Oregon, in terms of population or geography. Mr. Miller expressed the concern that if a facility cost twice as much to build in Juneau because of visual concerns, that they may choose not to build the cell towers in Juneau at all, because it would not be economically feasible.

On Page 3 of the Ordinance, said Mr. Miller, under "B", the word "preserves" means that it cannot be changed. He suggested the word "balances" be substituted for the word "preserves".

Mr. Watson asked if the ordinance was developed by the contractor.

He was told by staff that it was developed by the contractor.

Mr. Voelckers said on Page 7, that he could not see a clear logic structure with an "if" "then" construction. He said he felt that section needed more work. He said what he sees missing from that section is the mechanism for how an evaluation is made regarding its feasibility.

Mr. Haight said on Page 7, the discussion of location preferences needs work. He said there is quite a bit of discussion in the back of the Ordinance on a DAS system. He said it would be helpful to understand this type of system. Mr. Haight said he has not yet seen this type of system proposed for Juneau at this juncture, but that it should be addressed.

He added that he would like to see the preference listed in the Ordinance of aligning the towers towards the outskirts of the community, and using the rim shot process. On Page 8, on line 12, , , when non-concealed freestanding towers are mentioned, that he interprets this to mean that this is applied to new non-concealed towers, said Mr. Haight. Mr. Haight said that he thinks care needs to be addressed when defining concealed towers. While they should be included as a priority of preference, Mr. Haight remarked that he has seen concealed towers which look

more obnoxious than a non-concealed tower. A tower above tree level is no longer concealed, said Mr. Haight, it is obnoxious.

Ms. Lawfer said regarding the first page mentioning the yard setbacks and the dish diameters, that she wanted to make sure the origin of those requirements are consistent with current regulations.

It is existing language pulled from Title 49, said Mr. Feldt.

Referring to Pages 4 – 6 of the ordinance, Ms. Lawfer asked if it is customary to include figures in an ordinance. She said she was asking because figures change so often, she thought it may be limiting to have them in the Ordinance. She added that on Page 6, it needs to be clear that ham radio towers are exempt from these regulations. Ms. Lawfer said she liked the idea of addressing the public health and safety under the purpose and intent on pages 2 and 3. Ms. Lawfer said she also liked the idea of addressing the wattage and megahertz of the carriers and their compliance with FCC regulations in their yearly progress reports. Ms. Lawfer said the “balloon test” should address not just how high the tower appears in the view, but also how the lighting will appear on the tower. If it was possible to test a tower for how the lighting would appear, she would like to include that in the testing and analysis of the tower appearance.

Ms. Lawfer said it would be good to define the review process for applicants.

Mr. Peters said he agrees with Mr. Miller; that the public needs to understand the tradeoffs involved when weighing the quantity and quality of cell service vs. the amount and types of towers.

Mr. Watson asked if any changes are anticipated in Title 49 to support the Ordinance. He said his reading of the Ordinance was that a carrier could co-locate on any tower that is not a cell tower without having to undergo the regulatory review for a cell tower.

Mr. Feldt said whether a tower is publicly or privately owned, a permit is still required. He said the exemption is granted when a federal tower or installation is proposed on federal land.

Mr. Watson sought an answer to the above question again.

Mr. Goddard said the ordinance does address co-location on existing structures and how they would be treated if an “array” was requested. They can be placed on any structure, said Mr. Goddard.

Mr. Watson said so far the Assessor has indicated that property values are not affected by cell towers, and that his own study has revealed that the impact of cell towers on property values is based upon the availability of the land.

Mr. Miller said he agreed that having figures stipulated in an Ordinance could date the Ordinance.

Responding to a question from Mr. Miller regarding meeting dates, Mr. Goddard said the Commission has another COW meeting scheduled for April 8.

Mr. Miller said the table on Page 15 of the Ordinance is set up similarly to the Table of Permissible Uses. He said it may be more helpful to strengthen that similarity by adding numbers as indicators to the uses for specifying the type of use. He said he felt they really needed to look at the numbers applying to height and location of towers to make sure they actually make sense.

Mr. Feldt said a concealed rooftop and attached was allowed to go higher than a non-concealed rooftop and attached to incentivize the carrier to conceal the tower.

The standards are different for different heights as to whether a building permit or a conditional use permit is required, said Mr. Goddard. This is to encourage small, unnoticeable towers around the community as opposed to the big towers that require a conditional use permit.

Mr. Voelckers said that he liked the carrot instead of a stick approach to encourage unobtrusive development of cell towers. On Page 25, line 7, Mr. Voelckers said he liked the positive approach for pre-approving sites which he said could possibly be provided in conjunction with the table on Page 15, to provide a clear road map for potential applicants.

Mr. Feldt said on the bottom of Page 19 is a paragraph that states the carrier must be in compliance with FCC standards. There are many places in the Ordinance where it talks about an RF (Radio Frequency) engineer coming into play to assure compliance with FCC standards and to insure that the location of the tower is optimal, said Mr. Feldt.

Mr. Jackson asked if there is a document available from the providers such as ATT and others stating their projected towers in the coming years.

Mr. Hart said that the main providers put together annual forecasts on a national scale. He said for example the national forecast is estimated to be 2,500 towers. Mr. Hart said he has not identified any forecasts for Juneau alone.

Mr. Jackson said it would be very helpful to the Commission in its planning function to have that information available.

