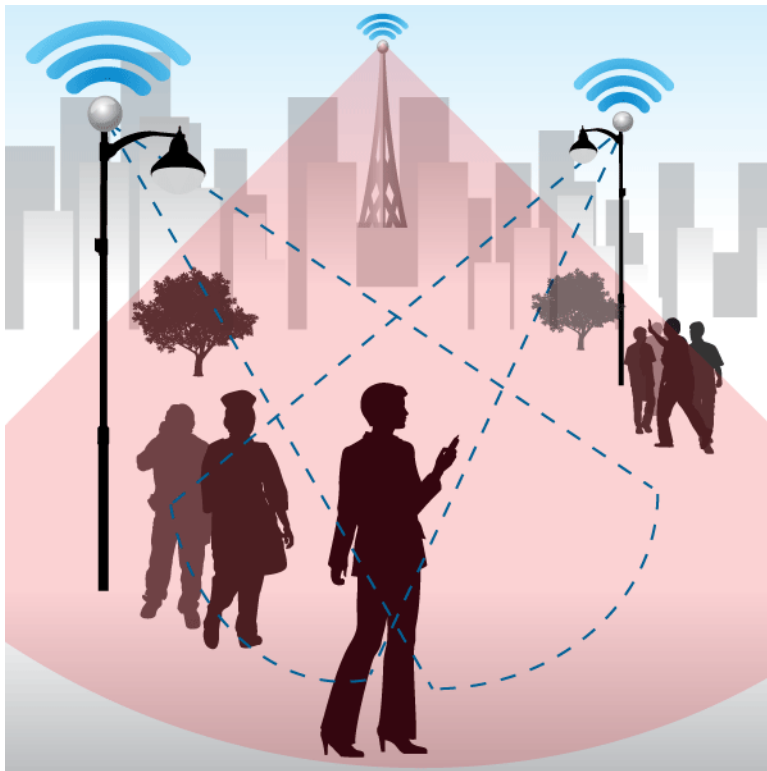


Response to FCC Small Cell Order



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Transportation Department

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City Attorney's Office

January 7, 2019
Council Study Session



City of Bellevue

Agenda

Purpose:

- FCC Order response:
 - Code Changes
 - Master License Agreement
- Direction for January 22 Regular Session

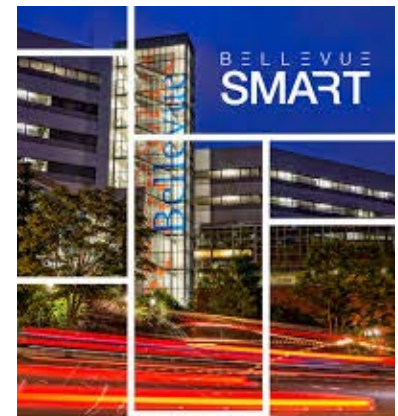


Background
FCC Order
Code Amendments
Master License Agreement
Expectations
Summary
Recommendations



Background

- Small Cell and Bellevue Smart
- Council input Dec 2016
- FCC Order
- 4G – current, 300' range, more locations
- 5G – developing, builds atop 4G w/larger equipment



Planning for a Smarter City

FCC Order

- Change in legal standard – “Effective prohibition”
- Establishes definition for SWF
 - Antenna – 3 ft³
 - Antenna Equipment – 28 ft³
- Rent:
 - limited to cost recovery
 - default of \$270/pole/yr
- Design:
 - Reasonable
 - No more burdensome than those applied to other types of infrastructure deployments
 - Objective and published in advance
- Shot Clocks for permitting review:
 - 60 days - existing poles
 - 90 days - new pole



FCC Order

Pre/Post Order:

	Pre FCC Order/2016	Post FCC Order/2019
Legal Standard	More favorable to cities- Local regulation lawful unless: -Significant gap in coverage -Least intrusive means	More favorable to carriers- Local regulations unlawful if: -Materially inhibits additional services or new services
Shot Clocks	150 days – new applications 90 days – collocations No shot clocks MLA	60 days (including MLA) – attach to existing structures 90 days- install new pole/structure
Aesthetic/Permitting	Incentivize certain design through streamlined land use review	Insufficient time to incentivize certain designs over others
Rent	Market Based Rent (\$1,500)	Actual Costs (\$270 presumed reasonable)
Public Input	Required for non-compliant design More discretion in design guidelines	Not required prior to decision Design guidelines prescriptive
Technology Advancements	Small Cell/4G	Small Cell/4G and Future 5G



FCC Order

Response:

- Interdepartmental team
- Research other cities
- Consulted with qualified outside Counsel
- Coordinated with carriers & deployers



- 1) Code amendments
- 2) Master License Agreement



Code Amendments

Why? Regulate consistent with FCC Order

What? Amend BCC Title 6 – Telecommunications

Specifics:

- BCC 6.02 updated to regulate SWF with Telecommunications Code not Land Use Code
- BCC 6.08 created for permitting SWF within shot clocks
- BCC 6.08 authorizes Transportation Director to set requirements for:
 - Permitting/Deployment
 - Design standards
 - Inspections
 - Modification & removal
- Covers both City owned & Utility poles
- Future code amendments may be warranted for LUC cleanup and deployments outside of right-of-way



