JUNE 14, 2017
CITY COUNCIL CHAMBERS
3:30 P.M. Closed Session; 4:30 P.M. Regular Session
201 N. Broadway, Escondido, CA 92025

MAYOR	**Sam Abed**
DEPUTY MAYOR	**John Masson**
COUNCIL MEMBERS	**Olga Diaz** **Ed Gallo** **Michael Morasco**
CITY MANAGER	**Jeffrey Epp**
CITY CLERK	**Diane Halverson**
CITY ATTORNEY	**Michael McGuinness**
DIRECTOR OF COMMUNITY DEVELOPMENT	**Bill Martin**
DIRECTOR OF ENGINEERING SERVICES	**Julie Procopio**

ELECTRONIC MEDIA:
Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Council during the meeting are part of the public record and may be retained by the Clerk.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.

June 14, 2017
3:30 P.M. Meeting

Escondido City Council

CALL TO ORDER

ROLL CALL: Diaz, Gallo, Masson, Morasco, Abed

ORAL COMMUNICATIONS

In addition to speaking during particular agenda items, the public may address the Council on any item which is not on the agenda provided the item is within the subject matter jurisdiction of the City Council. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) Speakers are limited to only one opportunity to address the Council under Oral Communications.

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

I. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)

a.	**Agency Negotiator:**	Sheryl Bennett and Jeffrey Epp
	Employee Organization:	Non-Sworn Police Bargaining Unit
b.	**Agency Negotiator:**	Sheryl Bennett and Jeffrey Epp
	Employee Organization:	Escondido City Employee Association: Administrative/Clerical/Engineering Bargaining Unit
c.	**Agency Negotiator:**	Sheryl Bennett and Jeffrey Epp
	Employee Organization:	Escondido City Employee Association: Supervisory Bargaining Unit

ADJOURNMENT

June 14, 2017
4:30 P.M. Meeting

Escondido City Council
and as Successor Agency to the CDC

CALL TO ORDER

MOMENT OF REFLECTION:
City Council agendas allow an opportunity for a moment of silence and reflection at the beginning of the evening meeting. The City does not participate in the selection of speakers for this portion of the agenda, and does not endorse or sanction any remarks made by individuals during this time. If you wish to be recognized during this portion of the agenda, please notify the City Clerk in advance.

FLAG SALUTE

ROLL CALL: Diaz, Gallo, Masson, Morasco, Abed

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.) NOTE: Depending on the number of requests, comments may be reduced to less than 3 minutes per speaker and limited to a total of 15 minutes. Any remaining speakers will be heard during Oral Communications at the end of the meeting.

CONSENT CALENDAR

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **APPROVAL OF MINUTES: Regular Meeting of May 24, 2017**

4. **AWARD OF BID FOR LEGAL ADVERTISING FISCAL YEAR 2017-18 -**
   Request the City Council approve awarding the bid for the City's legal advertising for a one-year period to The Daily Transcript.

   Staff Recommendation: **Approval (City Clerk's Office: Diane Halverson)**

   RESOLUTION NO. 2017-81

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

PUBLIC HEARINGS

5. **ZONING CODE AMENDMENT (AZ 16-0009) - Continued from May 24, 2017**
   Request the City Council approve an amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code, with modifications as recommended by staff based on input from the City Council and wireless industry representatives.

   Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

   ORDINANCE NO. 2017-10R (First Reading and Introduction)

6. **ADOPTION OF FISCAL YEAR 2017-18 ANNUAL OPERATING BUDGET AND THE APPROPRIATIONS LIMIT (GANN LIMIT) FOR FISCAL YEAR 2017-18 -**
   Request the City Council approve the Fiscal Year 2017-18 Annual Operating Budget and the Appropriations Limit (GANN Limit) for Fiscal Year 2017-18.

   Staff Recommendation: **Approval (Finance Department: Sheryl Bennett)**

   A) RESOLUTION NO. 2017-75 B) RESOLUTION NO. 2017-76

FUTURE AGENDA

7. **FUTURE AGENDA -**

The purpose of this item is to identify issues presently known to staff or which members of the City Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

COUNCIL MEMBERS' SUBCOMMITTEE REPORTS

CITY MANAGER'S WEEKLY ACTIVITY REPORT

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

The public may address the Council on any item that is not on the agenda and that is within the subject matter jurisdiction of the legislative body. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. Speakers are limited to only one opportunity to address the Council under Oral Communications.

ADJOURNMENT

UPCOMING MEETING SCHEDULE

Date	Day	Time	Meeting Type	Location
June 21	Wednesday	3:30 & 4:30 PM	Regular Meeting	City Council Chambers
June 28	Wednesday	3:30 & 4:30 PM	Regular Meeting	City Council Chambers
July 5	-	-	No Meeting	-
July 12	Wednesday	3:30 & 4:30 PM	Regular Meeting	City Council Chambers

TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Submission of Speaker forms prior to the discussion of an item is highly encouraged. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Nomination forms for Community Awards are available at the Escondido City Clerk's Office or at http://www.escondido.org/city-clerks-office.aspx

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at http://www.escondido.org/meeting-agendas.aspx
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING: Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and U-verse Channel 99 – Escondido Gov TV. They can also be viewed the following Sunday and Monday evenings at 6:00 p.m. on those same channels. The Council meetings are also available live via the Internet by accessing the City's website at www.escondido.org, and clicking the "Live Streaming –City Council Meeting now in progress" button on the home page.

Please turn off all cellular phones and pagers while the meeting is in session.

The City Council is scheduled to meet the first four Wednesdays of the month at 3:30 in Closed Session and 4:30 in Open Session.
(Verify schedule with City Clerk's Office)
Members of the Council also sit as the Successor Agency to the CDC, Escondido Joint Powers Financing Authority and the Mobilehome Rent Review Board.

CITY HALL HOURS OF OPERATION
Monday-Friday 8:00 a.m. to 5:00 p.m.

If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4643. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Listening devices are available for the hearing impaired – please see the City Clerk.

CITY OF ESCONDIDO

May 24, 2017
3:30 P.M. Meeting Minutes

Escondido City Council

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 3:30 p.m. on Wednesday, May 24, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

ATTENDANCE:
The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Deputy Mayor John Masson, Councilmember Michael Morasco, and Mayor Sam Abed. Quorum present.

ORAL COMMUNICATIONS

CLOSED SESSION: (COUNCIL/SUCCESSOR AGENCY/RRB)

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Gallo to recess to Closed Session. Motion carried unanimously.

I. **CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)**

a. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Non-Sworn Police Bargaining Unit

b. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association: Administrative/Clerical/Engineering Bargaining Unit

c. **Agency Negotiator:** Sheryl Bennett and Jeffrey Epp
Employee Organization: Escondido City Employee Association: Supervisory Bargaining Unit

II. **CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION (Government Code 54956.9(d)(1))**

a. **Case Name:** Southwest Key Programs, Inc. v. City of Escondido
Case No: 3:15-cv-01115H

b. **Case Name:** SNR 27 Springs of Escondido Owner, LLC v. City of Escondido
Case No: 37-2017-00005187-CU-WM-NC

c. **Case Name:** SNR 27 Springs of Escondido Owner, LLC v. City of Escondido
Case No: 37-2017-00001099-CU-WM-NC

III. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)**

a. **Property:** Municipal Parking Lot #1, Municipal Parking Lot #2, and APNs 233-091-01 through -17
City Negotiator: Jeffrey Epp, City Manager
Negotiating Parties: Touchstone Communities
Under Negotiation: Price and Terms Agreement

b. **Property:** 1600 West 9th Avenue, APN 232-542-13-00
City Negotiator: Jeffrey Epp, City Manager
Under Negotiation: Price and Terms of Agreement

c. **Property:** 700 West Grand Avenue, APN 232-100-16-00
City Negotiator: Jeffrey Epp, City Manager
Negotiating Parties: Lyon Communities
Under Negotiation: Terms of Purchase

DEPUTY MAYOR MASSON ABSTAINED FROM ITEMS III. A. AND III. C. AND LEFT THE CLOSED SESSION ROOM.

ADJOURNMENT

Mayor Abed adjourned the meeting at 4:37 p.m.

_____ _____

MAYOR CITY CLERK

_____

DEPUTY CITY CLERK

CITY OF ESCONDIDO

May 24, 2017
4:30 P.M. Meeting Minutes

Escondido City Council
Mobilehome Rent Review Board

CALL TO ORDER

The Regular Meeting of the Escondido City Council was called to order at 4:40 p.m. on Wednesday, May 24, 2017 in the City Council Chambers at City Hall with Mayor Abed presiding.

MOMENT OF REFLECTION
Randy Ortlieb led the Moment of Reflection.

FLAG SALUTE
Councilmember Gallo led the flag salute.

ATTENDANCE:
The following members were present: Councilmember Olga Diaz, Councilmember Ed Gallo, Deputy Mayor John Masson, Councilmember Michael Morasco, and Mayor Sam Abed. Quorum present.

Also present were: Jeffrey Epp, City Manager; Michael McGuinness, City Attorney; Bill Martin, Director of Community Development; Julie Procopio, Director of Engineering Services; Diane Halverson, City Clerk; and Jennifer Ekblad, Deputy City Clerk.

PRESENTATIONS
Mayor Abed, Chief Craig Carter, Captain Eric Skaja, and Captain Greg Kogler presented Police Department Citizen Citation Awards to William Stamm, William Stout, and Bala Carter. Also present was Deputy District Attorney Ben Barlow.

ORAL COMMUNICATIONS

CONSENT CALENDAR

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Morasco to approve all Consent Calendar items. Motion carried unanimously.

1. **AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/SUCCESSOR AGENCY/RRB)**
2. **APPROVAL OF WARRANT REGISTER (Council/Successor Agency)**
3. **APPROVAL OF MINUTES: A) Regular Meeting of May 3, 2017 B) Regular Meeting of May 10, 2017**

4. **CONTRACT AWARD FOR HAULING AND BENEFICIAL REUSE OF HALE AVENUE RESOURCE RECOVERY FACILITY BIOSOLIDS -**
Request the City Council approve authorizing the Mayor and City Clerk to execute on behalf of the City, a Public Services Agreement with AG Tech LLC, Tule Ranch/Western Express Transporters, the lowest responsive and responsible bidder, for hauling and the beneficial reuse of biosolids from the Hale Avenue Resource Recovery Facility (HARRF). The contract term is three years with two, one-year options to extend. (File No. 0600-10 [A-3218])

Staff Recommendation: **Approval (Utilities Department: Christopher W. McKinney)**

RESOLUTION NO. 2017-69

5. **LEASE AGREEMENT WITH MARK D. KLAMMER REVOCABLE TRUST FOR UNIMPROVED STREET FRONTAGE ADJACENT TO 1002-1028 W. MISSION AVENUE (APN 228-220-79) -**
Request the City Council approve a three-year lease agreement for unimproved public street frontage adjacent to 1002-1028 W. Mission Avenue in the City of Escondido. (File No. 0600-10 [A-2989])

Staff Recommendation: **Approval (Engineering Services Department: Julie Procopio)**

RESOLUTION NO. 2017-72

CONSENT – RESOLUTIONS AND ORDINANCES (COUNCIL/SUCCESSOR AGENCY/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/Successor Agency/RRB at a previous City Council/Successor Agency/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

6. **AMENDMENT TO ARTICLE 67 (DENSITY BONUS AND RESIDENTIAL INCENTIVES) OF THE ESCONDIDO ZONING CODE (AZ 16-0001) -**
Approved on May 10, 2017 with a vote of 5/0 (File No. 0810-20)

ORDINANCE NO. 2017-05 (Second Reading and Adoption)

7. **AMENDMENT TO ARTICLE 66 (SIGN ORDINANCE) OF THE ESCONDIDO ZONING CODE (AZ 17-0001) -**
Approved on May 10, 2017 with a vote of 4/0/1 (Morasco absent) (File No. 0810-20)

ORDINANCE NO. 2017-08 (Second Reading and Adoption)

PUBLIC HEARINGS

8. **SHORT-FORM RENT INCREASE APPLICATION FOR WESTWINDS MOBILEHOME PARK -**
Request the City Council consider the short-form rent increase application submitted by Westwinds Mobilehome Park, and if approved, grant an increase of 75 percent of the change in the Consumer Price Index or 1.467 percent (an average of $6.79) for the period of December 31, 2015 to December 31, 2016. (File No. 0697-20-10119)

Staff Recommendation: **Consider for Approval (Community Development Department: Bill Martin)**

RESOLUTION NO. RRB 2017-01

Belinda Rojas, Program Administrator, and Andrew Modglin, Code Enforcement Officer, presented the staff report utilizing a PowerPoint Presentation.

Jim Younce, Owner's Representative of Thompson Properties, was available to answer Council questions.

MOTION: Moved by Councilmember Diaz and seconded by Councilmember Gallo to approve the short-form rent increase application submitted by Westwinds Mobilehome Park, granting an increase of 75 percent of the change in the Consumer Price Index or 1.467 percent (an average of $6.79) for the period of December 31, 2015 to December 31, 2016; and adopt Resolution No. RRB 2017-01. Motion carried unanimously.

9. ZONING CODE AMENDMENT AND REZONE (AZ 16-0005/PHG 17-0007) -
Request the City Council approve establishing a new residential R-5-30 zoning category; approve amendments to Zoning Code Articles 1, 6, 7, 8, 10, 11, 12, 13, 14, and 57, as well as, the environmental determination; and approve rezoning 186 parcels to R-5-30 (Very High Multi-Family Residential, 30 du/ac max.). (File No. 810-20)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

A) ORDINANCE NO. 2017-07 (First Reading and Introduction)

B) ORDINANCE NO. 2017-09 (First Reading and Introduction)

Bill Martin, Director of Community Development, presented the staff report utilizing a PowerPoint presentation.

MOTION: Moved by Deputy Mayor Masson and seconded by Councilmember Morasco to approve establishing a new residential R-5-30 zoning category; approve amendments to Zoning Code Articles 1, 6, 7, 8, 10, 11, 12, 13, 14, and 57, as well as, the environmental determination; and approve rezoning 186 parcels to R-5-30 (Very High Multi-Family Residential, 30 du/ac max.) and introduce Ordinance No. 2017-07 and Ordinance No. 2017-09. Motion carried unanimously.

10. ZONING CODE AMENDMENT (AZ 16-0009) -
Request the City Council approve an amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code. (File No. 0810-20)

Staff Recommendation: **Approval (Community Development Department: Bill Martin)**

ORDINANCE NO. 2017-10 (First Reading and Introduction)

Jay Paul, Associate Planner, presented the staff report utilizing a PowerPoint presentation.

Paul O'Boyle, San Diego, Outside Counsel for Crown Castle, shared information regarding wireless communications and requested additional options for placement of equipment.

Michael Fulton, San Diego, representative of T-Mobile, voiced support for a zoning code amendment, requested changes to Ordinance No. 2017-10 regarding placement option, and shared information concerning wireless communications and small cell antennas.

MOTION: Moved by Councilmember Gallo and seconded by Councilmember Diaz to continue the public hearing to the Regular City Council Meeting of June 14, 2017. Motion carried unanimously.

FUTURE AGENDA

11. FUTURE AGENDA -
The purpose of this item is to identify issues presently known to staff or which members of the City Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed.

Staff Recommendation: **None (City Clerk's Office: Diane Halverson)**

COUNCIL MEMBERS' SUBCOMMITTEE REPORTS

Councilmember Morasco reported attending the California Center for the Arts, Escondido subcommittee meeting; shared information regarding repairs for the Center and potential plans for Grape Day Park.

Councilmember Gallo reported attending the North County Transit District Board Meeting; shared that 19 additional staff will be aboard the Sprinter line and more patrols will be present at the Escondido Transit Center.

Mayor Abed reported that LAFCO hired Peckman & McKenney to assist in selecting a new executive director.

CITY MANAGER'S WEEKLY ACTIVITY REPORT

The most current information from the City Manager regarding Economic Development, Capital Improvement Projects, Public Safety and Community Development.

- **WEEKLY ACTIVITY REPORT -**

ORAL COMMUNICATIONS

ADJOURNMENT

Mayor Abed adjourned the meeting at 6:20 p.m.

_____ _____

MAYOR CITY CLERK

_____

DEPUTY CITY CLERK

ESCONDIDO
City of Choice

CITY COUNCIL

For City Clerk's Use:
☐ APPROVED ☐ DENIED
Reso No. _____ File No. _____
Ord No. _____

Agenda Item No.: 4
Date: June 14, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Diane Halverson, City Clerk

SUBJECT: Award of Bid for Legal Advertising Fiscal Year 2017-18

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-81 awarding the bid for the City's legal advertising for a one-year period to *The Daily Transcript.*

FISCAL ANALYSIS:

The costs for legal advertising are included within the City Clerk and public project budgets and are not expected to exceed $25,000.

