

Questions to Steve Friddle and Other CP&D Staff Regarding the Wireless Communications Facility Regulations

Submitted by Jerry Parker, Member of Olympia Planning Commission on 9/21

(I am aware of the request that OPC members submit questions to Mr. Friddle in advance of the 9/22 meeting of the OPC in order to allow sufficient time for researching and preparing response to such questions. However, receipt of materials, especially comments of AT&T representative, Mr. Guttchen, and Mr. Schulte were not available to members sufficiently in advance of the 9/22 meeting to comply with this request. The problems resulting from the schedule for availability of materials to the OPC has been compounded by the volume of materials submitted for OPC review (111 pages). )

1.

Comments of Peter Guttchen and Phil Schulte argue that any change in the City's regulations governing the siting of wireless communications facilities would be premature prior to issuance of final FCC regulations and resolution of various legal challenges, (Comments submitted on 9/15)

Attachment 5 appears to be from the CNA. It makes the same point, i.e. that until the FCC issues its final rules, it is unclear what changes need to be made in Olympia's ordinance to bring it into compliance with federal law. (p. 65)

In light of these comments, what compelling considerations argue for a recommendation from the OPC at this time?

2.

Guttchen also suggests that the public has not had sufficient time to review staff recommendations submitted to the OPC on 9/8 regarding the proposed siting ordinance. (Comments. 9/15)

What compelling considerations argue for a recommendation from the OPC on 9/22?

3.

Pre-emption of at least some decision making on siting of wireless facilities has been asserted by the FCC.

Is this a general assertion that ultimate authority rests with the FCC on all siting decisions regarding wireless facilities what is being contested in the court system at this time?

Is the assertion of pre-emption by the FCC limited to matters of health?

4.

The draft ordinance (Attachment 3) mentions health considerations (pp. 24,25). It is my understanding that the FCC has asserted pre-emption of all health related issues.

Please explain the decision to include mention of health related issues in the draft regulations.

5.

Definitions used in the draft ordinance are subject to interpretation. Example: "significant gap in service" (p. 35) is later defined to mean a gap affecting "a large number of subscribers.:" (p. 51)

Who will determine what constitutes a "large number of subscribers"?

More generally, how will ambiguities in the terms in the ordinance be resolved?

6.

The identification of successful elements of a successful siting process argues that a portion of the revenue received from siting wireless facilities be shared with neighborhoods. (Attachment 6, p. 67)

This suggestion (presumably from the CNA) does not appear to be in the draft ordinance.

Is this suggestion referenced in the draft ordinance? If not, why not?

7.

Attachment 6 includes mention of the precautionary principle as a way to reduce potential health effects. (p. 67).

On the assumption that Attachment 6 is from the CNA, what is the current position of the CNA regarding the assertion of pre-emption of all health related questions by the FCC and federal legislation?

8.

Regarding the issue of federal pre-emption, Bacha appears to write that court decisions appear to be favoring assertions of local control of siting regulations. (Attachment 7, p. 70).

Is this with reference to the assertion of federal pre-emption of all health related issues or does it simply mean that locals have some role in negotiating criteria for siting, sans health related issues?

9.

Bacha says that the current Comprehensive Plan provides for community input on decisions regarding siting of utilities. (Attachment 7, pp. 95-96) Schulte writes that provision for community input was deleted from the recommended update to the Comprehensive Plan. (Schulte, September 15).

Does the current provision for community input have any substantive, i.e. material, significance?

Given the apparent assertion of pre-emption, does the City have any substantive role in the siting of wireless facilities? In other words, does the apparent elimination in the Comprehensive Plan of the provision for community input to the City on the siting of utilities have any consequence for the siting of wireless facilities?