Master License Agreement

Why? Establish provisions for using City property

What? Umbrella license for SWF

Specifics:

- 10 year term plus 1 year renewals
- Rent
- Site License Agreement (SLA) for each pole
- Radio Frequency (RF) emissions compliance
- Insurance, bond, indemnification, relocation

Propose Council approve MLA form, and allow specific agreements to be executed administratively



Expectations



- Visual
 - Pole mounted SWF Antenna = 15 cubic feet max (3 cubic feet each times a max of 5 antennae)
 - Pole mounted remaining equipment (radio) = 15 cubic feet max
 - -Or- 28 cubic feet max if combination of pole and ground mounted
 - Applies to City or Utility owned pole

Expectations

- Visual
 - Early (4G) deployment – less than max
 - 5G anticipated to be larger
 - Switch from concrete to metal poles for structure support



NW Bellevue (Archerline) (4G)



Minneapolis (4G)



Los Angeles (5G)

Expectations

- Construction
 - Immediate deployment Downtown, uncertain elsewhere
 - Removal of poles and foundations
 - Installation of new poles
 - Installation of new backhaul (fiber lines, etc.)
- Radio Frequency Emissions
 - FCC has sole authority to set standards
 - City will require providers to demonstrate compliance at installation



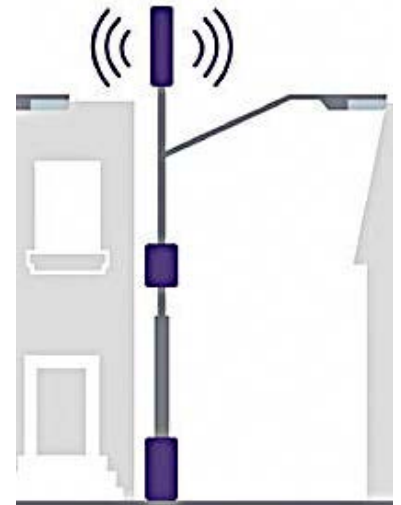
Summary

- Ability to seek balance has changed
- Response to FCC Order
- 4G and 5G deployment supported
- Advances Bellevue Smart plan
- Deployment immediately in Downtown

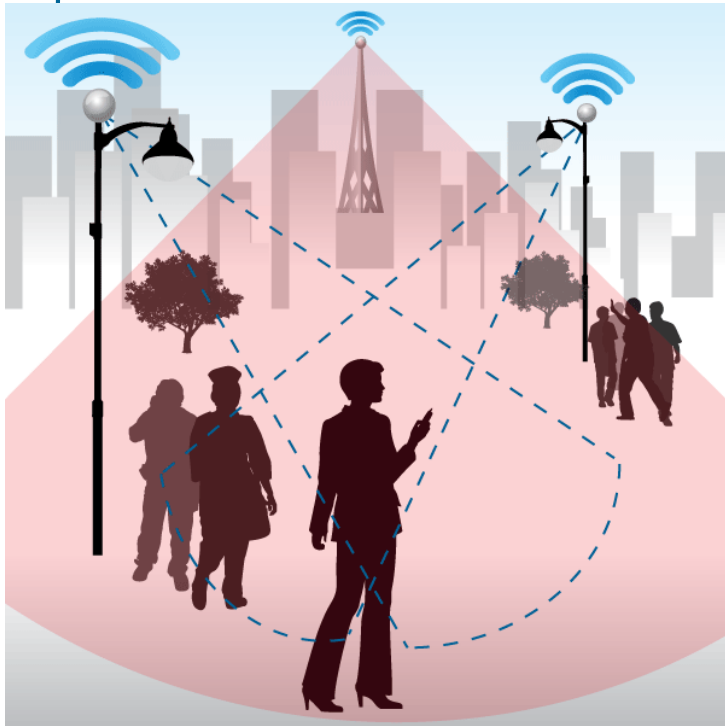


Recommendations

- ✓ Respond to FCC Order by amending the Telecommunications code and establishing a Master License Agreement for SWF in City ROW in response to FCC preemption order
- ✓ Return on January 22 for:
 - 1) adoption of Code amendments and
 - 2) approval of MLA form, and authorize specific agreements to be executed administratively