BACKGROUND:

The California Public Contract Code § 20169 requires when there is more than one newspaper of general circulation in a community that the public bidding process occur for the purpose of publishing legal notices.

A Notice Inviting Bids for Official Legal Advertising was published on May 5 and May 12, 2017, with a bid opening date of May 25, 2017. Bid information was mailed to *The Paper*, *The Times-Advocate* and *The Daily Transcript.* One bid was received from *The Daily Transcript.*

An analysis of the submitted bid determined *The Daily Transcript* to be a responsive bidder based on their daily bid price of $8.25 per column inch, their bona fide subscription list of paying subscribers/circulation in Escondido, and additional services available, which gives us flexibility in complying with public noticing laws, as outlined in the bid specifications. City staff also believes that it is significant that *The Daily Transcript* provides publication Monday through Friday, which measurably enhances the ability of the City to keep the public informed as to the activities of the City.

Respectfully submitted,

Diane Halverson

Diane Halverson, MMC
City Clerk

RESOLUTION NO. 2017-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AWARDING THE BID FOR THE CITY'S LEGAL PUBLICATIONS FOR A ONE-YEAR PERIOD AND AUTHORIZING THE CITY CLERK TO EXECUTE THE CONTRACT WITH THE DAILY TRANSCRIPT

WHEREAS, pursuant to Section 20169 of the California Public Contracts Code the City of Escondido proceeded to solicit proposals for the City's publication of legal notices; and

WHEREAS, a notice inviting bids was duly published and, pursuant to said notice, one (1) bid was received from *The Daily Transcript;* and

WHEREAS, pursuant to the bid received and on file with the City Clerk's office and for the price set forth, the bona fide subscription list of paying subscribers and circulation in Escondido, and additional services available as outlined in the bid specifications, this City Council desires at this time and deems it to be in the best public interest to approve the bid submitted by *The Daily Transcript*.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the bid of *The Daily Transcript* for legal publications for a one-year period is accepted and approved.

3. That the City Clerk is hereby authorized to execute the contract as attached as Exhibit "A" and which is incorporated by this reference.

ESCONDIDO
City of Choice

CITY OF ESCONDIDO
AGREEMENT FOR SERVICES
(FOR CONTRACTS $25,000 OR LESS)

This Agreement is made this _____ day of _____, 2017

Between:	CITY OF ESCONDIDO a Municipal Corporation 201 N. Broadway Escondido, California 92025 Attn: Diane Halverson, City Clerk 760-839-4617 ("CITY")	And:	THE DAILY TRANSCRIPT 2652 Fourth Avenue, 2nd Floor San Diego, CA 92103 Attn: Ari Gutierrez Arambula, Director Government Advertising Division 619-232-3486 ("CONTRACTOR")

WHEREAS, the CITY and CONTRACTOR desire to enter into this Agreement for services, the parties agree as follows:

1. Services. The CONTRACTOR will furnish all of the legal advertising services described in its proposal dated May 22, 2017, which was submitted to City in response to a request for proposals, published on May 5 and 12, 2017. CONTRACTOR'S proposal is found as **"Attachment A"** which is attached and incorporated by this reference. CONTRACTOR agrees to the terms proposed in Attachment A for a period of one year, through July 15, 2018.

2. Scope of Compensation. The CONTRACTOR will be compensated for performance of tasks specified in Attachment A only, unless the parties agree in writing that additional tasks will be included.

3. Insurance.

   N/A

4. No Subcontractors. If CONTRACTOR subcontracts, assigns, or delegates any task without first obtaining the written consent of the CITY, the CITY may terminate the agreement immediately.

5. Independent Contractor. CONTRACTOR is an independent contractor and no agency or employment relationship, express or implied, is created by the execution of this Agreement.

6. Indemnification. CONTRACTOR (which in this paragraph 6 includes its agents, employees and subcontractors, if any) agrees to indemnify, defend and hold harmless the CITY from all claims, lawsuits, damages, judgments, loss, liability, or expenses, including attorneys' fees, for any claim of liability arising out of the negligence or any acts or omissions of CONTRACTOR in the performance of this Agreement.

7. Additional Contract Terms. Both parties agree that this Agreement:
   a. And its Attachments are the entire understanding of the parties, and that there are no oral terms.
   b. Must prevail if any provision of this Agreement conflicts with any provision of its Attachment(s).
   c. And its provisions will not be waived by CITY because CITY has waived any provision previously.
   d. Will remain effective in its remainder if any court declares any portion of this Agreement invalid.
   e. Is governed by California law, in the state and federal courts of North San Diego County.

f. May be executed in multiple copies by photocopy or scanning. Signatures on copies will have same effect as those on original.
g. When placed on file with the Escondido City Clerk, will take precedence over other copies of the agreement.
h. Business License. The CONTRACTOR agrees to obtain a City of Escondido Business License prior to execution of this Agreement.

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

_____
City Clerk

Date: _____

APPROVED AS TO FORM:

_____
City Attorney

CONTRACTOR

_____
Signature

(Signature must be notarized)

_____
Name and Title (please print)

_____
Name of Company (please print)

Date Signed: _____

ATTACHMENT "A"

BID RESPONSE

CITY OF ESCONDIDO

OFFICIAL LEGAL ADVERTISING FOR

JULY 15, 2017 – JULY 15, 2018

MAY 25, 2017

City of Escondido

City Clerk's Department

201 North Broadway

Escondido, California 92025

Submitted by:

Ari Gutierrez Arambula, Director

Government Advertising Division

Daily Journal Corporation

915 East 1st Street

Los Angeles, CA 90012

Ari_Gutierrez@dailyjournal.com

213.229.5530

Daily Journal CORPORATION

Los Angeles Daily Journal
915 E. First Street
Los Angeles, CA 90012
(213) 229-5300

San Francisco Daily Journal
44 Montgomery Street, Suite 500
San Francisco, CA 94104
(415) 296-2400

378 Cambridge Avenue, Suite K
Palo Alto, CA 94306
(650) 323-1486

Daily Commerce
915 E. First Street
Los Angeles, CA 90012
(213) 229-5300

Business Journal
3600 Lime Street, Suite 114
Riverside, CA 92501
(951) 784-0111

Orange County Reporter
600 W. Santa Ana Blvd., Suite 205
Santa Ana, CA 92701
(714) 543-2027

The Daily Transcript
2652 Fourth Avenue, 2nd Fl.
San Diego, CA 92103
(619) 232-3486

The Daily Recorder
901 "H" Street, Suite 312
Sacramento, CA 95814
(916) 444-2355

The Inter-City Express
1109 Oak Street, Suite 103
Oakland, CA 94607
(510) 272-4747

San Jose Post-Record
95 S. Market Street, Suite 535
San Jose, CA 95113
(408) 287-4866

The Record Reporter
2025 N 3rd Street #160
Phoenix, AZ 85004
(602) 417-9900

www.dailyjournal.com
www.callawyer.com

May 22, 2017

Ms. Diane Halverson, CMC, City Clerk
City of Escondido
201 North Broadway
Escondido, CA 92025

Re: Legal Advertising RFP Response

Dear Ms. Halverson:

Thank you for the opportunity to continue publishing legal advertising for the City of Escondido. In compliance with Government Code Section 6000 et seq., The Daily Transcript is a legally adjudicated by the Superior Court of San Diego as a daily newspaper for the County of San Diego. (See enclosed adjudication decree, Case No. GIC 808715.)

In 2015, the Daily Journal Corporation ("Daily Journal") purchased The Daily Transcript. The Daily Journal publishes the Los Angeles and San Francisco Daily Journals and local publications in Orange County, Riverside, San Jose, Oakland and Sacramento. Our newspapers are typically the official newspaper for the city and/or county in which they publish. We also provide clearinghouse services to place advertisements in any publication or website at no charge above the commissionable rate. (See enclosed Clearinghouse flier.)

The Daily Transcript is published Monday through Friday except holidays – The deadline is 2 days prior to publication. Each notice is published in The Daily Transcript and other Daily Journal publications are posted online at no additional cost and are searchable via www.sdtranscript.com. Enclosed is a sample ad set at the legal minimum 6-point type and our standard mechanical specifications. The advance price reflects the proposed discount rate of $8.25 per column inch.

The Daily Transcript is distributed to subscribers in the San Diego County including within the City of Escondido. Enclosed is a notarized certificate of circulation. Complementary copies of the newspaper will be delivered to the Office of the City Clerk for verification of publication. A follow-up invoice and scanned proof of publication will be emailed to designated City officials.

At no additional cost, we provide unlimited use of our state-of-the-art proprietary web-based software, AdTech, through which legal notices may be submitted and tracked conveniently, efficiently and published accurately. AdTech provides advance proofs, usage reports, accounting and archives proofs. (See enclosed AdTech flier.)

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Sincerely,

Ari Gutierrez Arambula
Director, Government Advertising Division

THE DAILY TRANSCRIPT

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ESCONDIDO CITY CLERK
201 NORTH BROADWAY
ESCONDIDO, CA 92025

SD# 3010266

CITY OF ESCONDIDO
SUMMARY OF
ORDINANCE(S)
ADOPTED 5-16-12

Ord. 2012-08– Escondido Municipal Code amendment to adopt provisions pertaining to the review, operations and inspection of food warehouses.

Ord 2011-08was adopted by a 5-0 vote.

The full text of the foregoing Ordinance(s) is/are available at the City Clerk's Office.
Diane Halverson
City Clerk
May 16, 2012
5/15/17

SD-3010266#

COPY OF NOTICE

Notice Type: ORD ORDINANCE PUBLICATION

Ad Description SAMPLE AD FOR BID

To the right is a copy of the notice you sent to us for publication in THE DAILY TRANSCRIPT. Thank you for using our newspaper. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

05/15/2017

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an

Publication	$12.37
Total	$12.37

A0000044433315

CITY OF ESCONDIDO
BID SCHEDULE FOR FY 2017-18
PUBLISHING OF LEGAL NOTICES

1.	Enter name and address of newspaper. Show address for mailing copy and address for making payment, if different Email contact:	THE DAILY TRANSCRIPT 2652 4th Avenue 2nd Floor, San Diego CA 92103 Accounts Payable, Daily Journal Corp. P. O. Box 54026, Los Angeles, CA 90054-0026 send ads to Liliana_Moreno@dailyjournal.com
2.	Vendor Code (Bidder - Leave Blank)	
3.	Proof of Adjudication enclosed	YES X NO
4.	Legal notices, show price per column inch, maximum for one insertion, per specifications	$8.25
5.	Legal notices, show price per column inch, maximum for subsequent insertion per specifications	$8.25
6.	Legal notices, show price per column inch, maximum for material composed or set, but not printed	NO CHARGE
7.	Display advertising for one insertion (may include graphics, camera work composed, but not printed)	$45. PCI No Charge if not printed
8.	Display advertising for subsequent insertions (may include graphics, camera work composed, but not printed)	$45. PCI No Charge if not printed
9.	If on-line advertising is available, price per ad	FREE with paid print legal notice
10.	**Publication Dates:** (Use the following symbols or abbreviations) Daily ---------- D Sunday ---------- S	M,T,W,Th,F excluding holidays

11. Show latest certified circulation figures for each designation indicated below. If additional explanation of areas is necessary, please show on a separate sheet and note with "***".

CIRCULATION

a.	City of Escondido (92025, 92026, 92027, 92029, 92033, 92046)	299
b.	Rural (Specify location)	0
c.	Total paid Escondido & Rural*	299
d.	Unpaid Escondido (City Limits)	0
e.	Unpaid rural*	299

(* Rural – City of Escondido Sphere of Influence)

CERTIFICATION

I, ARI G. ARAMBULA, DO HEREBY CERTIFY, UNDER PENALTY OF
(Print or Type Name)
PERJURY, THAT THIS INFORMATION IS CORRECT AND THAT ANY MISINFORMATION MAY BE CAUSE FOR REJECTION OR CANCELLATION OF THIS BID.

DATE: May 23, 2017 _____
(Signature of Bidder)
(SIGNATURE MUST BE NOTARIZED)

SEE ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of LOS ANGELES)

On MAY 23, 2017 before me, DEBBIE YERKES, NOTARY PUBLIC,
Date *Here Insert Name and Title of the Officer*

personally appeared ARI G. ARAMBULA
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

DEBBIE YERKES
Commission # 2099089
Notary Public - California
Los Angeles County
My Comm. Expires Feb 14, 2019

Place Notary Seal Above

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Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: 1 Signer(s) Other Than Named Above: _____

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Signer's Name: _____	Signer's Name: _____
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☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

UNITED STATES POSTAL SERVICE®

Statement of Ownership, Management, and Circulation (All Periodicals Publications Except Requester Publications)

1. Publication Title	2. Publication Number	3. Filing Date
The Daily Transcript	1 4 6 – 6 6 0	September 23, 2016
4. Issue Frequency: Daily Except Saturdays, Sundays, New Year's Day, Dr. Martin Luther King Jr., President Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day	5. Number of Issues Published Annually: 252	6. Annual Subscription Price: $89.00

7. Complete Mailing Address of Known Office of Publication *(Not printer) (Street, city, county, state, and ZIP+4®)*

2652 Fourth Avenue, 2nd Floor, San Diego, CA 92103

Contact Person: Ray Chagolla
Telephone *(Include area code)*: (213) 229-5376

8. Complete Mailing Address of Headquarters or General Business Office of Publisher *(Not printer)*

915 E. First Street Los Angeles, CA 90012-4050

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor *(Do not leave blank)*

Publisher *(Name and complete mailing address)*

Gerald L. Salzman 915 E. First Street Los Angeles, CA 90012-4050

Editor *(Name and complete mailing address)*

David Houston 915 E. First Street Los Angeles, CA 90012-4050

Managing Editor *(Name and complete mailing address)*

Doug Sherwin 2652 Fourth Avenue, 2nd Floor, San Diego, CA 92102

10. Owner *(Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)*

Full Name	Complete Mailing Address
Daily Journal Corporation	915 E. First Street, L.A., CA 90012-4050
Gerald L. Salzman, IRA	915 E. First Street, L.A., CA 90012-4050
Molly Munger Trust	355 S. Grand Ave #35th Floor, L.A., CA 90071-1592
Charles T. Munger Trust	355 S. Grand Ave #35th Floor, L.A., CA 90071-1592
David Borthwick Trust	355 S. Grand Ave #35th Floor, L.A., CA 90071-1592
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Blackrock Fund Advisors	55 E. 52nd Street, New York, NY 10055-0002
The Vanguard Group	455 Devon Park Dr. Wayne, PA 19087-1815
Ashford Capital Management Inc.	1 Walker Mill Rd. , Wilmington, DE 19087-2134
RWWM Inc.	3260 Penryn Rd. #100th Floor, Loomis CA 95650
Lourd Capital Management	9777 Wilshire Blvd. #1018, Beverly Hills, CA 90212
State Street Corporation	1 Lincoln St. Boston, MA 02111

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box → ☐ None

Full Name	Complete Mailing Address

12. Tax Status *(For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)*
The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:
☒ Has Not Changed During Preceding 12 Months
☐ Has Changed During Preceding 12 Months *(Publisher must submit explanation of change with this statement)*

UNITED STATES POSTAL SERVICE®

Statement of Ownership, Management, and Circulation (All Periodicals Publications Except Requester Publications)

16. Electronic Copy Circulation

	Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Paid Electronic Copies	0	0
b. Total Paid Print Copies (Line 15c) + Paid Electronic Copies (Line 16a)	1,227	1,186
c. Total Print Distribution (Line 15f) + Paid Electronic Copies (Line 16a)	1,225	1,187
d. Percent Paid (Both Print & Electronic Copies) (16b divided by 16c × 100)	99.9%	99.9%

☒ I certify that 50% of all my distributed copies (electronic and print) are paid above a nominal price.

17. Publication of Statement of Ownership

☐ If the publication is a general publication, publication of this statement is required. Will be printed in the September 28, 2016 issue of this publication. ☐ Publication not required.

18. Signature and Title of Editor, Publisher, Business Manager, or Owner	Date
Controller	9/26/2016

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

UNITED STATES POSTAL SERVICE

CAPS Fee Payment Report

Account: 10278
Date Range: January 1, 2017 through December 30, 2017

City	State	Permit Number	Type	Payment Date	Description	Amt
SAN DIEGO	CA	59686526	BR	01/02/2017	BRM Accounting	$670.00
					Total:	$3,995.00

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

In the Matter of the Petition of Robert L. Loomis to Modify the Decree Adjudging the *San Diego Daily Transcript*, a Newspaper of General Circulation Ascertained and Established, To Change The Name to *The Daily Transcript*.	CASE NO. GIC 808715 Related Case No: 14894 ORDER TO MODIFY THE DECREE ADJUDGING THE *SAN DIEGO DAILY TRANSCRIPT*, A NEWSPAPER OF GENERAL CIRCULATION ASCERTAINED AND ESTABLISHED, TO CHANGE THE NAME TO *THE DAILY TRANSCRIPT*.

