

**CANBY CITY COUNCIL & PLANNING COMMISSION JOINT MEETING  
WORK SESSION MINUTES  
May 20, 2020**

**Due to COVID-19 Pandemic, the Mayor, City Councilors, and Planning Commissioners attended the meeting virtually. The public was asked to view the meeting live on CTV Channel 5 or on YouTube. Seating was available in the Council Chambers in compliance with the Governor's Executive Order regarding social distancing.**

**PRESIDING:** Mayor Brian Hodson.

**COUNCIL PRESENT:** Trygve Berge, Tim Dale, Traci Hensley, Greg Parker, Sarah Spoon, and Shawn Varwig.

**PLANNING COMMISSIONERS PRESENT:** Larry Boatright, Michael Hutchinson, Jeff Mills, Derrick Mottern, Jennifer Trundy, and Chair John Savory.

**STAFF PRESENT:** Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; Ryan Potter, Senior Planner; and Melissa Bisset, City Recorder. Associate Planner Erik Forsell attended virtually.

**OTHERS PRESENT:** None.

**CALL TO ORDER:** Mayor Hodson called the Work Session to order at 6:15 p.m.

**DISCUSSION ON SMALL CELL TECHNOLOGY/ 5G.**

Senior Planner Ryan Potter stated that it was a topic already presented to the Planning Commission. Small Cell technology and 5G is new technology that replaces the current 4G technology. It is technology that would allow for more data, better performance and faster download rates. It is currently being rolled out all over the World. It will require a new generation of devices. It is meant to set up a smart city. New infrastructure will need to be built to support the technology. It will be a denser network of small cells. The telecommunication industry is rapidly pursuing the new technology. There's been federal laws crafted that limit the scope of what local jurisdictions can do to regulate the technology. The City has a vested interest in what is put in the City realm and the City right-of-ways.

Mr. Potter stated that the FCC regulation was meant to streamline review of the 5G Network. The industry worked with the FCC on creating regulations and standards on the roll out of the technology. Cities cannot ban 5G or create unreasonable requirements that would effectively ban it and there cannot be obstacles that ban it in practice. There cannot be fees that are excessively burdensome in comparison to other types of infrastructure. The FCC has also

established time periods in which local governments must review applications as they come in. The time periods are typically 60-90 days from when an application comes in. Much of the concern in the public has been related to the public health effects in general and the roll out of 5G. The City is very limited in analyzing environmental effects of telecommunication facilities. As long as the proposed installations are consistent with FCC guidelines the City is preempted from analyzing the environmental effects of the project. The City is left to analyze distancing, the physical capacity and aesthetic concerns. If there are not local regulations in place then the installations are automatically approved. Staff would like the regulations to be addressed sooner than later. Canby would like to find a balance between regulating the right-of-way and what goes in it and complying with the federal laws in place and the City would like to avoid legal challenges. The City would like to have robust language that is consistent with the regulatory paradigm. City Staff would like there to be fairness and the same set of regulations from the start. City Staff would like to use best practices. They had researched code language from other local cities. One of the examples City Staff liked was Oregon City's Development Standards. Mr. Potter reviewed Oregon City's standards. One of the most important things was that they changed their fees to reflect the cost of processing the applications and ensuring that they were in compliance with FCC guidelines.

Councilor Parker suggested that the code be engineered to include the least amount of staff time and paperwork. He thought it should be online process and that the City should protect whatever the City is allowed to protect. He wanted the least amount of administrative time involved. He was happy with the Oregon City standards as they had more Historic Buildings than Canby.

Chair Savory's concern was how the information would get out to the citizens of Canby. He stated that citizens will have concerns and the needed to be kept in the loop. He felt the public was largely uninformed about what was going on and most did not know what 5G entails. He felt citizens needed to be prepared for the future.

Mayor Hodson stated that the challenge was that there was not a lot of latitude because of the FCC and the City would need to figure out the best way to manage it.

Commissioner Hutchinson cited the national electrical code and noted it mandated that obsolete equipment needed to be removed including the wiring. Even rain and leaves can block the signal of the new technology. He assumed that there would be a lot of equipment and he was concerned about the City of Canby having any responsibility to remove it.

City Attorney Lindsay stated the City governs the rights-of-way by franchise. In the franchise agreements there is language that refers to the franchisee being responsible for the removal of facilities.

Commissioner Mottern stated there should be provisions if the equipment were abandoned. He noted that the wireless technology industry moves very fast and there should be provisions in the contract for removal.

Council President Dale felt comfortable with the Oregon City model. He asked if the City could deny 5G installation permits.

City Attorney Lindsay explained there was an FCC Ruling that political subdivisions are not to impede the progress of 5G.

Council President Dale asked about what could be done regarding the density and the technology in neighborhoods.

City Attorney Lindsay stated there could be aesthetics standards in the planning code and there could be franchises that would work in tandem with the code.

Discussion ensued regarding the necessity of density and the amount of infrastructure that will need to go into the ground.

Commissioner Trundy stated that there needed to be power going to all of the stations and she had heard that Canby Utility did not allow anyone to attach to their poles.

City Attorney Lindsay stated it is between Canby Utility and the company wanted to attach their equipment.

Commissioner Trundy asked if there was a way to cluster the equipment so it is controlled and if there could be a blanket response.

City Attorney Lindsay stated that the City could have some control and there would have to be a reasonableness and it could not effectively keep out the technology. He stated that it would be imperative that everyone hears that there is certain information that cannot be considered such as the health and safety.

Commissioner Hutchison asked if they could be forced to share poles.

City Attorney Lindsay stated that it would depend if it was in the public right-of-way.


Councilor Parker emphasized that if any streets needed to be disturbed he wanted them returned to their current condition. He asked if it were clear cut if there was control over what happened on private property.

City Attorney Lindsay stated there was control but their process could not be impeded.



There would be additional meetings on the topic.

The meeting adjourned at 6:55 p.m.

  
Melissa Bisset, CMC  
City Recorder

  
Brian Hodson  
Mayor