

Report on Attendance at Regional Meetings – August 2018

Monterey One Water

Chaired Board of Director meeting for Monterey One Water for the August monthly meeting.

Staff reported that the treatment Plant has been running well and without issues. The Agency continues training employees and developing a database of previous actions so that we maintain records of past project completions even as some people retire and others are hired. For an organization with such a long-term horizon of operation, these efforts are crucial.

Staff also reported that the overall Pure Water Monterey project is about 60% complete. The Advanced Water Purification plant is half done. The conveyance pipeline portion of the project is 98% completed and the construction management company that completed that work will come over to oversee work on the main plant over the next month.

The source water portion of the project is making good progress and the water tanks (one with a capacity of two million gallons of water) are progressing. The injection wells have been completed and we are working on our sixth and final monitoring well.

We also discussed the General Manager's annual review and consolidated goals for FY 2018-19.

Meetings at City of Monterey

Traffic Mitigation

I met with the city of Monterey's Public Works Director, Steve Wittry and City Traffic Engineer, Andrea Renny to discuss the results of their year-long Traffic Demand Management (TDM) study and its implications for Pacific Grove. Monterey has been working with Kimley-Horn, a traffic planning and design consulting firm to figure out ways to better manage traffic flow around the city, as well as going in and coming out. I had attended some of the early sessions to see how it might affect traffic in Pacific Grove, and they were providing me with an update.

They have been working on this for about a year and have developed several strategies that have helped keep traffic moving and reduce the time commuters spend getting around during the city's "rush hours". The city is also working on several other traffic mitigation measures to improve flow in the future.

Along Lighthouse Avenue from Hoffman to Reeside the City of Monterey is using a traffic management system called SCOOT (Split Cycle Optimization Technique). This monitors traffic flow along that length of road and – based on traffic demand - adjusts the lights every 2.5 minutes to optimize traffic flow. Using this system the city has been able to reduce travel time along this corridor by 10%, and the average delay and number of stops by about 30%. These things have increased the average speed in getting through this area by 13%.

This work has been funded with money from the Monterey Bay Air Resources District and Measure X, and the system has been popular in England to manage traffic there.

Monterey is also working on a wayfinding sign program so that people from outside the area are less confused when they drive around. This would provide more information on how to find the way to places such as Fisherman's Wharf, Cannery Row, and the Aquarium; showing people both direction and which lanes to use.

They are also looking at lengthening parking spaces along Lighthouse to make it easier for drivers to maneuver into and out of parking spaces quickly. In addition, by reducing crosswalks at specific intersections, the city hopes to reduce delay times at those locations. They found that people using a crosswalk on the far side of an intersection can cause a delay of up to 19 seconds; which translates into 6 to 8 cars that cannot enter and cross that intersection before the light changes.

Monterey's Traffic Demand Management efforts have helped to reduce traffic in the highest traffic corridors. Working with CHOMP, MIIS, and Aquarium, and The Cat's Meow (as an example of how a small employer can impact traffic) the city has gotten some employees to leave their cars in a parking garage and take bicycles or other modes of transportation.

The city's traffic adaptations for cars getting onto Lighthouse at both Presidio and David will be completed by next summer. They also find the trolley system to be of help in reducing traffic, because visitors can leave their cars at their hotel or in a parking garage and get around to the main points of interest. They asked if Pacific Grove would be willing to participate in expansion of the trolley system. For both our current lodging establishments and a future hotel, this may be something to look at.

City of Monterey Telecommunications Committee

At the invitation of their mayor, I attended the City of Monterey Telecommunications Committee kick off meeting on Thursday the 23rd at their city hall chambers. The committee is composed of seven member who represent their various Neighborhood Associations in Monterey. Several representatives from these associations are pushing for stronger regulations on providers' ability to install equipment in the city of Monterey.

Mike Dawson from their Planning Commission was elected chairman. Apparently he has some telecom background, though I don't know what it is.

Also in attendance was the Telecommunications attorney from BB&K, Joseph Van Eaton, who had been retained by Monterey to help them revise their existing ordinance and bring in in compliance with current law, practices, and FCC regulations. Mr. Van Eaton is a partner in Best Best & Krieger's Municipal Law practice group, located in Washington, D.C. He represents government agencies on a broad range of communications issues in federal and state courts.

He also helps communities develop wireline and wireless communications ordinances, and has experience in representing municipal governments before the FCC. This includes working with

cities in understanding the limits for local authorities to regulate the placement of wireless equipment.

Monterey's City Attorney – Chrissy Davi – was also in attendance, and she and I discussed the possibility of sharing this attorney's expertise. The cities could at least share the cost of travel and hotel stays if he were to work with both of us.