LAW OFFICES
LUCE, FORWARD, HAMILTON & SCRIPPS
3700 THE BANK OF CALIFORNIA PLAZA
110 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
(714) 238-1414

Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

IN THE MATTER OF THE PETITION of the THE SAN DIEGO DAILY TRANSCRIPT, to change the days on which it is printed and published.	NO. 14894 DECREE MODIFYING DECREE ESTABLISHING NEWSPAPER AS A NEWSPAPER OF GENERAL CIRCULATION

The motion of San Diego Daily Transcript, successor in interest to The Daily Transcript, to modify the judgment of this Court entered January 23, 1909 adjudging The Daily Transcript to be a newspaper of general circulation, as modified on July 19, 1971, came on regularly for hearing on this date.

The Court finds that the San Diego Daily Transcript is the successor in interest to The Daily Transcript; that it has continued to serve the same area and has been printed at regular intervals in San Diego, California with a bona fide subscription list and substantial circulation; that the Order of January 23, 1909, states that this newspaper is printed and published daily (Sundays and legal holidays excepted), whereas in fact it is published daily Monday through Friday including legal holidays but excluding Saturdays and Sundays, and that this

Scales, Patton, Ellsworth & Corbett
ATTORNEYS AT LAW
3100 FIRST NATIONAL BANK BUILDING
San Diego, California 92101
TELEPHONE 234-0181

Attorneys for Petitioner

FILED
JUL 19 1971
R. B. JAMES, Clerk
By [illegible] Deputy

ENTERED
JUL 19 1971
Judgment Book 821 Page 432
432

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

IN THE MATTER OF THE PETITION of the THE DAILY TRANSCRIPT, to have its standing as a newspaper of general circulation ascertained and established

No. 14894

DECREE MODIFYING DECREE ESTABLISHING NEWSPAPER AS A NEWSPAPER OF GENERAL CIRCULATION

The motion of San Diego Daily Transcript, successor in interest to The Daily Transcript, to modify the judgment of this Court entered January 23, 1909 adjudging The Daily Transcript to be a newspaper of general circulation came on regularly for hearing this date.

The Court finds that the San Diego Daily Transcript is the successor in interest to The Daily Transcript; that it has continued to serve the same area and has been printed at regular intervals in San Diego, California with a bona fide subscription list and substantial circulation; that the name has been changed to San Diego Daily Transcript and that this change has had no effect on the character or identity of the newspaper.

WHEREFORE, it is ordered that the decree heretofore entered be modified to change the name of said newspaper from The Daily Transcript to San Diego Daily Transcript.

. . . . . .

. . . . . .

IN THE SUPERIOR COURT OF THE COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA.

In the Matter of the Application of the San Diego Printing and Publishing Company, a corporation, to have "The Daily Transcript" declared a newspaper of general circulation.	ORDER DECLARING "THE DAILY TRANSCRIPT" A NEWSPAPER OF GENERAL CIRCULATION.

The application of the San Diego Printing and Publishing Company, a corporation, based upon its verified petition, asking that "The Daily Transcript" be declared a newspaper of general circulation, came on regularly to be heard on the 8th day of January, 1909, and satisfactory proof having been made to the Court that due and legal notice of the hearing of said application has been given in all respects as required by law and the order of this Court, and it appearing from the affidavit of the Manager of said newspaper that the petition has been published for ten days (legal holidays and Sundays excepted) next preceding the day set for the hearing of said petition, and on said 8th day of January, 1909, the Court fixed Saturday the 16th day of January, 1909, as the time for hearing said matter, and the hearing of said matter having been regularly continued to this time, and evidence, both oral and documentary, having been introduced, the Court finds that "The Daily Transcript" has been established, printed and published in the City of San Diego, County of San Diego, State of California, daily (Sundays and legal holidays excepted) for a period of more than one year preceding the publication of the above mentioned notice. That said newspaper has had for more than one year last past a bona fide subscription list of at least three hundred paying subscribers, and is and has been for said period published for the dissemination of local and telegraphic news and intelligence of a general character. That said paper has

CITY OF ESCONDIDO
SUMMARY OF
ORDINANCE(S)
ADOPTED 5-16-12

Ord. 2012-08 – Escondido Municipal Code amendment to adopt provisions pertaining to the review, operations and inspection of food warehouses.

Ord 2011-08 was adopted by a 5-0 vote.

The full text of the foregoing Ordinance(s) is/are available at the City Clerk's Office.
Diane Halverson
City Clerk
May 16, 2012

CNS-3010266#

ESCONDIDO
City of Choice

CITY COUNCIL

For City Clerk's Use:
☐ APPROVED ☐ DENIED
Reso No. _____ File No. _____
Ord No. _____

Agenda Item No.: 5
Date: June 14, 2017
Continued from May 24, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Bill Martin, Director of Community Development

SUBJECT: Zoning Code Amendment (AZ 16-0009)

STAFF RECOMMENDATION:

It is requested the City Council introduce Ordinance No. 2017-10R approving an amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code, with modifications as recommended by staff based on input from the City Council and wireless industry representatives.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission unanimously recommended approval of the Zoning Code Amendment on April 25, 2017 (vote 7-0). Subsequent changes to the draft Ordinance have been made based on City Council direction received on May 24, 2017. These changes are technical and minor in nature and do not substantially change the findings and recommendations of the Planning Commission to approve the Zoning Code Amendment in its current form.

PROJECT DESCRIPTION:

An amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to modify the regulations for wireless communication facilities within the public right-of-way. A clean version of the revised draft Ordinance is included as Attachment "A" to this report. The previous draft Ordinance presented at the May 24, 2017 public hearing with the proposed modifications highlighted has been included as Attachment "B." The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

LOCATION:

Citywide

FISCAL ANALYSIS:

None

GENERAL PLAN ANALYSIS:

The proposed Zoning Code Amendment would be consistent with existing General Plan Goals and Policies to provide for quality communication systems, as well as to provide adequate infrastructure that enhance economic vitality and to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and the public right-of-way. A more detailed General Plan analysis is included in the May 24, 2017 City Council report.

ENVIRONMENTAL REVIEW:

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

PREVIOUS ACTION:

On May 24, 2017, City staff presented the City Council with a draft Ordinance for review and consideration. During their meeting, the City Council received input on the draft Ordinance by members of the public, including industry representatives. Although the City Council generally acknowledged the importance of community aesthetics and safety, individual Council members also identified specific concerns including the potential for overregulation of wireless communications and unclear goals. The majority of the City Council members recommended the wireless provisions provide more flexibility in the standards and process, while still ensuring appropriate aesthetics. The City Council directed staff to continue working on the draft Ordinance for reconsideration by the Council on June 14, 2017.

PUBLIC INPUT:

Based on concerns expressed by the City Council at their May 24, 2017 hearing, City staff conducted a meeting with industry representatives on May 30, 2017, to discuss concerns and recommended changes to the draft Ordinance. At the meeting industry representatives suggested implementing different levels of administrative review for conformance with specific location or design standards. This would enable appropriate designs for specific locations that would allow for a timelier review period and more predictability in the processing outcome. Industry representatives offered areas of modification to the proposed standards. These changes would be key to bringing the technology quicker to market, and responding to the ever increasing wireless service demands and implementation of new technologies and services. All written suggestions and other communication received prior to preparation of the May 24,

2017 City Council report and meeting have been attached to this report for City Council consideration.

ANALYSIS:

Staff believes the suggested revisions to the Ordinance (Attachment "A") offer an appropriate compromise in developing a more flexible framework for streamlining project review while balancing the expectations of community compatibility and community involvement. Some of the high-level changes include the following:

- Increase number of antennas from one to two to accommodate current and future design and capacity needs.

- Increase the allowable size of antennas from two feet to three feet to accommodate anticipated new equipment designs.

- Allow for stand-mount designs (antennas mounted horizontally onto the overhead utility lines rather than on the pole).

- Increase the total cubic square feet from six to seven to allow for future expansion and newer technology.

- Adjust the separation requirements from 300 feet for all carriers to 300 feet per individual carrier to allow more wireless carriers to occupy the same areas of the City and provide service in identified "hot spot" capacity/coverage areas.

The revised Ordinance does not exclude any carrier or type of equipment, and proposes a two-tiered review process that expedites projects that substantially comply with specific criteria, that have been proven to be accommodating in other jurisdictions. This would ensure that most proposed facilities would be context sensitive and of high-quality design, while ensuing community members would have assurance that any potential obtrusive facilities would allow for public notice and input. The proposed standards have been modified to be more flexible and provides a level playing field for all wireless carriers. The Ordinance does not restrict the type of structures a wireless facility can locate on, but requires a wireless carrier to first consider locating on city street lights before placement on other structure within the right-of-way. Administrative staff level review would be anticipated for most wireless communication projects with the processing of a wireless facility permit. The following summary identified the process that typically would be required for different type of facilities:

Administrative Review

- All appropriate vertical structures within the right-of-way (i.e., street lights, utility poles, traffic signals, bus stops, traffic signs, etc.).

- All proposed facilities that conform to the specific development requirements (i.e., number of antennas, size of equipment, height of facility, undergrounding equipment, location preference, etc.).

Minor Conditional Use Permit

- Require minor Conditional Use Permit process (Zoning Administrator review) for certain location and designs rather than the lengthier Planning Commission level review.
- Facilities proposed in residential areas along non-circulation element street
- Facilities proposed along the front yard of single-family homes
- Facilities that do not conform to the specific development requirements (i.e., number of antennas, height of facility, size of equipment, new vertical structure, above-ground equipment enclosure, etc.).

As noted above, for proposed facilities that do not meet the location or specific design criteria, a minor conditional use permit would be required. A minor use permit requires an elevated level of review and public notice to consider the appropriateness of the proposed location and/or design subject to approval by the City's Director/Zoning Administrator based on specific findings. Zoning Administrator decision are appealable to the Planning Commission.

SUMMARY:

As presented in the May 24, 2017 Council report, and restated herein, the wireless communications industry has changed significantly since the original communication antennas ordinance was drafted. The City recognizes that there is a need and responsibility to update its regulations to keep up with this changing industry. The latest version of the draft Ordinance makes a significant step towards this goal, while balancing the expectations of community interests and municipal responsibilities. In addition, staff will continue working with industry representatives to monitor the effectiveness of the Communication Antennas Ordinance and return to the City Council within two years to address any modifications that may be deemed necessary as the wireless industry and consumer demands evolve, as well as to conform to state and federal legislation.

Respectfully Submitted,

MM/S MIKE STRAUB FOR

Bill Martin
Director of Community Development

Jay Paul
Associate Planner

ATTACHMENT "A"

Proposed Amendment to Section 33-704 (k) pertaining to Personal Wireless Service Facilities in the Right-of-Way.

(k) Public Right-of-Way. All requirements of this Article shall apply to the placement, construction, modification, reconstruction, or repair of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state of federal law. The following general requirements also shall apply:

(1) All personal wireless service facilities must comply with the City's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this Article. All applicants shall enter into a license agreement as provided by the City to the extent the facility is proposed to be located on City facilities.

(2) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new structure, that is not a street light, may be permitted by minor conditional use permit. The installation of a new wooden pole is not permitted.

(3) All personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. In residential areas, placing wireless facilities along non-classified residential streets and along the front yard of single-family residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

(4) No more than two panel antennas may be mounted on a single pole or structure. No antenna may exceed three feet in length. Antennas shall be vertically mounted to a pole or support structure (excluding strand mounts) in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall be not exceed four feet in height. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed 35 feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four-inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed seven cubic feet in dimension. Pole-mounted equipment and antennas shall not extend eight inches in width from the pole in any direction. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential

areas, an individual wireless carrier must provide a minimum separation of 300 feet from any of their other wireless facilities within the right-of-way.

(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a minor conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred or is anticipated.

(7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.

(8) Wireless Facility Permits. All new personal wireless service facilities proposed within the right-of-way, collocations or modifications to existing wireless facilities shall require the issuance of a wireless facility permit. The Director may establish the forms and submittal requirements to implement the requirements of this Article. The Director may refer any application for a wireless facility permit to the Planning Commission for consideration at a noticed public hearing.

(A) Administrative Permit. All proposed facilities which meet all the requirements in this Article and any adopted guidelines may be processed through an Administrative Wireless Facility Permit. The Director shall determine whether an application meets the requirements of this Article and any adopted guidelines. The application shall follow the procedures and fees for a Plot Plan and design review.

(B) Minor Conditional Use Permit. All other proposed facilities that the Director determines do not meet the requirements of this Article or any adopted guidelines must be processed through a minor conditional use permit. The applicant must pay any necessary application fees in accordance with a minor conditional use permit application.

(C) Zoning Administrator findings. In addition to the findings in Section 33-1203, the Zoning Administrator must also make the following findings in approving a minor conditional use permit for a personal wireless service facility:

I. That the applicant has demonstrated that the site is necessary to close a significant gap in service;

II. That the location proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

III. That the design proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible; and

IV. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available.

(9) The City Council may, by resolution, establish additional criteria and guidelines for the location, operation, design and review of personal wireless service facilities in the public right-of-way.

ATTACHMENT "B"

Proposed Amendment to Section 33-704 (k) pertaining to Personal Wireless Service Facilities in the Right-of-Way.

Note: This attachment represents the previous draft Ordinance language presented at the May 24, 2017 City Council hearing with changes made in response to City Council direction and industry input. Added language is noted in bold and underlined, text and deleted language in ~~crossed-out~~ text.

(k) Public Right-of-Way. All requirements of this Article shall apply to the placement, construction, modification, reconstruction, or repair of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state of federal law. The following general requirements also shall apply:

(1) All personal wireless service facilities must comply with the City's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this Article. All applicants shall enter into a license agreement as provided by the City to the extent the facility is proposed to be located on City facilities.

(2) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new structure, that is not a street light, may be permitted by **minor** conditional use permit. The installation of a new wooden pole is not permitted.

(3) All personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. In residential areas, placing wireless facilities along non-classified residential streets and along the front yard of **single-family** residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

(4) No more than ~~one~~ **two** panel antennas may be mounted on a single pole or structure. No antenna may exceed ~~two~~ **three** feet in length. Antennas shall be vertically mounted to a pole or support structure **(excluding strand mounts)** in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall be not exceed four feet in height ~~and shall not have a diameter greater that the diameter of the pole~~. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed 35 feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four-inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed ~~six~~ **seven** cubic feet in dimension. Pole-mounted equipment and antennas shall not extend eight inches in width from the pole in any

direction. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. **In residential areas, an individual wireless carrier must provide a minimum separation of 300 feet from any of their other wireless facilities within the right-of-way.** ~~In residential areas, no wireless facility may be located within a 300-foot radius of any other wireless facility within the right-of-way, except in the case of a permitted collocation facility that does not result in a substantial increase in size.~~

(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a **minor** conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred or is anticipated.

(7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.

(8) Wireless Facility Permits. All new personal wireless service facilities proposed within the right-of-way, collocations or modifications to existing wireless facilities shall require the issuance of a wireless facility permit. The Director may establish the forms and submittal requirements to implement the requirements of this Article. The Director may refer any application for a wireless facility permit to the Planning Commission for consideration at a noticed public hearing.

(A) Administrative Permit. All proposed facilities which meet all the requirements in this Article and any adopted guidelines may be processed through an Administrative Wireless Facility Permit. The Director shall determine whether an application meets the requirements of this Article and any adopted guidelines. The application shall follow the procedures and fees for a Plot Plan and design review.

(B) **Minor** Conditional Use Permit. All other proposed facilities that the Director determines do not meet the requirements of this Article or any adopted guidelines must be processed through a **minor** conditional use permit. The applicant must pay any necessary application fees in accordance with a **minor** conditional use permit application.

(C) **Zoning Administrator** ~~Planning Commission~~ findings. In addition to the findings in Section 33-1203, the **Zoning Administrator** ~~Planning Commission~~ must also make the following findings in approving a **minor** conditional use permit for a personal wireless service facility:

I. That the applicant has demonstrated that the site is necessary to close a significant gap in service;

II. That the location proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

III. That the design proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible~~;~~ **and**

IV. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available; ~~and~~

~~V. That the applicant has provided a meaningful comparison analysis that demonstrates that no alternative technology or other alternatives are feasible to comply with the design or placement requirements of this Article, and any adopted guidelines.~~

(9) The City Council may, by resolution, establish additional criteria and guidelines for the location, operation, design and review of personal wireless service facilities in the public right-of-way.