Mr. Hart said they know of at least one tower planned for the Juneau area from one of the large providers.

Mr. Haight said the FCC monitors EMF (Electric and Magnetic Fields)(electromagnetic radiation) emissions. He asked if the measurement of radiation from co-location towers is from the cumulative emissions from the clustered towers or if it is measured individually for each single transmitter.

Mr. Feldt said his understanding was that they could test for cumulative results.

Mr. Haight asked what the FCC is actually regulating; are they regulating a particular array of transmitters, or everything on the tower. When they get an application, said Mr. Haight, do they evaluate the entire tower and consider the total emissions at that time or just the immediate application. That kind of information would help the community decide how much co-location they can allow, and where they can allow it.

On Page 13, line 12, said Mr. Haight, there is a reference that all outdoor lighting fixtures shall be full-cutoff. Mr. Haight said this is already addressed in Title 49, and he wondered if this needed to be repeated here.

Mr. Feldt said that Title 49 currently states that outdoor lighting fixtures should not glare onto adjacent buildings. In the parking standard, it mentions that lighting fixtures should be full cutoff. So it is already addressed in existing code, said Mr. Feldt. This is just underlining the fact that they want full-cutoff, or avoidance of horizontal glare onto the adjacent property, said Mr. Feldt.

Mr. Haight said it seemed to him this should be something that should be addressed overall, rather than being piecemealed into the code. On Page 12, line 4, it states that if equipment exceeds 220 volts, that it needs to be identified. Mr. Haight said there is a lot of equipment that already exists over 220 volts which is not labeled. AEL&P utilities are the major carriers who have equipment over 220 volts, and that is exceeded substantially, said Mr. Haight. Mr. Haight said that industry standards already require certain protective characteristics for this equipment, and if signage is required, it is already stipulated. Mr. Haight said he was not sure if this portion of the Ordinance was necessary.

Mr. Feldt said he believed that building codes required this. He said he would check into this. He said AEL&P is exempt in certain cases from obtaining a building permit.

Mr. Haight asked if the wireless industry was treated like a utility, as AEL&P is a utility.

Mr. Feldt said that some forms of utilities, such as AEL&P, are exempt, and other forms of utilities are not exempt, and building permits are required.

Mr. Watson said he raised the same question in Title 19, regarding the building code, and never received a definitive answer.

Mr. Hart said there are many different kinds of utilities which are regulated differently by the industry sector. He said there is a merging of technology such as that of a power utility and cellular utilities.

Mr. Haight said in terms of lighting, it needs to be stipulated what the FAA requires for lighting on towers. He said he sees a considerable amount of inconsistencies throughout the Borough regarding how towers are illuminated. Mr. Haight said that light is objectionable, and that they

should do their best to make sure that they are the least obstructive to the public. It would be beneficial to define the lighting requirements, said Mr. Haight.

Mr. Haight said he had some issues with the way that screening of equipment is addressed in the ordinance. Small cabinets located at the base of a tower do not really need to be screened, he said. He said it needs to be defined at what point that screening becomes objectionable, and therefore requires screening.

The noise issue needs to be reviewed again, said Mr. Haight, with allowable levels defined for different conditions.

Ms. Lawfer said on Pages 13 and 14, that she does not think that abandonment is fully addressed. She said it needs to be outlined what specifically needs to be done if a tower is no longer operational. Taking down a tower and restoring the land to its natural state should be part of the lease, said Ms. Lawfer. She said perhaps an abandoned tower needed to be defined, such as if a tower had not been used for a certain length of time, or the owner fails to respond to requests.

Pointing out an inconsistency, Mr. Watson said on Page 20, line 19, it says "one mile radius" and on another page it simply says "one mile".

Mr. Miller said he felt the cumulative emissions require emphasis. He said this has been brought up before, and he was surprised that they still don't have a definitive answer on this issue. Mr. Miller said that co-location of towers is strongly encouraged, and yet if it is the cumulative emissions that are going to be measured, then it could be unsafe or force carriers to turn down their emissions. Mr. Miller said he felt this was an answer the Commission absolutely had to have, before it could move forward with the Ordinance.

Mr. Voelckers said that he felt that item 7 on Page 12, regarding voltage, should just be eliminated from the Ordinance, or there could be unintended consequences. Mr. Voelckers said item number 6 on Page 3 does not make any sense. He said he would suggest that they do not have it in the Ordinance, or that a few excerpts of key objectives be listed to provide a reference.

Mr. Jackson said it would be a good idea to survey the providers such as Verizon and AT&T to obtain information about their plans for cell towers in Juneau.

Mr. Hart said they did get some information from Verizon, stating that they have no plans for future towers in Juneau at this time.

Mr. Haight said this is the first time they have seen the DAS information. He said it was not in the Master Plan. He said the Ordinance does not define what a DAS is. He said he feels the Master Plan needs to provide information about the DAS so that they can understand it better. Ms. Lawfer said she also felt the DAS needs to be more fully addressed. She said she assumed this was under the jurisdiction of the FCC, but she did not know for sure.

Mr. Watson said he was not sure how the Assembly was going to view a 36 page Ordinance.

Mr. Goddard said they will synthesize the comments made by the Commission, and add it to their other comments.

II. **OTHER BUSINESS** - None

III. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

IV. **ADJOURNMENT**

The meeting was adjourned at 6:45 p.m.