At the Monterey meeting Mr. Van Eaton stated that, under the Federal Telecommunications Act, cities may not prohibit the installation of wireless facilities on utility poles along the public right-of-way. To some extent, however, a city or other local government may be able to regulate where they can and cannot be placed, the type of devices used, or the platforms on which they are mounted. He pointed out approving the mounting of a device on a pole that you are putting a wind resistant/wind load device at the end of a lever that sticks into the air.

He also extended several cautions, including:

- As long as a wireless device meets federal legal requirements, a city cannot deny an application to install the device based only on health effects.
- Cities will have to be nimble with their rules and very quick and flexible with their approval process.
- Telecomm companies are using California law to challenge cities on installation.
- Rule 7901 allows companies to place devices in the right of way unless it "incommodes" the public.
- Telecom providers may be waiting to see what the FCC does as far as rule setting before moving forward with the installation of new devices.
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He advised that cities develop a process which includes:

- Time, Manner, and Place for devices.
- An application checklist.
- A time line of the review and approval/denial process (setting the "shot clock") Again, the caution here is that if a city has a 90 day permit granting process, the permit may be deemed granted at day 91 – though apparently this has not yet been pushed.
- Develop a design manual so that companies can put up the same design over and over again.

It is important to note that if a city establishes a process with deadlines attached, missing a deadline that it has imposed may result in that application being deemed to have been approved.

But cities cannot require companies to jump through a lot of hoops. He also cautioned about rules that are too restrictive and reminded everyone about all of the locations where we already find wireless transmission devices in our world. These include:

- Wireless networked devices at homes.
- Coffee shops.
- Retail stores.
- Schools
- Airports

Cities may also want to develop different rules for over the counter approvals for temporary carrier devices on wheels under certain conditions such as events and emergencies. For instance; for car, AT&T or US Open events, the number of people who will bring and use their personal devices may take up much of the bandwidth normally available.

Even if a city develops an ordinance, a later ruling by the FCC ruling can void those restrictions. PUC Rule 7901 gives a franchise to telephone companies to use the Public Right of Way (PROW), subject to some limitations. California adopted AB 1027 (in 2011) which establishes access and cost-based rates for communications attachments to utility poles (but not street lights) of local publicly owned electric utilities.

At the League of California Cities meeting last year, this issue was addressed and my notes from that meeting called for developing some kind of ordinance or guidelines in response to SB 649 which, though passed by the state legislature, had been vetoed by the governor. Developing those rules is now even more important.

SUMMARY

The issue of siting small cells is cropping up in multiple cities and probably will not going away on its own. The deployment of Telecommunications equipment – especially small cell equipment – raises several fundamental questions on the limits of control for local jurisdictions.

Also, as astounding as this may seem, FCC regulations state that cities are prohibited from denying a permit to install wireless communication equipment based only on health concerns over radio frequency emissions, provided that the emissions from the devices comply with FCC standards. The Act also prohibits local jurisdictions from imposing more stringent safety standards than the FCC standards.

The recurring theme of the evening's comments are that the FCC sees local government as part of the problem, not part of the solution, to broadband deployment. Multiple FCC items describe local government policies as "barriers to entry and investment", and there seems to currently be a "Small Cell Mania" at the FCC. The membership is heavily tilted to industry and there are 3 key working groups focused on removing state and local regulatory barriers.

The City of Monterey has an Ordinance dealing with telecommunications, and is working to make it better. The City of Pacific Grove does not now have an ordinance or process for directly dealing with telecommunication equipment companies and installations. In fact, because of the rapidly changing requirements of the FCC it may be better not to have an ordinance and, instead to develop a set of **guidelines**.

It is my opinion that the city should designate someone to attend the City of Monterey Telecommunications Committee meetings so that we can either adopt their ordinance, develop a similar ordinance modeled on theirs, or develop guidelines based on their ordinance. We need to protect our citizens as much as possible, while still staying within the rules established by the Federal Communications Commission.

Other Meetings:

I also met with several Monterey County Hospitality Association officials to discuss their concerns and desires. Water continues to be an issue of concern for them, but affordable housing is also rising on their list. Many of their employees commute from areas with lower cost housing and apartments because of local unaffordability. This increases commute times, adds stress on those employees, and can affect employees getting to work when needed.

The same issue came up in discussions with several business owners and their employees during the Pacific Grove Business Walk sponsored by Pacific Grove's Economic Development Commission earlier this year. We need to address these needs as a city going forward.

Respectfully Submitted,

Rudy Fischer

Councilman Rudy Fischer