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Senior Legal Counsel

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May 19, 2017

Via E-mail

City of Escondido City Council
City Hall
201 North Broadway
Escondido, CA 92025

Vince McCaw, Real Property Manager
City Hall
201 North Broadway
Escondido, CA 92025

Re. AT&T's Initial Comments
Proposed Amendment to Section 33-704(k) of the Zoning Code,
Personal Wireless Service Facilities in the Right-Of-Way

Dear Mayor Abed, Deputy Mayor Masson, Councilmembers Diaz, Gallo, and Morasco, and Mr. McCaw:

I write on behalf of my client New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T) to provide initial comments on the proposed amendments to Section 33-740(k) of the Escondido Zoning Code ("Proposed Amendments"), by which the city seeks to address advances in wireless technologies and the laws that govern wireless siting. AT&T applauds the city for recognizing the essential need for ubiquitous wireless coverage, and welcomes the prospect of working with the city to improve processes for siting wireless facilities. To that end, AT&T asks the city to fully consider these and any other comments from industry stakeholders.

As the Planning Commission Staff Report recognizes, increasing demands for wireless telecommunications services are helping drive efforts to densify wireless networks, and smaller wireless facilities are being deployed to provide necessary signal strength and capacity nearer to customers. The Center for Disease Control and Prevention ("CDC") tracks the rates at which American households are shifting from landlines to wireless telecommunications. Earlier this month, the CDC reported that more than half of all American households are now "wireless only," and another 15% rely primarily on wireless telecommunications.[1] And the FCC estimates that 70 percent of all 911 calls are made from wireless devices.[2] To keep up ever-increasing wireless service usage, AT&T is installing small and low-power facilities such as small cells and distributed antenna systems, and AT&T is committed to working with the city as it aims to develop a lawful balance between infrastructure needs and the desire to address safety and aesthetics. In this context, AT&T offers the following comments along with a redline to the Proposed Amendments to help foster discussion.

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[1] See *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2016*, available at http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf.

[2] See *911 Wireless Services*, available at https://www.fcc.gov/consumers/guides/911-wireless-services.

Risks in Complying with Federal Law

Section 6409(a)

The city should consider carving out an exception from these provisions to appropriately limit its role in reviewing eligible facilities requests (EFRs) under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. The Proposed Amendments risk violating this important law in several ways. EFRs are not subject to many of the provisions regarding location and design. For example, the dimensions and quantity of antennas and other equipment allowed under Section 33-704(k)(4) cannot be imposed in the context of an EFR.

In addition, the Proposed Amendments seek several pieces of information that cannot be required in the context of EFRs. The FCC's implementing regulations make clear that the city can request documentation "only to the extent reasonably related to determining whether the request meets the requirements" of Section 6409(a) and the FCC's regulations. 47 C.F.R. § 1.40001(c)(1). Indeed, the regulation specifically prohibits the city from requiring any documentation to demonstrate need or to justify the business decision behind the application. Thus, in the context of an EFR, the city cannot require proof of a coverage gap (as required under Section 33-704(k)(8)(C)(I)), nor can the city require information about alternatives (as required under Section 33-704(k)(8)(C)(IV) & (V)).

FCC Shot Clock Compliance

The Proposed Amendments should incorporate the time limitations for the city's review of applications consistent with the FCC's "shot clocks." The Federal Telecommunications Act of 1996 requires a local government to act on an application to place or construct a wireless telecommunications facility "within a reasonable period of time." *See* 47 USC § 332(c)(7)(B)(ii). The FCC's Shot Clock Order established a legal presumption that "reasonable period of time" means 90 days to act on an application to collocate a wireless facility or 150 days to act on other requests to construct wireless telecommunications facilities.[3] The FCC also has established a maximum 60-day review period for EFRs.[4]

Section 33-704(k)(8) of the Proposed Amendments risks violating the shot clock by providing a mechanism for the Director of Planning and Building to refer any application for a wireless facility permit to the Planning Commission. One problem is that this section does not provide a timeframe for the referral, which could route an application to the Planning Commission with insufficient time to act within the shot clock. This is especially problematic for EFRs and collocation applications, which are subject to 60-day and 90-day shot clocks, respectively. And a violation of the applicable shot clock will result in a deemed grant.[5]

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[3] See Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B), WT Docket No. 08-165, Declaratory Ruling, 24 FCC Rcd. 13994 (2009) ¶¶ 45, 71.

[4] See 47 C.F.R. § 1.40001(c)(2).

[5] The FCC regulation that specifies the 60-day shot clock for EFRs also provides the deemed grant remedy for failure to act in time. See 47 C.F.R. § 1.40001(c)(4). And state law provides that the failure to

Telecommunications Act

Several requirements of the Proposed Amendments are taken from the elements of a wireless provider's claim for an effective prohibition under the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B)(II). Pursuant to the Telecommunications Act of 1996, a local jurisdiction must avoid taking any action on a wireless siting permit that "prohibit[s] or [has] the effect of prohibiting the provision of personal wireless services." 47 U.S.C. § 332(c)(7)(B)(i)(II). Courts have found an "effective prohibition" exists where a wireless carrier has (1) a "significant gap" in wireless service coverage; and (2) that the proposed facility would provide the "least intrusive means," in relation to the land use values embodied in local regulations, to provide the service coverage necessary to fill that gap.[6] If a wireless carrier satisfies both of these requirements, state and local standards that would otherwise be sufficient to permit denial of the facility are preempted and the municipality must approve the wireless facility.[7]

Initially, the city should not require AT&T to provide evidence to support this federal claim with each application. This standard exists to determine whether a city has violated the law, and it is inappropriate to require an applicant to make the same showing in the context of every application. That said, we propose edits to the language of the Proposed Amendments to conform to the applicable legal test.

The city runs the risk of violating the Telecommunications Act by its 300-foot radius rule under Section 33-704(k)(5) of the Proposed Amendments. Some small wireless facilities, such as small cells, propagate a signal of just a few hundred feet. As articulated by the City Staff in its Planning Commission Staff Report, because small cells serve targeted areas, more of them will need to be deployed. By creating a bright-line, 300-foot rule, the city risks effectively prohibiting service in violation of the federal law. AT&T recommends deleting this sentence as the aesthetic purpose is adequately articulated in the first sentence of this provision.

In addition, the city's proposed undergrounding requirement, under Section 33-704(k)(7) of the Proposed Amendments, risks prohibiting provision of wireless service. This provision also runs contrary to the city's objectives to allow for ubiquitous wireless telecommunications services.

Preemption

In addition to the effective prohibition preemption, the city is preempted from forcing AT&T to deploy a different technology, such as installing a small cell facility rather than a DAS. Through the Telecommunications Act and its regulations, the FCC has exclusive authority over

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meet the 90-day or 150-day FCC shot clock results in a deemed approval upon notice. See Cal. Gov't Code § 65964.1(a).

[6] See e.g., *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 734-35; *Sprint PCS Assets, LLC v. City of Palos Verdes Estates,* 583 F.3d 716, 726 (9th Cir. 2009).

[7] See *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 999 (9th Cir. 2009).

technical and operational matters concerning wireless communications.[8] Therefore, the city may not require AT&T to choose a different technology to address its coverage needs. Section 33-704(k)(4) of the Proposed Amendments risks preemption by providing specific limitations that force use of a certain technology. For example, by limiting an installation to only one antenna, the city is legislating (albeit perhaps inadvertently) its preference for small cells over DAS. Likewise, by restricting antenna height, the city is unlawfully limiting providers' choice of technology.

Risks in Complying with State Law

Under California Public Utilities Code Section 7901, AT&T has state law franchise rights to access and construct facilities in public rights-of-way to furnish wireless telecommunications services. AT&T objects to the extent the Proposed Amendments interfere in any manner with its right to deploy facilities. While some of the proposed restrictions may, in some circumstances, qualify as reasonable time, place, and manner restrictions under Section 7901.1, some likely will not. For example, under Section 7901 the County cannot dictate the utility infrastructure that AT&T deploys – the city may disfavor, but cannot prohibit, wood poles as it seeks to do under Section 33-704(k)(2) of the Proposed Amendments. Likewise, the antenna height restriction under Section 33-704(k)(4) of the Proposed Amendments must be reasonable. Thus, in lieu of the bright-line antenna height restriction, AT&T recommends limiting height to what is necessary to provide service. And the city's proposed undergrounding requirement, under Section 33-704(k)(7) of the Proposed Amendments, would violate AT&T's right as a telephone corporation to install its equipment in the public rights-of-way.

Conclusion

AT&T appreciates the city's effort to update its code in light of the significant advances in the wireless industry. Especially as technologies advance and the types of facilities needed to meet increasing demands change, the city and wireless providers will be better served by policies that foster flexibility in siting wireless technologies. AT&T welcomes the opportunity to work with the city to that end.

Very truly yours,

/s/ Michael van Eckhardt

Michael van Eckhardt

cc: John Osborne, Director of External Affairs

Attachment: Redline of Proposed Amendments

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[8] See *New York SMSA L.P. v. Town of Clarkstown*, 612 F.3d 97, 105-06 (2d Cir. 2010) (local governments are preempted from requiring wireless providers to implement specific technologies; powers reserved to local governments under the telecommunications Act do not extend to technical and operational matters, over which the FCC and the federal government have exclusive authority).

EXHIBIT "B"

Proposed Amendment to Section 33-704 (k) pertaining to Personal Wireless Service Facilities in the Right-of-Way.

(k) Public Right-of-Way. All requirements of this Article shall apply to the placement, construction, modification, reconstruction, or repair of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state or federal law. The following general requirements also shall apply:

(1) All personal wireless service facilities must comply with the City's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this Article. All applicants shall enter into a license agreement as provided by the City to the extent the facility is proposed to be located on City-owned facilities.

(2) To the extent feasible, pPersonal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, or bus stop. The installation of a new structure, that is not a street light, may be permitted by conditional use permit. The installation of a new wooden pole is not permitted.

(3) To the extent feasible, aAll personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. In residential areas, preference shall be given to placing wireless facilities along non-classified residential streets to the extent feasible, and placements along the front yard of residential properties should be avoided when feasible. New wWireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

(4) ~~No more than one panel antenna may be mounted on a single pole or structure. No e~~Antennas shall be no larger than necessary to provide proposed wireless services~~may exceed two feet in length~~. Panel antennas shall be vertically mounted to a pole or support structure in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape, shall be no taller than necessary ~~be not exceed four feet in height~~ and shall not have a diameter greater than the diameter of the pole. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed 35 feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four-inch gap, to minimize impacts to the visual profile. Pole- mounted equipment, exclusive of antennas, shall be no larger than necessary~~not exceed six cubic feet in dimension~~. Pole-mounted equipment and antennas shall not extend eight inches from the pole in any direction. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

Commented [AT&T2]:
The city should provide a specific exception (or different process) for eligible facilities requests under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a).

Commented [AT&T2]:
AT&T has rights under Section 7901 of the California Public Utilities Code to access and install facilities in the public rights-of-way. While the city may be able to establish some attachment preferences or restrictions consistent with Section 7901.1, the city cannot dictate type of infrastructure.

Commented [AT&T3]:
Based on the Circulation Element of the General Plan, there are many portions of the city that are made up of non-classified residential streets. Given the need to place facilities closer to customers, the trend away from landline home telephones, and City Staff's recognition of need for ubiquitous services, there will likely be a need to place small facilities in the public rights-of-way along such streets.

Commented [AT&T4]:
It is necessary to distinguish new sites from modifications that are authorized by federal law.

Commented [AT&T5]:
This paragraph fails to consider collocation by right under Section 6409(a). In addition, by prohibiting collocations, the city is encouraging a proliferation of locations for new wireless facilities.

The one-antenna limit is neither lawful nor wise. An outdoor DAS node often has two antennas. As City Staff has noted, DAS is one type of small wireless facility that may serve the dual objectives of expanding wireless services while preserving aesthetics.

Further, an antenna-length restriction risks violating federal law and is preempted by the FCC's regulation of wireless technology.

(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. ~~In residential areas, no wireless facility may be located within a 300-foot radius of any other wireless facility within the right-of-way, except in the case of a permitted collocation facility that does not result in a substantial increase in size.~~

Commented [AT&T6]:
This provision should be deleted as it risks violating the Telecommunications Act of 1996 as an effective prohibition of services. The first sentence provides the desired aesthetic regulation.

(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred ~~or is anticipated~~.

(7) ~~All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole.~~ New eEquipment shelters ~~shall not be allowed~~ in the public right-of-way shall not ~~where their presence would~~ interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.

Commented [AT&T7]:
Mandatory undergrounding conflicts with wireless companies' rights as telephone corporations under state law. Moreover, mandatory vaulting will make use of existing infrastructure cost prohibitive, which is not city's objective.

(8) Wireless Facility Permits. All new personal wireless service facilities proposed within the right-of-way, collocations or modifications to existing wireless facilities shall require the issuance of a wireless facility permit. The Director may establish the forms and submittal requirements to implement the requirements of this Article. The Director may refer any application for a new wireless facility permit to the Planning Commission for consideration at a noticed public hearing.

Commented [AT&T8]:
The city should include a timing element to any such referral in order to be sure to comply with the applicable FCC shot clock. Because it seems unlikely to meet the 60-day shot clock for eligible facilities requests under Section 6409(a), AT&T suggests limiting the scope of referrals to applications for new facilities.

(A) Administrative Permit. All proposed facilities which meet all the requirements in this Article and any adopted guidelines may be processed through an Administrative Wireless Facility Permit. The Director shall determine whether an application meets the requirements of this Article and any adopted guidelines. The application shall follow the procedures and fees for a Plot Plan and design review.

(B) Conditional Use Permit. All other proposed facilities that the Director determines do not meet the requirements of this Article or any adopted guidelines must be processed through a conditional use permit. The applicant must pay any necessary application fees in accordance with a conditional use permit application.

(C) Planning Commission findings. In addition to the findings in Section 33-1203, and to the extent in compliance with applicable federal law, the Planning Commission must also make the following findings in approving a conditional use permit for a personal wireless service facility:

Commented [AT&T9]:
Several of these findings cannot be applied to eligible facilities requests under Section 6409(a) because for such applications the city may only request documentation necessary to determining whether the proposed facility is an eligible facilities request.

I. That the applicant has demonstrated that the site is necessary to close a significant gap in service;

II. That the location proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

III. That the design proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

IV. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or ~~potentially~~ unavailable; and

V. That the applicant has provided a meaningful comparative analysis that demonstrates that no ~~alternative technology or~~ other feasible and available alternatives are ~~feasible less intrusive based onto comply with~~ the design or placement requirements of this Article, and any adopted guidelines.

9. The City Council may, by resolution, establish additional criteria and guidelines for the location, operation, design and review of personal wireless service facilities in the public right-of-way.

Commented [AT&T10]:
These changes are needed to conform this provision with the test under applicable federal case law.

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May 24, 2017

VIA EMAIL

Mayor Sam Abed
Deputy Mayor John Masson
Council Members Ed Gallo,
Michael Morasco and Olga Diaz
City Council
City of Escondido
201 North Broadway
Escondido, California 92025

Re: Proposed Ordinance Amending Zoning Code Article 34
Communication Antennas in the Right-of-Way
Council Agenda Item 10, May 24, 2017

Dear Mayor Abed, Deputy Mayor Masson and Council Members:

We write on behalf of Verizon Wireless to urge you to delay introduction of the draft ordinance amending Zoning Code Article 34 regarding communications antennas in the public right-of-way (the "Draft Ordinance"). Numerous permit requirements of the Draft Ordinance conflict with state and federal law, and overly restrictive design standards may lead to the unintended consequence of many more wireless facilities on streets in Escondido neighborhoods. While Verizon Wireless appreciates administrative permitting of very small wireless facilities on street lights, the Draft Ordinance disregards Verizon Wireless's state-mandated right to use the right-of-way by subjecting utility pole installations to conditional use permit requirements. A conditional use permit involves discretionary review and unlawful findings that are inappropriate for wireless facilities in the right-of-way.

Verizon Wireless would be pleased to meet with staff to develop a fair permitting process and reasonable design standards that encourage carriers to deploy needed wireless facilities that pose minimal impacts. Our comments on the Draft Ordinance are as follows:

Permit Requirements Conflict with State Law

The Draft Ordinance provides for administrative approval of only one type of wireless facility in the right-of-way: those mounted on street lights, which generally are owned by the City. Wireless facilities on other types of poles such as utility poles require

a conditional use permit. Many neighborhood streets in Escondido are served by utilities placed on utility poles.

As a telephone corporation, Verizon Wireless has a state-mandated right to use the right-of-way under Public Utilities Code Section 7901, including the right to place its telephone equipment on utility poles. Under state law, the City may exercise limited aesthetic review of wireless facilities in the right-of-way. A state appeals court that recently affirmed this local aesthetic review upheld San Francisco's regulations of wireless facilities in the right-of-way which are entirely based on objective aesthetic standards. *See T-Mobile West LLC v. City and County of San Francisco*, 3 Cal.App 5th 334 (Cal. App. 2016).