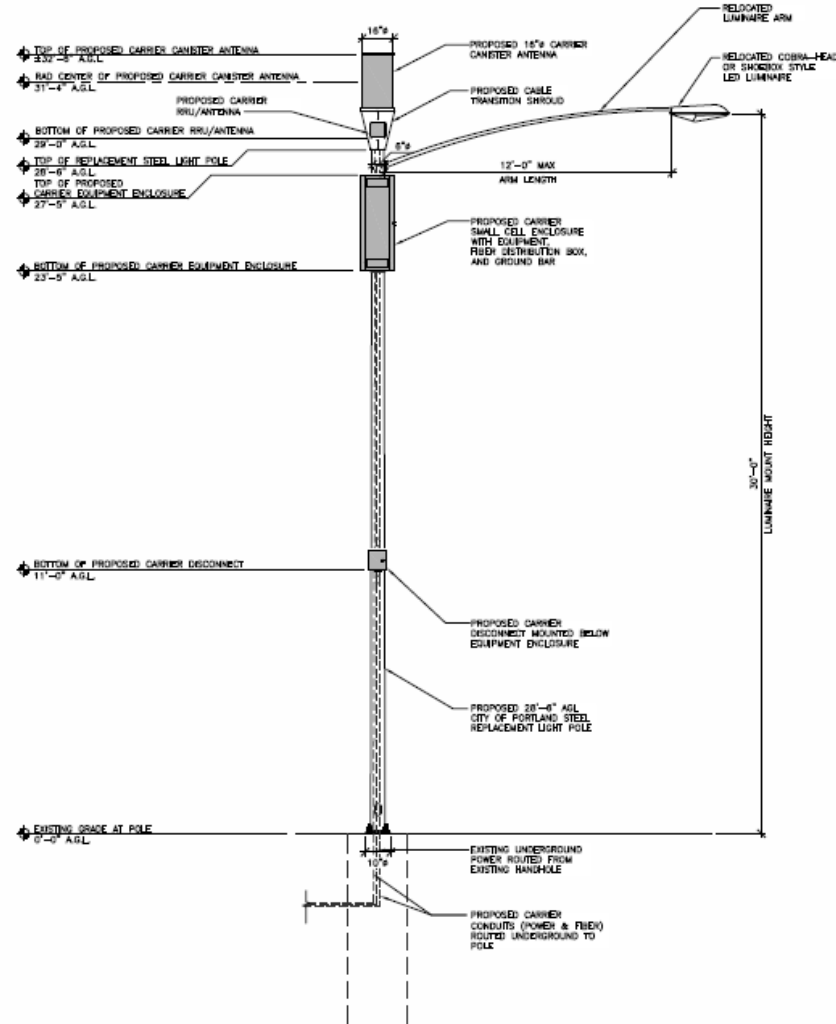


Questions & Direction



Staff is seeking direction to return
January 22nd for Code Amendments and
Master License Agreement approval

4G Pole-Mounted SWF Design



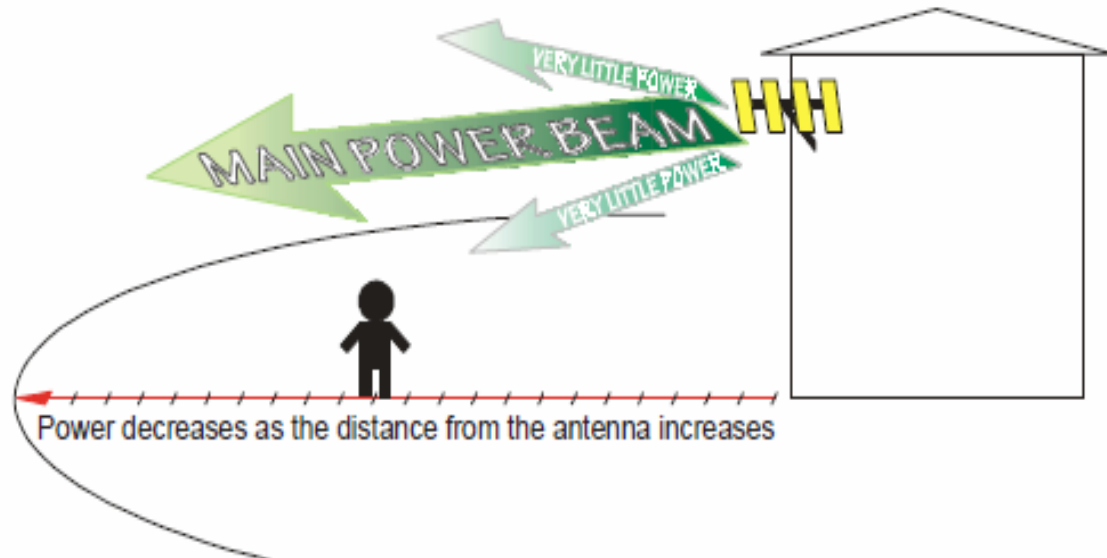
Master License Agreement

Rent

- ❖ Rent (2019): \$270 (if FCC Order) or \$1,500 (FMV, if no FCC Order)- depends on litigation
- ❖ Independent Appraisal for City (August 2018)
- ❖ Seattle Small Cell Rent (2018, before FCC Order) \$1,872/yr/pole (includes some electricity)

Radio Frequency (RF) Emissions FCC Preemption & Safety Guidelines

- ❖ FCC Preemption: Cities may not consider RF Emissions if equipment complies with FCC safety guidelines.
- ❖ FCC sets “maximum personal exposure” based on power and frequency of SWF and distance from equipment
- ❖ Master License requires safety certification and may require post-installation confirmation





15 CUBIC FEET



The new Code allows on One Pole:

$\leq 15ft^3$ for Pole-Mounted SWF Enclosure

PLUS

$\leq 15ft^3$ for Pole-Mounted SWF Antenna

Note: $28ft^3$ includes both pole and ground-based SWF equipment, but excludes antennas



Extensive Provider Input

