

PLANNING & ZONING COMMISSION



Wendy McClure
Commission Chair

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~Meeting Minutes~
September 9, 2020

Mike Ray
Staff Liaison

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McClure called the meeting to order at 7:01 PM

MEMBERS PRESENT: in person: Wendy McClure, Chair; Mike Nelsen, Robb Parish, Victoria Seever, Dennis Wilson

via Zoom: Joel Hamilton

MEMBERS ABSENT: Rich Beebe, Nels Reese

STAFF IN ATTENDANCE: Mike Ray, Sandra Kelly, Jennifer Fleischman

1. Approval of Minutes from August 12, 2020 [ACTION ITEM]

Parish moved approval of the minutes as presented, seconded by Wilson. Motion carried by acclamation.

2. Public Comment

None.

3. Public Hearing: Legislative Hearing Providing for the Amendment of Moscow City Code Title 4, Chapter 3; Providing for the Amendment of the Telecommunications Code to Establish Standards for Small Wireless Facilities [ACTION ITEM]

Telecommunications service providers are currently in the process of deploying 5G/small cell wireless technology throughout the developed world. 5G high speed deployment will bring much higher data speeds and traffic, but requires small cell installations to accommodate the data demand. Telecommunications services are largely governed by the Federal Communications Commission (FCC) and the Telecommunications Act, but local governments are allowed to adopt certain regulations at the local level. With the likelihood of 5G/small cell deployment in Moscow, Staff has been working on drafting an ordinance to address them in the Zoning Code. The draft ordinance was presented to the Sustainable Environment Commission at their regular meeting on June 16, 2020 to discuss a unified recommendation with the Planning and Zoning Commission. The SEC voted to recommend that the Planning and Zoning Commission proceed with the current ordinance and the SEC will continue to research health effects and the changing legal landscape to potentially make recommendations in the future.

Ray presented about amendment of Moscow City Code. Gave brief background of cellular communication systems while reviewing historical and current cellular tower styles housed in Moscow. Provided images of proposed 5G cell tower modifications and addressed visual clutter concerns. Outlined Small Cell Program objectives:

- Provide reasonable access to provide desired services
- Minimize visual clutter upon utility poles
- Ensure installations are as aesthetically pleasing as possible

- Ensure that installations do not obstruct sidewalks and roadways and do not interfere with light fixture function
- Create a permitting system that can facilitate processing of applications with allotted time period dictated by FCC
- Coordinate with utility and street light owners

Presented on the background of the Telecommunications Act and the FCC new ruling that was intended to streamline the permitting of 5G small cell deployments. This affects the maximum fees that can be charged for small cell applications and right-of-way use, decision time frames for small cell applications, and appeal process for violations.

Existing telecommunications code was briefly touched on, noting that small cells are not currently addressed in the City Code. Staff provided a draft Small Cell Ordinance Amendment with several stipulations that would change current code to include Small Cell regulation rules:

- Defining Small Wireless Facilities and Facility standards
- Addresses co-location standards upon existing support structures
- Replacement of existing antenna support structures
- New small wireless facility antenna tower standards

Sustainable Environment Commission recommended that the P&Z Commission continue with the Small Cell Ordinance draft provided by Staff. SEC would move forward with a recommendation in the future if the legal landscape changes and health concerns are allowed to be addressed.

Ray indicated that a lot of the public comments have been implemented into the draft Ordinance. One common concern was also changed to add more clarification addressing the FCC regulations regarding radio frequency compliance. An amended draft ordinance incorporating the additional requirements was distributed for the Commission's consideration.

McClure asked if the FCC standards should change and become more stringent, should that be addressed in the Ordinance. Ray indicated that the Ordinance would accommodate any changes to the FCC as it speaks to the current regulations. Staff recommendation is to forward the proposed draft Ordinance to City Council.

McClure mentioned that the majority of the negative public comments have been in regards to health and safety, and requesting small cells not be placed in residential zones, however the City doesn't appear to have the liberty to prevent that and asked if that was Staff's impression as well. Ray responded affirmatively.