Because the use of the right-of-way is already authorized by state law, the City cannot require Verizon Wireless to obtain a use permit for a right-of-way facility. Conditional use permit findings and Planning Commission hearings introduce discretionary review that is inappropriate for right-of-way facilities which should be considered under objective aesthetic criteria. Further, Draft Ordinance Section 33-704(k)(8)(C) adds additional conditional use permit findings that are unlawful, such as the finding that a site is necessary to close a significant gap in service. Because wireless carriers have the right to use the right-of-way under state law, a local jurisdiction cannot condition issuance of a permit for a facility in the right-of-way on technological necessity. *See T-Mobile,* 3 Cal.App 5th at pp. 342-343. Also, any finding regarding review of alternatives must be limited in scope to other locations within the right-of-way.

Wireless facilities in the right-of-way should be permitted by the Public Works Department, with referral of encroachment permit applications to Planning Division staff for review of aesthetics under objective criteria. This is the practice in jurisdictions such as San Francisco. At a minimum, Planning Division review and aesthetic recommendations for all wireless facilities in the right-of-way should be accomplished through the administrative wireless facility permit process described in Draft Ordinance Section 33-704(k)(8)(A), with a decision rendered by the Director. Open-ended discretionary criteria in the Draft Ordinance should be eliminated, such as the vague requirement to "minimize potential visual and compatibility impacts with adjacent properties" in Draft Ordinance Section 33-704(k)(3).

Design Standards Are Overly Restrictive and Violate State and Federal Law

Verizon Wireless has installed very small facilities on street lights in other jurisdictions that would qualify for administrative approval under the strict criteria of the Draft Ordinance. While these very small facilities are adequate to target certain high-demand areas, they have a limited coverage footprint. Wireless carriers must deploy many more of these very small facilities to cover areas that can be better served by fewer facilities of modestly greater dimensions.

The absolute height limit of 35 feet under Draft Ordinance Section 33-704(k)(4) would restrict facility coverage areas. The height limit may also conflict with Public Utilities Commission General Order 95 which regulates placement of antennas on utility poles, specifying, for example, a minimum of six feet of separation for antennas above electrical supply conductors which are generally placed at the top of a pole. We suggest that antennas be allowed to extend 10 feet above the height of existing utility poles, or for new poles, 10 feet above the average height of nearby utility poles.

We also suggest that equipment dimensions be increased to accommodate typical small cells on utility poles which can serve larger areas than small facilities on street lights, covering busy roadways and areas lacking other suitable poles in the right-of-way. The limit of pole-mounted equipment to six cubic feet in Draft Ordinance Section 33-704(k)(4) will not accommodate typical small cells on utility poles. New slender equipment boxes, vertically stacked on utility poles and rotated away from view, pose minimal visual impacts. The City should work with wireless carriers to determine appropriate dimensions and volumes for pole-mounted equipment. Draft Ordinance standards for equipment placement must also be consistent with General Order 95.

Draft Ordinance Section 33-704(k)(7) appears to require undergrounding of non-antenna equipment in excess of the volume allowed on a pole while at the same time allowing for certain ground-mounted equipment cabinets. Undergrounding requirements that target only wireless companies are inconsistent with federal law, which recognizes the authority of local governments to "manage the public rights of way" though on a "competitively neutral and nondiscriminatory basis." *See* 47 U.S.C. §253(c). The Federal Communications Commission has stated that local governments may impose conditions only if they are applied "equally to *all* users of the rights-of-way" and may not impose conditions on one user, such as a wireless company, in a different manner than imposed on other users. *See Second Report and Order*, CS Docket 96-46, §209, FCC 96-249, May 31, 1996. This potential violation of federal law may be remedied by increasing the allowed volume for pole-mounted equipment and clarifying that ground-mounted cabinets are allowed provided they meet safety requirements.

Regulation of antenna size and shape as well as the limit to one antenna in Draft Ordinance Section 33-704(k)(4) are preempted by federal law. The Federal Communications Commission has exclusive jurisdiction over technology used by wireless providers, and federal courts have rejected local regulations that attempt to dictate that technology. *See New York SMSA v. Town of Clarkstown,* 612 F.3d 97 (2d Cir. 2010). These antenna specifications must be stricken.

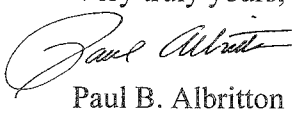
With respect to the required 300 foot separation of facilities in residential areas in Draft Ordinance Section 33-705(k)(5), we suggest that a waiver of this limitation be allowed in cases where clustering of facilities will pose less visual impacts to residences. This may avoid the need to site facilities in front of homes.

There is no justification for the ban on new wooden poles in Draft Ordinance Section 33-704(k)(2). Verizon Wireless's right to use the right-of-way under Public Utilities Code §7901 includes the right to place new wood utility poles to support its telephone equipment, and the City cannot deny wireless providers the right to install wooden poles while allowing such installations by other utilities. Wireless carriers may need to replace existing wood poles to support new wireless facilities, and new wood poles are entirely appropriate in neighborhoods already served by wood poles. The Draft Ordinance may state a preference for non-wood poles but must allow for placement of new wood poles.

Conclusion

There are numerous provisions of the Draft Ordinance that conflict with state and federal law, and the Council should defer introduction to allow staff to address these issues. Verizon Wireless would be pleased to participate in a meeting to discuss workable regulations with an aim to minimize impacts overall while providing needed additional service capacity to Escondido. The Federal Communications Commission has already addressed an appropriate size for small wireless facilities which is substantially more reasonable and feasible than the dimensions in the Draft Ordinance. *See First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas,* 47 CFR 1 Appendix B. We look forward to working with the City on revisions to the Draft Ordinance.

Very truly yours,



Paul B. Albritton

cc: Michael McGuinness, Esq.
Bill Martin
Jay Paul

ESCONDIDO
City of Choice

CITY COUNCIL

For City Clerk's Use:
☐ APPROVED ☐ DENIED
Reso No. _____ File No. _____
Ord No. _____

Agenda Item No.: 10
Date: May 24, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Bill Martin, Director of Community Development

SUBJECT: Zoning Code Amendment (AZ16-0009)

STAFF RECOMMENDATION:

It is requested that the City Council introduce Ordinance No. 2017-10 approving an amendment to Article 34 (Communication Antennas) of the Escondido Zoning Code.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission unanimously recommended approval of the Zoning Code Amendment on April 25, 2017 (vote 7-0).

PROJECT DESCRIPTION:

An amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to modify the regulations for wireless communication facilities within the public right-of-way. No development project is proposed.

LOCATION:

Citywide

FISCAL ANALYSIS:

None

GENERAL PLAN ANALYSIS:

The proposed Zoning Code Amendment facilitates the development of the City's telecommunication network, which is supported by numerous goals and policies. Existing General Plan Goals and Policies call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes, along with providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all (Mobility and Infrastructure Goal 7, page I-19, and Telecommunication Goal 7, page III-51). The proposal also is consistent with General

Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Other General Plan policies that directly relate to wireless communication facilities include Telecommunication Policies. Telecommunication Policy 17.8 requires compatible colocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses. Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and public right-of-ways.

ENVIRONMENTAL REVIEW:

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

BACKGROUND:

The growth in personal wireless services, advancements in technology, and the need for additional capacity has created an ever increasing demand for new wireless communication facilities and broadband capacity. With this growth and as more industries and cities become always-connected, there will be an unprecedented growth in mobile broadband and data demands, which cannot be met with today's network capacity. As a result, cities and counties throughout California have experienced an increase in the number of applications to upgrade existing wireless communication facilities (WCFs) and to install new WCFs within the public right-of-way.

Currently, the Escondido Zoning Code contains provisions for permitting WCFs within the right-of-way subject to the appropriate administrative or discretionary land-use permit, along with obtaining an encroachment permit from the Public Works Department, and execution of a license and encroachment agreement by the City. The City traditionally has reviewed previous requests for a single wireless telecommunication facility on a case-by-case basis by either City staff or the Planning Commission depending on the nature and location of the facility. The City's current regulations lack the needed criteria to efficiently evaluate and manage the current and anticipated demand for small cell wireless facility installations within the public right-of-way.

Therefore, the proposed modifications to Article 34 of the Escondido Zoning Code are necessary to address the long-term impact of new WCFs within the public right-of-way, and on the City's visual landscape and to locate and design facilities so they are as unobtrusive as possible. The proposed zoning code amendment also establishes a more efficient processing

framework with information that facilitates the deployment process in a consistent and predictable manner.

Wireless Communication Facilities that are installed in the public right-of-way, generally consist of the following elements:

1. An antenna, which can be comprised of various types and configurations, and can be mounted on the entity's own pole, or on a pole that is owned by another entity, such as a street light owned by the City, or public utility pole.

2. A cabinet, which contains the telecommunication facility's "brain." The cabinet typically is attached to the pole where the antennas is located.

3. A ground-mounted cabinet, which provides primary or back-up power to the antenna and may be include an electric meter. In some instances, the electric meter may be attached to the pole. Existing street lights already have electric power and typically do not need a separate electric service meter as opposed to public utility poles that may not provide separate electric power or may require a separate meter.

4. Telecommunication cable. Antennas are connected by existing or planned underground fiber optic cables or overhead fiber optic cables in the case of overhead utility poles (such as SDG&E poles).

Traditional "Macro Cell" vs. "Small Cell" - The demand for wireless service does not just include traditional cell towers anymore. Traditional structures (known as "Macro Facilities") form the core of the wireless network, enabling wireless service providers to deliver voice, text and broadband communications covering larger geographic areas. Macro facilities typically are taller and generally are placed on structures over 30 feet in height and/or locations with higher ground elevation, utilizing a set of larger panel antennas and associated radio equipment mounted onto the tower. These facilities also require larger ground-mounted equipment generally housed within an equipment compound or building. Macro facilities also are typically capable of accommodating multiple wireless service providers (collocation).

With the increase in demand, data that wireless providers would like to transmit far exceeds the capacity of their existing communications network. Installing wireless infrastructure at the precise location where it is needed improves the network and immediately benefits the community. The attachment of small wireless antennas and associated equipment on pole structures - which can include Distributed Antenna System (DAS) remote units, remote radio units and self-contained small cells – significantly improves the coverage and capacity of 3G, 4G and soon-to-be-deployed 5G wireless networks. Therefore, small cell facilities will be an important component in expanding the capacity of wireless networks to meet consumer demand as well as to fill holes in their coverage. The new small cell facility components generally are much smaller with low powered radio access nodes with a limited range designed to target a specific area. Because of their design and intended purpose, they would have to be deployed in more locations than the larger and taller traditional cell towers. Due to the targeted areas and small equipment needs for small cell applications, it appears the best and most efficient location for deployment will be the use of existing light poles, utility poles, traffic signals or other appropriate structures within the public right-of-way. Several non-host wireless

companies (Crown Castle and Mobilitie) along with major wireless carriers (Verizon, T-Mobile, AT&T) have been working with the City regarding the implementation of their next-generation mobile networks (small cell) throughout the community.

PLANNING COMMISSION DISCUSSION:

The Planning Commission unanimously recommended approval of the proposed Ordinance revisions and did not raise any issues regarding the proposal. There were no public speakers at the hearing.

PUBLIC INPUT:

Subsequent to the April 25, 2017 Planning Commission hearing, staff received correspondence from two wireless industry providers (Crown Castle and T-Mobile) which are attached with this report. The representative from T-Mobile requested clarification of certain design, separation, and processing timeframes in order to avoid confusion when designing and processing facility applications. Correspondence from Crown Castle recommends the proposed siting guidelines allow for more flexibility in the size and design of the small cell facilities to accommodate the existing and future range of equipment each carrier may currently utilize. The Crown Castle representative also feels that various levels of administrative review should be considered (tiered permit approach) rather than the more cumbersome CUP process in order to facilitate speed to market and certainty in the permitting process.

The proposed ordinance would allow for installation on a variety of structures within the right-of-way and also lists those that would be permitted by administrative approval (preferred sites). However, the Ordinance proposes certain locations and structures as discouraged. In these discouraged locations wireless facilities could be approved by a Conditional Use Permit when specific findings are met or exceeded. The CUP provides for public notice and input at a hearing before the Planning Commission. An alternative to the CUP process would be review by the City's Zoning Administrator, that would allow for faster processing of an application, but still would require public notice.

In consideration of recent public correspondence, City staff still recommends approval of the ordinance as set forth in the attachment without further modification. Many of the issues that were raised can be addressed separately through the development of specific design guidelines or handled on a case-by-case basis through project review.

ANALYSIS:

See Attached Exhibit "A" for the proposed Ordinance modifications.

Article 34 (Communication Antennas) is available on the City's Web Site at: http://www.qcode.us/codes/escondido/view.php?topic=33-34&frames=on

Section 33-740(k) of Article 34 (Communication Antennas) of the Escondido Zoning Code currently addresses the placement and design of wireless facilities within the public right-of-way. While the current provisions have worked well with the deployment of traditional wireless facilities, wireless providers desire to make the deployment of small cell facilities less

WCFs will require some sort of discretionary review/or approval, the proposed Ordinance provisions encourage location and design guideline compliance which call for well-designed and sited facilities that meet the goals of the Ordinance. Applicants can expect a tiered permit system where the level of staff and public review of the facility proposal will depend on how well a facility is sited and how unobtrusive it is in appearance to the viewing public. An administrative permit will be required for all proposed wireless facilities that conform with the requirements of Communication Antennas Ordinance and Wireless Guidelines. Administrative Permits are subject to review and approval by the Director of Community Development. However, the Director also has the discretion to elevate any request to a Conditional Use Permit to be considered by the Planning Commission at a public hearing. A Conditional Use Permit would be required for any facility that is not subject to an Administrative Permit or for facilities in discouraged locations and those not in conformance with the Ordinance regulations (i.e., deviate from the design standards). Additional findings also are required for the approval of a Conditional Use Permit for a wireless facility in the public right-of-way.

Staff currently is working on a separate document to supplement the City's right-of-way requirements for WCFs that will include more specific design guidelines for the siting and development of wireless facilities in the public right-of-way, along with permitting, application submittal requirements and standard conditions of approval. These guidelines will be considered at a public hearing at a later date.

SUMMARY:

The existing process has been successful at regulating the development of traditional wireless facilities on private property, as well as the limited number of facilities currently developed within the public right-of-way over the years. With the ever increasing demand for wireless service and the preferred use by providers to utilize the right-of-way to meet the demand, the proposed Ordinance establishes the development of separate location and design guidelines to appropriately balance the City's goals of avoiding potential adverse visual and operational impacts associated with the placement and operation of wireless communication facilities in the public right-of-way with the goals of the wireless telecommunications providers to provide service to their customers

Respectfully Submitted,

Bill Martin
Director of Community Development

Jay Paul
Associate Planner

CITY OF ESCONDIDO

MINUTES OF THE REGULAR MEETING OF THE ESCONDIDO PLANNING COMMISSION

April 25, 2017

The meeting of the Escondido Planning Commission Meeting was called to order at 7:00 p.m. by Adam Phillips, Deputy City Attorney, in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Jeffery Weber, Chairman; Stan Weiler, Commissioner; James Spann, Commissioner; Michael Cohen, Commissioner, Joe Garcia, Commissioner; Don Romo, Commissioner; and James McNair, Commissioner.

Commissioners absent: None.

Staff present: Bill Martin, Director of Community Development; Rozanne Cherry, Principal Planner; Mike Strong, Assistant Planning Director; Owen Tunnell, Principal Engineer; Adam Phillips, Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner Weiler, seconded by Commissioner Spann, to approve the minutes of the April 11, 2017, meeting. Motion carried unanimously. (7-0)

WRITTEN COMMUNICATIONS – None.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS: – None.

PROCLAMATIONS:

1. Proclamation honoring Rozanne Cherry, Principal Planner, for 32 years of service to the City of Escondido.

PUBLIC HEARINGS:

1. **ZONING CODE AMENDMENT AND REZONE – AZ 16-0005 / PHG 17-0007:**

REQUEST: A Zoning Code Amendment to reorganize and consolidate the residential zones into one Zoning Code article; establish an R-5-30 (Very High Multi-Family Residential, 30 du/ac max.) zone with associated development standards to implement the adopted General Plan designation of Urban V in the High Density Multi-Family Residential category; rezone approximately 186 parcels within the Urban V General Plan designation from R-4-24 (High Multi-Family Residential, 24 du/ac max.) to R-5-30; and identify minor conditional use permits, update definitions and streamline the text. No development is proposed. The Code Amendment involves changes to Articles 1, 6, 7, 8, 10, 11, 12, 13, 14 and 57 of the Escondido Zoning Code.

PROPERTY SIZE AND LOCATION:

1. Code Amendment – Citywide;
2. Rezone – Approximately 186 parcels within the Urban V General Plan designation that are located between 6th and 15th Avenues and S. Escondido Blvd. and Centre City Parkway, in the S. Escondido Boulevard / Centre City Parkway Target Area.

