

April 6, 2014

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 8898 authorizing the Development Services Department to process applications to modify existing wireless facilities consistent with the Federal Communication Commission's January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012.

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POLICY ISSUES

Should the City authorize the Development Services Department to process applications to modify existing wireless facilities consistent with the Federal Communication Commission's January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012 (codified at 47 U.S.C. 1455)?

DIRECTION NEEDED FROM COUNCIL

☒ Action
☒ Discussion
☐ Information

BACKGROUND/ANALYSIS

On January 8, 2015, the Federal Communications Commission (FCC), adopted a final rule to update its rules regulating the deployment of wireless infrastructure and to clarify and implement statutory requirements applicable to state and local governments when reviewing applications to modify existing wireless facilities.¹ These rules become effective on April 8, 2015. The Director lacks sufficient time to work on a code development program and anticipates numerous wireless applications under the FCC's rule beginning on April 8. To prepare for the effective date, staff has begun developing submittal requirements and public information handouts addressing the new rule. Because of the time constraints staff is seeking direction from the Council to implement the FCC's recent rule.

The rule implements section 6409(a) of the Spectrum Act, which "requires a State or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station."² Specifically, the rule requires that a "local government may not deny and shall

¹ *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, 80 Fed. Reg. 1238 (Jan. 8, 2015) (amending 47 C.F.R. Parts 1 and 17).

² 80 Fed. Reg. 1269 (2015).

approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure.³” Modifications include collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment. The types of modifications the City must approve include, but are not limited to, changes in height and width, installation of additional equipment cabinets (not to exceed four). The City will have only 60 days from the date an applicant submits its application to approve eligible facilities requests, otherwise the application is deemed granted.

Under the rule the City may require an application and documentation to ensure an application satisfies the criteria to be processed as a wireless modification, and benefit from the provisions of section 6409(a) of the Spectrum Act. Proposals not meeting the criteria are processed as new wireless facilities under the City’s existing wireless communications facilities provisions (LUC 20.20.195).

There is insufficient time to develop and implement a work program to develop code language to implement the FCC’s rule. Instead, staff requests the Council acknowledge the rule and direct staff to act in compliance with the timeframes and limitations provided in the FCC’s rule.

EFFECTIVE DATE

If approved, this Resolution becomes effective immediately.

OPTIONS

1. Adopt the Resolution authorizing Development Services to process applications to modify existing wireless facilities consistent with the Federal Communication Commission’s January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012.
2. Do not adopt the Resolution and provide alternative direction to staff.

RECOMMENDATION

Option 1.

MOTIONS

Move to adopt Resolution No. 8898 authorizing Development Services to process applications to modify existing wireless facilities consistent with the Federal Communication Commission’s January 8, 2015 rule implementing Section 6409(a) of the Spectrum Act of 2012.

ATTACHMENTS

Proposed Resolution No. 8898

³ 80 Fed. Reg. 1270 (2015).