Wilson asked about the 40ft limit for the poles, which Ray indicated would be from grade. Hamilton said he liked the additions that Staff made to the draft Ordinance and McClure agreed.

Public hearing opened at 7:25pm.

Public hearing closed at 7:25pm.

Seever brought up the concerns about the health effects and how little the Commissioners can do in changing current FCC regulations. Parish commends the Commissioners on doing so much work to create an Ordinance that tries to limit Small Cell within the current parameters set by FCC and proposes coming back to address this Ordinance again in the future to see if anything else can be improved.

Seever thanked Mia Bautista, City Attorney, for working so hard on handling this issue. McClure agrees that everything was done that the Commission and City could do in regards to the ordinance.

Hamilton moved to recommend approval of the draft Ordinance with the proposed redline adjustments, seconded by Nelson. Motion was approved with acclamation.

5. Public Art Lighting Discussion [ACTION ITEM]

With the installation of the recent public art project, there has been some discussion amongst Staff regarding the lighting of public art in the City. Currently the majority of lighting is required to be full cut-off with up-lighting only permitted in certain circumstances. The Art Department would like to request that the Commission review the current lighting ordinance to see if there's a possibility of providing an exemption from the full cut-off requirement for public art.

Ray presented background on Public Art Lighting, including proposal by artists to add lighting to current art installation in Moscow. Art installation pictures and lighting plans were shown. A memo from Arts Department to support lighting for other art installations around town was also reviewed. The current outdoor lighting ordinance requires that all lights be full cut-off, with some exceptions in residential areas.

Seever requested a definition of “full cut-off” and Ray explained the stipulations. Non-residential full cut-off lighting is exempted in limited scenarios. There is a possibility of addressing amendments to the code for lighting of public art that could be woven into the current exemptions.

Parish expressed approval of having lighting for public artwork. Suggested an exemption in the code may be the easiest way to make the change. Seever and McClure both agree as well. Hamilton advocates for the black sky initiatives and is worried about the public response to allowing more up-lighting options. Would like to see an option of having the light focused more closely on the artwork instead of spreading into the sky. Discussion about the “slippery slope” of where art lighting stops and other lighting exceptions will start. McClure asked Ray if it would be better to have a conditional use application. Staff said it is an option to have Board of Adjustment review all lighting applications, but not advisable because of the simplicity of such proposals.

Ray clarified that this exemption would only cover city owned art projects. Parish suggested this be sent to the City Attorney to make sure that it would be legal to have exclusive exemptions to city owned art. Ray said he would bring it to the City Attorney. Discussion around public art versus private art installations. Hamilton would like to see shrouding suggestions to prevent light pollution. Gropp will research some options and report back. Ray mentioned that the Arts Department would be heavily involved in any art installation project and lighting for it.

Subject will be placed on the agenda until next meeting, where Staff will provide draft language.

4. Review of Draft Sign Code Status [ACTION ITEM]

The Supreme Court Case, Reed vs. Town of Gilbert, in 2015 clarified when municipalities may impose content-based restrictions on signage. There are various places within the Sign Code which apply content-based restrictions and need to be amended to comply with the Supreme Court's ruling. Staff has started to convert portion of the sign code into table format and will review the progress with the Commission.

Ray requested this topic be tabled until next meeting.

5. Transportation Commission Meeting Report

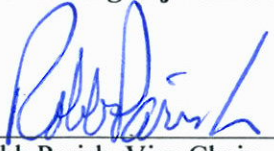
Transportation Commission meeting September 10. Working on paring down ex-officio memberships and reviewing City's Capital Improvement plan. Will be electing officers since the Chair and Vice Chair positions have recently become vacated.

6. Announcements

Welcomed two new staff: Jennifer Fleischman as Deputy City Clerk, and David Harlan as Digital Media Specialist. Thanked Mayor Bill Lambert for note and tumblers presented to Commissioners.

Seever announced that the Commission survey has been sent out.

The meeting adjourned at 7:53 PM



Robb Parish, Vice Chair