Rozanne Cherry, Principal Planner, referenced the staff report and noted that staff issues were whether the proposed development standards for the new R-5-30 zone are appropriate for the General Plan Urban V designation, and whether the proposed change of zoning for the parcels within the Urban V designation was appropriate. Staff recommended approval based on the following: 1) The proposed amendments to the Zoning Code would consolidate all residential development standards in one Zoning Code article, streamline the text with the use of tables, and update and add definitions that reflect the current use of terms; 2) The proposed change of several conditionally permitted uses in the residential zones to Minor CUPs with review by the Zoning Administrator was consistent with the "Working Together to Get to Yes!" program associated with the City Council's 2015-2016 Action Plan Economic Development goal to "Revamp and clean up policies, practices and standards around Planning, Development, Enforcement and Economic Development;" 3) The proposed R-5-30 zoning and development standards would be consistent with the General Plan Urban V designation which permits densities up to 30 du/ac in residential units, town homes, apartments, flats and condominiums, and buildings up to 4-stories tall. The R-5-30 zone would provide the implementing zoning needed to make the Zoning Code consistent with

the General Plan and allow development projects to utilize the higher Urban V density, and 4) Adopting the proposed R-5-30 zoning for the subject area would be appropriate since it is a flat area located within the Urban V General Plan designation between two major thoroughfares (S. Escondido Boulevard, and Centre City Parkway), and close to shopping centers, community facilities, employment opportunities and entertainment. The ordinance must be approved the City Council in order to be effective.

Smitty Smith, Escondido, expressed his concern about more vehicles parking on the neighborhood streets and was opposed to increasing the density around 9th Avenue for that reason. He felt the area was already impacted by being overpopulated and not having adequate parking.

Chairman Weber concurred with subject area having parking issues. He expressed his view that in order to accommodate the population increase was to have higher densities near transit and City services. He then asked staff whether there were any pending applications. Mrs. Cherry replied in the negative, but noted she was aware of one person who was waiting to hear the outcome of this item.

Assistant Planning Director Strong stated that the issue of density was already considered though the General Plan update process. That process resulted in a ballot measure, in which all registered voters in Escondido were able to consider, vote, and affirm General Plan land use designation changes in several key areas of the city; and reconfirm the preservation of land use designations elsewhere in the city. The project before the Planning Commission was to systematically implement the update General Plan.

ACTION:

Moved by Chairman Weber, seconded by Commissioner Spann, to approve staff's recommendation. Motion carried unanimously. (7-0)

2. ZONING CODE AMENDMENT – AZ 16-0009:

REQUEST: An amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to modify the regulations for wireless communication facilities within the public right-of-way. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

PROPERTY SIZE AND LOCATION: Citywide

Mike Strong, Assistant Planning Director, referenced the staff report and noted that staff issues were the appropriateness of the new proposed Wireless Facilities Permit, development requirements, location preferences and processing requirements. Staff noted that the existing review and approval process has been very successful at regulating the development of traditional wireless facilities on private property, as well as the limited number of facilities currently developed within the public right-of-way over the years. However, that technology is changing and the Zoning Code must be updated. With the ever increasing demand for wireless service and the preferred use by providers to utilize the right-of-way to meet the demand, the proposed Ordinance would establish separate location and design guidelines to appropriately balance the City's goals of avoiding potential adverse visual and operational impacts associated with the placement and operation of wireless communication facilities in the public right-of-way with the goals of the wireless telecommunications providers to provide service to their customers. The ordinance must be approved the City Council in order to be effective.

Commissioner Weiler concurred with establishing the subject guidelines and encouraged staff to hold the carriers to standards that would be aesthetically pleasing.

Commissioner Garcia questioned whether the inclusion of cellular equipment on telephone poles or power poles would create an additional time element if the pole was knocked down. Mr. Strong noted that the new language prohibited cellular equipment on utility poles.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Garcia, to approve staff's recommendation. Motion carried unanimously. (7-0)

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 7:47 p.m. The next meeting was scheduled for May 9, 2017, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Mike Strong, Secretary to the Escondido Planning Commission

Ty Paulson, Minutes Clerk

ESCONDIDO
City of Choice

PLANNING COMMISSION

Agenda Item No.: H.2
Date: April 25, 2017

CASE NUMBER: AZ 16-0009

APPLICANT: City of Escondido

LOCATION: Citywide

TYPE OF PROJECT: Zoning Code Amendment

PROJECT DESCRIPTION: An amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to modify the regulations for wireless communication facilities within the public right-of-way. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

STAFF RECOMMENDATION: Approval

BACKGROUND/SUMMARY OF ISSUES: The growth in personal wireless services, advancements in technology and the need for additional capacity has created an ever increasing demand for new wireless communication facilities and broadband capacity. Experts predict that by 2020 anywhere from 21 billion to 50 billion devices will be connected, up from about 6 billion today. With this growth and as more industries and cities become always-connected, there will be an unprecedented growth in mobile broadband and data demands, which cannot be met with today's network capacity. As a result, cities and counties throughout California have experienced an increase in the number of applications to upgrade existing wireless communication facilities (WCFs) and to install new WCFs within the public right-of-way. Wireless providers are expected to install even more facilities to improve coverage and gain user capacity. Integration of small cells and distributed antenna systems ("DAS") into existing wireless networks is essential to meet the data demands. In order to provide the necessary coverage/capacity, small cells and DAS must be densely deployed on a wide-scale basis.

Currently, the Escondido Zoning Code contains provisions for permitting WCFs within the right-of-way subject to the appropriate administrative or discretionary land-use permit, along with obtaining an encroachment permit from the Public Works Department and execution of a license and encroachment agreement by the City. The City traditionally has reviewed previous requests for a single wireless telecommunication facility on a case-by-case basis by either City staff or the Planning Commission depending on the nature and location of the facility. The Communication Antennas Ordinance (Article 34) previously was amended in 2009 to include provisions to encourage the development of wireless facilities within the right-of-way, rather than on residential properties. The approved ordinance included processing requirements based on the underlying zoning designation. At that time, the City anticipated a limited number of small wireless facilities to be located within the public right-of-way. Most right-of way installations in the years that immediately followed typically included two to three full-size antennas flush mounted onto a larger diameter replacement pole designed to resemble a street light. Supporting electrical cabinets generally were required to be installed in underground vaults to address potential aesthetic or space issues. The implementation of small cell facilities was in its early development phase at that time.

The City's current regulations lack the needed criteria to efficiently evaluate and manage the current and anticipated demand for small cell wireless facility installations within the public right-of-way. The City and the wireless industry share the same common goal to provide seamless and ubiquitous wireless coverage and capacity for the community's constituents. However, while the community's WCF users continue to embrace wireless communications, it will be important to not do so at the cost of the community's appearance or to introduce adverse impacts to their property or neighborhoods.

Therefore, the proposed modifications to Article 34 of the Escondido Zoning Code are necessary to address the long-term impact of new WCFs within the public right-of-way, and on the City's visual landscape and to locate and design facilities so they are as unobtrusive as possible. The proposed zoning code amendment also establishes a more efficient processing framework with information that facilitates the deployment process in a consistent and predictable manner.

Staff feels the issues are as follows:

1. Appropriateness of the new proposed Wireless Facilities Permit, development requirements, location preferences and processing requirements.

REASONS FOR STAFF RECOMMENDATION:

1. Staff believes the existing process has been very successful at regulating the development of traditional wireless facilities on private property, as well as the limited number of facilities currently developed within the public right-of-way over the years. With the ever increasing demand for wireless service and the preferred use by providers to utilize the right-of-way to meet the demand, the proposed Ordinance established the development of separate location and design guidelines to appropriately balance the City's goals of avoiding potential adverse visual and operational impacts associated with the placement and operation of wireless communication facilities in the public right-of-way with the goals of the wireless telecommunications providers to provide service to their customers.

Respectfully Submitted,

Jay Paul
Associate Planner

ANALYSIS

A. ENVIRONMENTAL STATUS

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

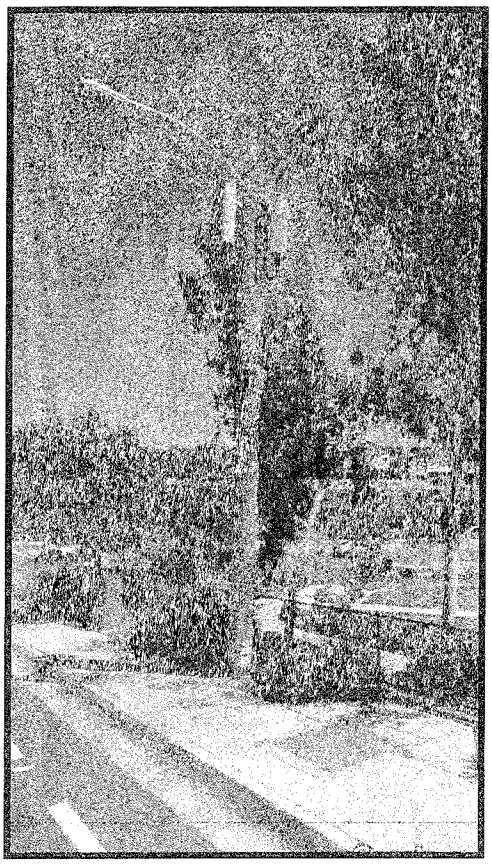
B. WIRELESS COMMUNICATION FACILITY

Wireless Communication Facilities that are installed in the public right-of-way, generally consist of the following elements:

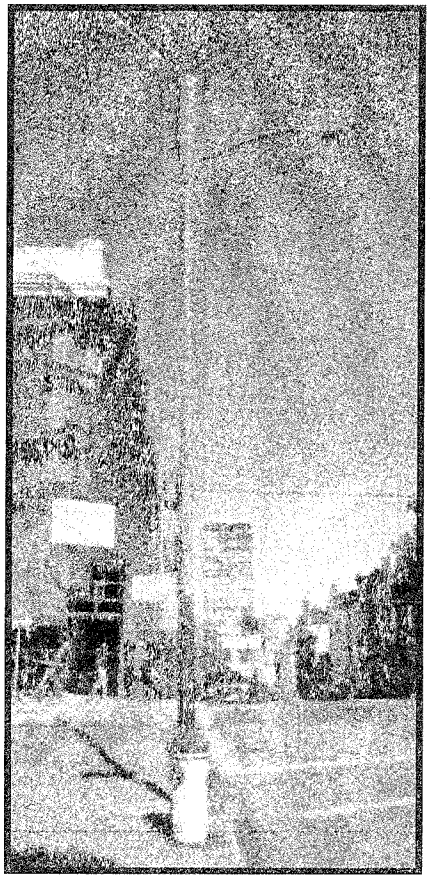
1. An antenna, which can be comprised of various types and configurations, and can be mounted on the entity's own pole, or on a pole that is owned by another entity, such as a street light owned by the City, or public utility pole.
2. A cabinet, which contains the telecommunication facility's "brain." The cabinet typically is attached to the pole where the antennas is located.
3. A ground-mounted cabinet, which provides primary or back-up power to the antenna and may be include an electric meter. In some instances, the electric meter may be attached to the pole. Existing street lights already have electric power and typically do not need a separate electric service meter as opposed to public utility poles that may not provide separate electric power or may require a separate meter.
4. Telecommunication cable. Antennas are connected by existing or planned underground fiber optic cables or overhead fiber optic cables in the case of overhead utility poles (such as SDG&E poles).

Traditional "Macro Cell" vs. "Small Cell" - The demand for wireless service does not just include traditional cell towers anymore. Traditional structures (known as "Macro Facilities") form the core of the wireless network, enabling wireless service providers to deliver voice, text and broadband communications covering larger geographic areas. Macro facilities typically are taller and generally are placed on structures over 30 feet in height and/or locations with higher ground elevation, utilizing a set of larger panel antennas and associated radio equipment mounted onto the tower. These facilities also require larger ground-mounted equipment generally housed within an equipment compound or building. Macro facilities also are typically capable of accommodating multiple wireless service providers (collocation).

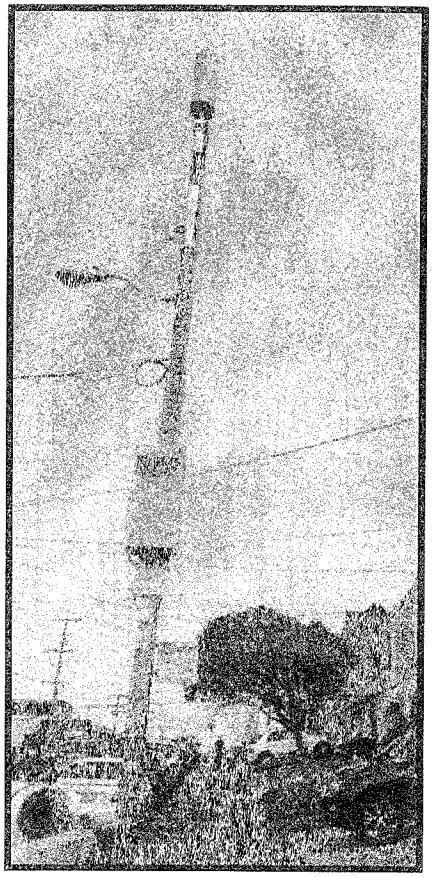
With the increase in demand, data that wireless providers would like to transmit far exceeds the capacity of their existing communications network. Installing wireless infrastructure at the precise location where it is needed improves the network and immediately benefits the community. The attachment of small wireless antennas and associated equipment on pole structures - which can include Distributed Antenna System (DAS) remote units, remote radio units and self-contained small cells – significantly improves the coverage and capacity of 3G, 4G and soon-to-be-deployed 5G wireless networks. Therefore, small cell facilities will be an important component in expanding the capacity of wireless networks to meet consumer demand as well as to fill holes in their coverage. The new small cell facility components generally are much smaller with low powered radio access nodes with a limited range designed to target a specific area. Because of their design, they would have to be deployed in more locations than the larger and taller traditional cell towers. Due to the targeted areas and small equipment needs for small cell applications, it appears the best and most efficient location for deployment will be the use of existing light poles, utility poles, traffic signals or other appropriate structures within the public right-of-way. Several non-host wireless companies (Crown Castle and Mobilitie) along with major wireless carriers (Verizon, T-Mobile, AT&T) have been working with the City regarding the implementation of their next-generation mobile networks (small cell) throughout the community.



Typical small macro facility
(Note: larger antennas and larger dia. Pole with below ground equipment vault)



Small cell on street light
(Note: antennas mounted in radome and radio equipment mounted lower cabinet mounted onto pole)



Small cell on wooden utility pole
(Note: electric meter, disconnect switch and equipment cabinet mounted on the pole

C. REGULATING WIRELESS COMMUNICATION FACILIITES UNDER FEDERAL LAW

Under the Federal Telecommunications Facilities Act (TCA) of 1996, a city may apply its general zoning and building requirements to the construction of new wireless telecommunication facilities. The TCA preserves the City's ability to exercise reasonable control regarding the placement, construction and design (time, place and manner) for the development of WCFs in the right-of-way. Despite federal limitations, cities historically have retained the ability to regulate aesthetic issues related to telecommunications facilities. However, federal and state law developments continue to erode that ability. The city also has certain proprietary rights over city-owned property and facilities. However, a city may not:

- Regulate based on the environmental effect of radio frequency emissions from facilities that comply with the Federal Communication Commission's (FCC) regulations and guidelines governing those emissions;
- Unreasonably discriminate between wireless service providers of functionally equivalent services;
- Prohibit wireless service; or
- Have the effect of prohibiting wireless services.

A city regulation has the effect of prohibiting wireless service when it prevents a wireless service provider from closing a significant gap in its service coverage using the least intrusive means, or imposes a regulation that effectively prohibits wireless facilities.

The latest Federal Law governing WCFs (Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012), known as the Spectrum Act, was intended to facilitate the telecommunication industry's rapid deployment of wireless infrastructure by requiring local government to approve any application that seeks to modify an existing wireless telecommunication facility that does not substantially alter the existing facility. State law also limits certain local regulation of wireless communication facilities both on private property and in the public right-of-way. State legislation (SB 1627) and FCC ruling also require a city to act on an application for a WCF within a "reasonable" amount of time and has established specific timeframe (shot clock) for processing applications. The City also cannot deny, and shall approve, any eligible facilities request for a modification of an existing wireless facility that does not substantially change the physical dimensions of such tower or base station. A decision to deny an application must be in writing and supported by substantial evidence.

Based on previous case law (Ninth Circuit in Sprint PCS Assets vs. City of Palos Verdes Estates) cities have the authority to regulate wireless facilities in the right-of-way based on aesthetics. The Ninth Circuit also determined that the California Constitution gives cities "the authority to regulate local aesthetics, and neither [California Public Utilities Code Section] 7901 nor [Section] 7901.1 divests it of that authority." The court recognized that the purpose-of public streets is not limited to travel. Streets also serve important social, expressive and aesthetic functions. Thus, time, place, and manner rules regulating access may include aesthetic considerations. Also, even though State law may permit such aesthetic regulation, the city's decision also must pass muster under federal law's significant gap analysis as discussed above.

D. HEALTH CONCERNS AND SAFEGUARDS

Potential health risks from exposure to the radio frequency (RF) electromagnetic fields generated by WCFs are a significant community concern. Accordingly, the FCC requires facilities to comply with RF exposure guidelines published in the Code of Federal Regulations (see 47 CFR §1.1307 and 47 CFR §1.1310). The limits of exposure established by the guidelines are designed to protect the public health with a very large margin of safety as they are many times below the levels that generally are accepted as having the potential to cause adverse health effects. Both the Environmental Protection Agency and Food and Drug Administration have endorsed the FCC's exposure limits, and courts have upheld the FCC rules requiring compliance with the limits.

Most WCFs create maximum exposures that are only a small fraction of the limits. Furthermore, because the antennas in a PCS, cellular, or other wireless network must be in a line-of-sight arrangement to effectively transmit, their power is focused on the horizon instead of toward the sky or ground. The FCC requires providers, upon license application, renewal, or modification, to demonstrate compliance with RF exposure guidelines. Where two or more wireless operators have located their antennas at a common location (called "collocation"), the total exposure from all antennas taken together must be within FCC guidelines. In some instances, facilities may be exempt from having to demonstrate compliance with FCC guidelines, due to their low power generation or height above ground level which is unlikely to cause exposures that exceed the guidelines.

E. GENERAL PLAN CONFORMANCE

Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on a country's economic competitiveness and social prosperity. Existing General Plan Goals and Policies call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes, along with providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all (Mobility and Infrastructure Goals; Goal 7, page I-19 and Telecommunication Goal 7, page III-51). The proposal also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Benefits of a sophisticated telecommunications system provide residents opportunities to utilize technology for establishing home offices. Telecommunication Policy 17.8 requires compatible colocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses, and Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and public right-of-ways.

F. **ANALYSIS** - See Attached Exhibit "B" for the proposed Ordinance modifications.
Article 34 (Communication Antennas) is available on the City's Web Site at: http://www.qcode.us/codes/escondido/view.php?topic=33-34&frames=on

Section 33-740(k) of Article 34 (Communication Antennas) of the Escondido Zoning Code) currently addresses the placement and design of wireless facilities within the public right-of-way. While the current provisions have worked well with the deployment of traditional wireless facilities, wireless providers desire to make the deployment of small cell facilities less burdensome and complicated as they roll out dense networks in a scalable and repeatable way. Therefore, they desire appropriate streamlining of the regulatory approval process and to allow the planning application process to support large numbers of cells by fast tracking certain approvals that conform to preset design guidelines and location preferences; batching the process for groups of wireless facilities; and decreasing the approval time and certainty for wireless facilities. However, wireless providers also play a key role in the process by proposing appropriately designed facilities from the outset, along with the submittal of complete applications with accurate project information and supporting plans and documents.

The pressures on regulatory and planning agencies continue to mount as large numbers of sites need to be identified and approved, planning permissions secured and other requirements, such as aesthetics and power limits, satisfied. Although the community continues to supports wireless facilities, potential concerns may occur regarding the placement of wireless facilities close to sensitive users. Residents generally have a lower tolerance for new poles but a higher tolerance for new and smaller cabinets within the public right-of-way because many utility companies, as well as the City, install cabinets within the right-of-way. The most controversial aspects of a new facility usually are the antenna and the pole.

In order to balance the needs of the wireless providers and to avoid potential negative visual, neighborhood compatibility, and health and safety concerns; staff has proposed the following modifications:

Support Structures: The existing right-of-way provisions and proposed regulations continue to encourage new wireless facilities to be located on existing street lights, which reduces the potential visual impacts to the surrounding area because electrical service already is provided which eliminates the need to provide an additional electrical meter and disconnect on the pole. The telecommunication cables (fiber optic conduits and/or cables) have been installed underground in certain areas of the City to support the existing and proposed network or will need to be installed to support the new facilities. Installation on existing utility poles generally requires additional overhead wires to be added to support the network. Wireless facility providers also would be allowed to provide new replacement poles of substantially the same height and design as other poles throughout the neighborhood or new non-replacement poles to supplement existing street lights, but these are not preferred. Therefore, the applicant must demonstrate that the preferred poles are not available or feasible to support their facility in order to utilize a less preferred support structure. The siting of wireless facilities along the non-classified residential streets and along the front yard of residential properties is discouraged.

Design Criteria: The design criteria for small cell facilities have been modified to address siting, aesthetics, size, number of panels that can be mounted onto a structure, and height of the facility. The requirements also include additional separation requirements (300 ft. radius in residential areas) to avoid the visual clutter and proliferation of the facilities within residential neighborhoods. The regulations also require undergrounding of equipment where feasible to further reduce visual impacts and conflicts with existing facilities within the public right-of-way.

Wireless Facility Permits and Process: The proposed Ordinance establishes a new permit for the public right-of-way installation (Wireless Facility Permit). A new application form and supplemental submittal requirements will be developed by the Planning Division to be used for the submittal of new applications for wireless facilities within the public right-of-way. While all WCFs will require some sort of discretionary review/or approval, the proposed Ordinance provisions encourage location and design guideline compliance which call for well-designed and sited facilities that meet the goals of the Ordinance. Applicants can expect a tiered permit system where the level of staff and public review of the facility proposal will depend on how well a facility is sited and how unobtrusive it is in appearance to the viewing public. An administrative permit will be required for all proposed wireless facilities that conform with the requirements of Communication Antennas Ordinance and Wireless Guidelines. Administrative Permits are subject to review and approval by the Director of Community Development. However, the Director also has the discretion to elevate any request to a Conditional Use Permit to be considered by the Planning Commission at a public hearing. A Conditional Use Permit would be required for any

facility that is not subject to an Administrative Permit or for facilities in discouraged locations and those not in conformance with the Ordinance regulations. Additional findings also are required for the approval of a Conditional Use Permit for a wireless facility in the public right-of-way.

Staff currently is working on a separate document to supplement the City's right-of-way requirements for WCFs that will include more specific design guidelines for the siting and development of wireless facilities in the public right-of-way, along with permitting, application submittal requirements and standard conditions of approval. These guidelines will be considered at a public hearing at a later date.

EXHIBIT "A"

FACTORS TO BE CONSIDERED
AZ 16-0009

Zoning Code Amendment

1. Approval of the amendment to Article 34 (Communication Antennas) will not be detrimental to the public health, safety, or welfare or injurious to the property or improvements in the zone or vicinity in which the property is located because Personal Wireless Communication Facilities currently are allowed within the public right-of-way along all zones throughout the City. The proposed amendment further clarifies standards for the development of wireless facilities within the right-of-way; modifies and streamlines the review process by creating a new Wireless Facility Permit; and established clear Design Guidelines for wireless communication facilities within the public right of way. All facilities would continue to be required to conform to FCC Guidelines for Evaluative the Environmental Effects of Radiofrequency Radiation. No development project is proposed.

2. The properties/zones involved are suitable for the uses permitted and would not be detrimental to surrounding properties because the proposed the public right-of-way can adequately accommodate wireless communication facilities and the amendment only includes appropriate processing development standards and processing requirements to evaluate the appropriateness of a proposed wireless facilities proposed within the public right-of-way.

3. Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on a country's economic competitiveness and social prosperity. The proposed amendment would be consistent with General Plan Goals and Policies that call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals (Goal 7, page I-19 and Telecommunication Goal 7, page III-51) call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all. The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Telecommunication Policy 17.8 requires compatible colocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses, and Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and public right-of-ways.

4. The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

5. The proposed zoning code amendment would not affect any specific plans.

EXHIBIT "B"

Proposed Amendment to Section 33-704 (k) pertaining to Personal Wireless Service Facilities in the Right-of-Way.

(k) Public Right-of-Way. All requirements of this Article shall apply to the placement, construction, modification, reconstruction, or repair of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state of federal law. The following general requirements also shall apply:

(1) All personal wireless service facilities must comply with the City's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this Article. All applicants shall enter into a license agreement as provided by the City to the extent the facility is proposed to be located on City facilities.

(2) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, or bus stop. The installation of a new structure, that is not a street light, may be permitted by conditional use permit. The installation of a new wooden pole is not permitted.

(3) All personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. In residential areas, placing wireless facilities along non-classified residential streets and along the front yard of residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

(4) No more than one panel antenna may be mounted on a single pole or structure. No antenna may exceed two feet in length. Panel antennas shall be vertically mounted to a pole or support structure in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape, shall be not exceed four feet in height and shall not have a diameter greater than the diameter of the pole. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed 35 feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four-inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed six cubic feet in dimension. Pole-mounted equipment and antennas shall not extend eight inches from the pole in any direction. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential areas, no wireless facility may be located within a 300-foot radius of any other wireless facility within the right-of-way, except in the case of a permitted collocation facility that does not result in a substantial increase in size.

(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred or is anticipated.

(7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.

(8) Wireless Facility Permits. All new personal wireless service facilities proposed within the right-of-way, collocations or modifications to existing wireless facilities shall require the issuance of a wireless facility permit. The Director may establish the forms and submittal requirements to implement the requirements of this Article. The Director may refer any application for a wireless facility permit to the Planning Commission for consideration at a noticed public hearing.

(A) Administrative Permit. All proposed facilities which meet all the requirements in this Article and any adopted guidelines may be processed through an Administrative Wireless Facility Permit. The Director shall determine whether an application meets the requirements of this Article and any adopted guidelines. The application shall follow the procedures and fees for a Plot Plan and design review.

(B) Conditional Use Permit. All other proposed facilities that the Director determines do not meet the requirements of this Article or any adopted guidelines must be processed through a conditional use permit. The applicant must pay any necessary application fees in accordance with a conditional use permit application.

(C) Planning Commission findings. In addition to the findings in Section 33-1203, the Planning Commission must also make the following findings in approving a conditional use permit for a personal wireless service facility:

I. That the applicant has demonstrated that the site is necessary to close a significant gap in service;

II. That the location proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

III. That the design proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

IV. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available; and

V. That the applicant has provided a meaningful comparative analysis that demonstrates that no alternative technology or other alternatives are feasible to comply with the design or placement requirements of this Article, and any adopted guidelines.

9. The City Council may, by resolution, establish additional criteria and guidelines for the location, operation, design and review of personal wireless service facilities in the public right-of-way.

Wireless Ordinance Comparison
San Diego Jurisdictions

Jurisdiction	Wireless Ordinance	Right-of-Way Standards	R-O-W Design Requirements
Carlsbad	No: Adopted detailed Council Policy No. 64 for Wireless Communication Facilities	Yes	Antenna assembly not to exceed height of pole Antennas shall be vertically mounted and shall not exceed 8 inches in distance from pole to front side of panel No more than 4 panel antennas and 2 omni-directional antennas mounted onto a pole
Chula Vista	No. Zoning Code references radio transmission towers with CUP or Minor CUP in certain zones	No	
Coronado	No. Referred to as antenna tower or antenna mast, subject to underlying zoning regulations and Design Review Commission approval	No.	
County	Yes	Yes	Antennas cannot project more than 2 feet above support structure (i.e., light pole) No more than 2 antennas allowed on a site Equipment cabinets no larger than 6 cubic feet
Del Mar	No. Allowed with CUP in limited zones	No	
El Cajon	Yes. CUP required for monopoles in all zones	No.	
Encinitas	Yes	No	
Escondido	Yes	Yes	
Imperial Beach	Yes	No	
La Mesa	No. Have separate Wireless Design Guidelines. City Council approval required for wireless facilities	No	

Lemon Grove	No. Referred to as communication in zoning code and allowed within certain zones subject to varying permits.	No	
National City	Yes. Allowed with CUP in limited zones	No	
Oceanside	Yes	No	
Poway	No. Poway has no wireless regulations in zoning code	No	
San Diego	Yes, including separate design guidelines	Provided in Wireless Communication Facility Guidelines	24 inch or smaller antenna and one equipment cabinet for small cells Equipment cabinet may not exceed 7 cubic feet Antennas to be mounted no more than 4 inches from pole for full size antennas (Macro Facilities) and no downtilt
San Marcos	Yes	Yes	Contains location and design preferences for antennas and equipment Antennas not to exceed 4' above street light or traffic standard Panel antennas mounted to pole not to extend more than 6" from the pole in any direction Wooden poles – horizontal antenna mount not to extend more than 5' from pole No more than 4 panel antennas or 2 omni-directional (whip antennas) on any pole
Santee	Yes	No	
Vista	No, Draft Ordinance being developed	Draft Ordinance contains R-O-W standards	No specific antenna design, size or height requirements

CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Clerk/Recorder's Office
Attn: Fish and Wildlife Notices
1600 Pacific Hwy. Suite 260
San Diego, CA 92101
MS: A-33

From: City of Escondido
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: AZ16-0009 (Communication Antenna Ordinance)

Project Location - Specific: Citywide

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: An amendment to Article 34 (Communication Antennas Ordinance) of the Escondido Zoning Code to modify the regulations for wireless communication facilities within public the right-of-way. The proposal also includes the adoption of the environmental determination prepared for the project. No development project is proposed.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Jay Paul, Associate Planner (City of Escondido Planning Div.) Telephone: (760) 839-4537

Address: 201 N. Broadway, Escondido, CA 92025

☐ Private entity ☐ School district ☒ Local public agency ☐ State agency ☐ Other special district

Exempt Status: Categorical Exemption CEQA Section 15061(b)(3) "General Rule"

Reasons why project is exempt:

The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

Area Code/Telephone/Extension (760) 839-4537

Signature: _____ _____
Jay Paul, Associate Planner Date

☒ Signed by Lead Agency Date received for filing at OPR: N/A

☐ Signed by Applicant

Jay Paul

From:	Rose, Joseph <Joseph.Rose41@T-Mobile.com>
Sent:	Friday, May 05, 2017 12:28 PM
To:	Jay Paul
Cc:	Fulton, Michael; Salyer, Melania
Subject:	T-Mobile Questions/Concerns with New ROW Wireless Oridnace
Attachments:	Small cell designs.pptx

Hi Jay,

Thanks for taking the time to speak with me yesterday. As I explained on the phone we would like to get a quick face to face meeting set up with you to discuss a few questions and concerns regarding the new ROW wireless ordinance.

Here are a few of our points we would like to discuss:

1. When is the exact date that this will be voted on for approval and subsequently go into effect? You mentioned the 24th on the phone, is that the 24th of May?
2. Does the 6 cubic feet include a meter box and/or telco box that would possibly be separate from our actual pole mounted equipment?
3. Does the 2ft antenna size include any shrouds or coverings that may be required or is the 2ft strictly for the antenna? And is the 2ft the absolute maximum size or can there be variances?
    a. If there are variances to the antenna size will that take it out of admin review?
4. Are there any City owned assets that are off limits?
5. What will be the typical time to process applications if they fall under the administrative review and if they don't fall under the admin review what will be the typical review time?
6. What exactly does the 300 ft. radius entail? Would that just be for light standards on residential streets? What is the radius for commercial areas where small cells would be appropriate at numerous intersections?
7. Does the 300ft only apply to a single carrier? For example if AT&T has a small cell on a light standard would that mean that T-Mobile would have to be at least 300ft from that standard or would it meant just AT&T would have to be 300ft away?

I have attached a copy of our equipment design. We will most likely be going with the 4 unit design on the last slide, good news is this is smaller than the 6 cubic ft. that the ordinance allows for. We are still pending the design of the actual pole attached antennas and hope to have more info on that soon.

Please let me know once you have reviewed my email and let me know a good time to have a quick face to face so we can discuss our build plan with you in a little more detail.

Thank you,

Joey Rose, Esq.

T-Mobile

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May 5, 2017

Mr. Jay Paul
City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

RE: Amendment to Article 34 (Communication Antenna Ordinance) of the Escondido Zoning Code

Dear Mr. Paul:

As outside counsel for Crown Castle NG West LLC ("Crown Castle"), I want to thank the City of Escondido ("City") for allowing Crown Castle to participate in the process of rewriting of the City's Communications Antenna Ordinance ("Ordinance"). As the largest provider of Small Cells and Distributed Antenna Systems (collectively "Small Cells") in the United States, Crown Castle has deployed thousands of telecommunications facilities in the public Right-of-Ways ("ROW"). These facilities employ several technologies and are usually termed with the generic "Small Cells." Consequently, Crown Castle has developed an expertise in working with jurisdictions to thoughtfully plan and deploy wireless communication facilities ("WCF") throughout southern California, including every jurisdiction in San Diego County.

Crown Castle believes the City's Draft Ordinance is a good first step. The Ordinance, however, needs to:

1) more accurately characterize the critical role wireless infrastructure plays in modern society and the current state of the law;
2) more accurately acknowledge the authority of Certificate of Public Convenience and Necessity ("CPCN") to enter into and occupy the ROW; and,
3) Develop better design and siting criteria to achieve the stated goal of "providing seamless and ubiquitous wireless coverage and capacity for the community's constituents", while minimizing potential adverse visual impacts to the community.

The Critical Role Wireless Infrastructure Plays in Society

In the Staff Report, Section F. Analysis, it states that it is the wireless providers that desire the streamlining of the regulatory approval process for Small Cell deployments. That is only partially correct. It is the federal government and the State that also want to stream line the approval process. That legislative desire manifested itself in shot clock requirements, defining universal terms (such as collocation), and defining criteria for eligible facilities requests whereby local discretion is curtailed to the point that jurisdictions shall not deny and must approve modifications to an existing WCF. All of this legislative activity is in acknowledgement of the critical role wireless infrastructure plays in society.

Over half the households in the United States do not have a landline. According to the FCC:.

> "The number of 911 calls placed by people using wireless phones has significantly increased in recent years. It is estimated that about 70 percent of 911 calls are placed from wireless phones, and that percentage is growing. For many Americans, the ability to call 911 for help in an emergency is one of the main reasons they own a wireless phone. Other wireless 911 calls come from "Good Samaritans" reporting traffic accidents, crimes or other emergencies. The prompt delivery of wireless 911 calls to public safety organizations benefits the public by promoting safety of life and property." www.fcc.gov/guides/wireless-911-services

Wireless data usage is growing exponentially; therefore robust wireless infrastructure is needed to meet this prolific public demand. Wireless connectivity is no longer a luxury; it is a public health and safety necessity. It is estimated by some experts that nationally there will need to be more than 1.5 million WCF installed in the ROW in order to achieve 5G compatibility. Local jurisdictions should be opening up their infrastructure to the maximum extent possible instead of creating ordinances that limit or restrict attachment options on existing vertical infrastructure in the ROW. Local regulations that take into consideration the minimum physical requirements of the wireless industry, and that clearly articulate community values and standards are most effective.

The Current State of the Law

Regulations must be reasonable in regard to time, place and manner and must not contravene federal and state law. The City's authority to regulate aesthetics does not over-ride State franchise holders' rights to enter into and occupy the ROW. City regulations cannot prohibit nor have the effect of prohibiting a wireless provider from providing service. Further, a wireless provider cannot be denied a permit so long as it is proposing the "least intrusive means" to fill a gap in service. Under California Public Utility Code Section 7901 and 7901.1, telephone utility companies have State vested rights to erect poles and other appurtenant equipment within the ROW in order to

deploy their networks. Therefore, a "significant gap" analysis is not needed because these telephone utility companies already have a right to be in the ROW. Furthermore, even if the City insisted on a "significant gap" analysis, insufficient coverage or capacity would satisfy any "significant gap" requirement. Given that Small Cells can have coverage objectives as small as a couple hundred feet, such as covering a particularly busy intersection, a significant gap will always exist – and requiring such analysis would be an unnecessary burden on an applicant – adding time and cost to the process while adding no substantive value to the City's review of an application.

Crown Castle is a Competitive Local Exchange Carrier ("CLEC") and Authority to Be In the ROW

Crown Castle is a Competitive Local Exchange Carrier ("CLEC") in the State of California that provides regulated telecommunications services under Certificate of Public Convenience and Necessity ("CPCN") #U-6741-C granted by the California Public Utilities Commission ("CPUC"). Crown Castle is not a wireless service provider, nor does it provide wireless services to the general public. Instead, Crown is a telephone utility or "carrier's carrier" that builds whole communications networks and provides telecommunications services to its customers. These networks include fiber optic cabling, digital processing hubs, and small antennas.

Crown Castle's networks are used to provide coverage and capacity solutions to wireless carriers such as Verizon, AT&T, and T-Mobile to name a few. Given that Crown Castle is a telephone corporation under California law; it has express rights to access the ROW to install its facilities in order to provide regulated services. Furthermore, Crown Castle has already entered into a License Agreement with the City to attach to City facilities located in the ROW. Specific equipment and antenna configurations were agreed to and included in that Agreement.

Therefore, Crown Castle's primary areas of concern with the Draft Ordinance are the treatment of Small Cells in the ROW and how these new standards would affect the existing Agreement between Crown Castle and the City. Below are specific comments regarding the Staff Report; Exhibit "A" factors to be considered; and, Exhibit "B" proposed amendments to Section 33-704(k).

Develop Better Design and Siting Criteria

Section F, Analysis

Under the discussion of Support Structures, the City provides guidance that collocating on an existing streetlight is preferred, and that non-replacement poles are not preferred. Further, new poles should be proposed as street lights. Although this direction is helpful, the Ordinance should address all other existing vertical infrastructure located in the ROW, including that not owned by the City.

The City cannot create a monopoly whereby wireless providers must demonstrate that the preferred "City" poles are not available or feasible to support the WCF before using a less preferred "non-City" support structure. Most wireless providers would not be opposed to a statutory preference for existing municipal infrastructure, so long as the City charges pole rent that is consistent with regulated rents wireless providers typically pay to attach to other poles located in the ROW, Requiring attachment to City poles at inflated pole rents would create an illegal monopoly in the City's favor.

All existing vertical infrastructure in the ROW should be open to attachment – State law requires this. The City could create a spectrum or gradation of poles types from most preferred to least preferred / most discouraged. Non-City poles such as utility poles should be encouraged and preferred. Utility poles are usually not sited along the front yards of residential properties, and provide inconspicuous opportunities to provide coverage and capacity into residential areas. In fact, it is this "last mile" of connectivity in residential areas that is proving most challenging. While everyone agrees that the siting of WCF along arterial and collector streets is preferred, that is not always possible. Small Cells have limited power and thus limited range. Therefore, it is imperative that the City's Ordinance include an administrative approval process that allows for Small Cells to be sited anywhere in the ROW, including residential areas.

Design Criteria

City Design Criteria that requires space separation between WCF is ill-advised. As was mentioned earlier, Small Cells often have coverage objectives that are often a couple hundred feet in distance or less. As 5G technology proliferates, these distances, along with equipment size will continue to shrink. Whether because of topographic considerations or a number of other reasons, the City may find it more desirable to allow more WCF in a particular area because it would result in an overall reduction in the number of WCF City-wide. The City's proposed 300-foot radius separation between WCF in residential areas will certainly lead to an effective prohibition of service and should be removed from the Ordinance. Other jurisdictions have addressed this challenge by requiring a minimum space separation between WCF, along the same side of the street.

Wireless Facility Permits and Process

Jurisdictions with populations larger than 100,000 people generally do not have the time, resources or desire to require a Conditional Use Permit ("CUP") for each and every WCF application. Instead, these mid-to-larger jurisdictions often adopt a tiered permitting approach whereby WCF of a certain size and dimension are allowed administratively in the ROW. WCF larger than the administrative threshold would have to under-go a more rigorous discretionary review process. The creation of an administrative review process for Small Cells steers wireless providers to build physically smaller WCF because speed to market and certainty of permitting process are compelling incentives to industry.

Siting criteria should be specific. Community values that the City wishes to encourage must be clearly articulated. Specific antenna and equipment configurations, along with the ability of wireless providers (in consultation with the City) to modify and enhance configurations, should be contained in the City's License Agreement. The City may want to limit its aesthetic review to impacts to "public views" as opposed to impacts to "the viewing public". Unless the City already has specific guidelines for protecting private views, the City should be leery of creating a slippery slope whereby "the viewing public" could be interpreted to mean private views.

The City Staff's Analysis makes mention of requiring additional findings for the approval of a CUP for a WCF in the ROW. All findings required for an approval must specifically be provided for in the Ordinance. As the FCC provided in its 2014 Wireless Infrastructure Report and Order (FCC 14-153) any information the City requires must be based on a "code provision, ordinance, application instruction, or otherwise publically-stated procedures that require the information to be submitted." Any provision requiring support of "additional findings" is unsupportable in law.

As discussed earlier, the ROW is its own land use designation. Besides moving traffic, the ROW has historically and properly been the means by which utility infrastructure is brought to end users. The City should not impose adjacent zoning regulations upon WCF located in the ROW. To do so would diminish the primary purpose of the ROW, to transport people, goods and services.

EXHIBIT "A"

We propose altering Zoning Code Amendment (1) as follows:

1. Approval of the amendment to Article 34 (Communication Antennas) will improve public health and welfare and beneficial to the property or improvements in adjacent zones or vicinity in which the property is located because Personal WCF are currently allowed within the ROW throughout all zones in the City."

EXHIBIT "B"

Proposed Amendment to Section 33-704(k) pertaining to Personal Wireless Service Facilities in the ROW.

(k) The maintenance of WCF in the ROW should be specifically exempted from the Ordinance.

(2) Infeasibility of locating on an existing streetlight should include economic infeasibility if the City charges more than regulated rates paid by wireless providers to other pole owners within the ROW.

Traffic signals should be a possibility for attachment. In other jurisdictions such as the City of San Diego, wireless providers are allowed to attach to these facilities. Traffic signals, especially in underground districts, are sometimes the only existing vertical infrastructure available in the ROW. Many jurisdictions find it more desirable to attach to existing traffic signals than to have wireless providers propose a new vertical element into the ROW.

For reasons mentioned earlier in this letter, utility poles should be encouraged and considered a preferred location. The City may want to expand its pallet of acceptable new structures from just streetlights, to include structures typically found in the ROW such as traffic signs, bus stops, etc. The City should not limit the ability of wireless providers to tailor a WCF in the ROW to the surrounding community as much as possible.

(3) As discussed earlier in this letter, the ROW is its own unique land use. Adjacent land uses and zoning should not limit or restrict the primary use and purpose of the ROW. While the siting of WCF on classified streets should be strongly encouraged, siting on local streets should be permitted administratively so long as the WCF complies with size and dimension standards.

We propose that the last line of the paragraph be modified to read, "attached, or otherwise screened or camouflaged to reduce their visibility.".

(4) The following standards are arbitrary, capricious and ill-advised:

- One panel antenna per pole, not to exceed 2-feet in height.

  Although technology is shrinking the size of wireless components, Small Cells are not shrinking. The primary reason for this is that consumer demand is requiring more speed, more bandwidth and more services. Consequently, larger antennas are needed than the 2-foot requirement. In regard to one panel antenna per pole standard, panel antennas are directional antennas. Therefore, the proposed standard would make new WCF one sector/directional facilities (with the exception of pole top radome extensions).

- Maximum height for a WCF is 35-feet.

  This standard is arbitrary unless all street lights, and other potential support structures, in the ROW are 35-feet in height or less. WCF should be attached to support structures that blend into the built environment of the ROW regardless of the height of the structure. Some jurisdictions restrict WCF height of WCF support structures to the average height of poles in the area.

- Pole mounted equipment and antennas must be mounted with less than a 4-inch gap.

  General Order 95, and other such health and safety regulations, may not allow for such tight spacing on a pole. The City may want to consider adding the phrase, "unless other, larger equipment separation requirements are required to conform to health and safety regulations such GO 95 and OSHA."

- Pole mounted equipment may not exceed 6-cubic feet.

  As stated earlier, although technology is making components smaller, Small Cells are not necessarily getting smaller. The proposed 6-cubic feet standard is too small to hold the typical equipment found at a Small Cell. Many jurisdictions that have a tier regulatory system, such as the City of San Diego, are currently evaluating the possibility of increasing volume standards in order to accommodate these larger Small Cells.

- Pole mounted equipment may not and antennas must be within 8-inches of the pole

  This proposed requirement has the same problems as the 4-inch gap requirement discussed above. There are health and safety regulations that may supersede City requirements.

- Pole top extensions may not have a radome antenna that exceeds 4-feet in height, and it must not exceed the diameter of the pole.

  Although the Ordinance prefers pole top extensions, the City needs to be more realistic than requiring radomes that cannot exceed the diameter of the pole. Typical street lights have slightly tapered poles that narrow to between 7-10 inches in diameter. Radome antenna brackets are by necessity larger that the antenna because it fastens the antenna to the outside of the pole. The City should be less concerned with regulating antenna sizes and more focused on creating aesthetic standards that clearly articulate Escondido's community values.

Although technology is reducing the size of components, consumer demand (especially for data) is driving the need for wireless infrastructure to be more robust. Consequently, wireless carriers are required to use multiple frequency bands in an attempt to keep up with that demand. Multiple frequencies usually results in larger antennas and more ancillary equipment to support various services. Additionally, there are climbing safety regulations such as General Order 95 that would be contravened by the City's proposed standards. Consequently, the restrictions currently contained in the Ordinance will not meet the needs of today's networks.

(5) As discussed earlier in this letter, a 300-foot radius separation between WCF in any zone should be re-evaluated.

(6) The Ordinance states that no WCF may be located in the ROW where there are no overhead utility facilities or streetlight poles unless pursuant to a CUP. This is confusing. In an area with no overhead utilities but streetlights, no WCF may be located in the ROW except through a CUP. Further, the Ordinance states that if there are overhead utility facilities but no streetlight poles, no WCF may be located in the ROW, except through a CUP. Neither of these limitations makes much sense when more poles, not fewer poles, are needed for attachment in order to make 5G connectivity a reality.

The no new overhead wires should be limited to underground districts. To require that a new CLEC entrant underground its utility lines, when the ILEC does not is illegal. The City cannot discriminate among entities providing equivalent services. This discrimination would be further compounded if the City's "anticipated" underground district never occurs. Most CLECs and other wireless providers would not be opposed to a statutory requirement to underground utility lines so long as every other user and utility in the ROW undergrounds their utility lines.

(7) The second paragraph, first sentence should be modified to read, "All other non-antenna equipped associated with the personal wireless service facility shall be placed underground wherever feasible, excepting any required electric meter or disconnect switch."

(8) Wireless Facility Permits. Routine maintenance should be specifically exempted from the Ordinance.

(A) An Administrative Permit should be granted for Small Cells attached to any existing antenna support structure located in the ROW, regardless of adjacent zoning. The ROW is its own land use designation and adjacent land uses should not encumber the primary purpose of the ROW to transport people, good and services

(C)(I) For telephone utility companies like Crown Castle, California Utility Code Section 7901 and 7901.1 make this finding moot. State franchise holders have the authority to enter into and construct and install poles in the ROW in order to develop their networks. While federal law may allow jurisdictions to require applicants prove a "significant gap" in coverage, State law has no such requirement.

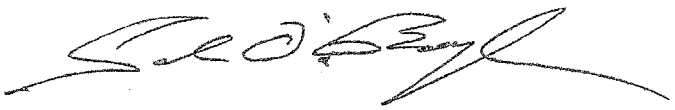
(C)(IV) We propose altering to: "That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations within the ROW and that..."

The FCC has made clear that the City cannot be in the business of dictating the technologies that companies must use to provide services. Further, the FCC has pre-empted the field and local jurisdictions are not allowed to regulate RF emissions or technological choices.

Crown Castle strongly recommends that the City hold a wireless workshop with industry and other stakeholders. It is important that City regulations take into consideration the minimum physical and special needs of wireless providers. Best practices and procedures should be shared. The Ordinance needs to be structured so that ubiquitous wireless coverage and capacity is achieved, with the least amount of adverse impacts on the community. Crown Castle looks forward to assisting the City achieve its wireless goals.

If you have any questions or need additional information regarding these comments, please do not hesitate to contact me. Thank you again for the opportunity to comment, we look forward to working with the City.

Sincerely,



Paul R. O'Boyle

Agenda Item No.: 5
Date: June 14, 2017

ORDINANCE NO. 2017-10R

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING ARTICLE 34 OF THE ESCONDIDO ZONING CODE PERTAINING TO WIRELESS COMMUNICATION FACILITIES WITHIN THE RIGHT-OF-WAY

Planning Case No. AZ 16-0009

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. That the City Council has determined that this Zoning Code Amendment is exempt from the California Environmental Quality Act ("CEQA") in conformance with CEQA Guidelines Section 15061(b)(3) "General Rule" and finds that no significant environmental impact will result from approving this code amendment.

SECTION 3. That upon consideration of the staff report; Planning Commission recommendation; Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference; and all public testimony presented at the hearing held on this project, this City Council finds the proposed Zoning Code Amendment is consistent with the General Plan and does not affect any specific plans of the City of Escondido.

SECTION 4. That Article 34 of the Escondido Zoning Code, Section 33-704(k) "Public Right-of-Way" is deleted and replaced with language attached as Exhibit "B" to this Ordinance and incorporated by this reference.

SECTION 5. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

EXHIBIT "A"

FACTORS TO BE CONSIDERED
AZ16-0009

1. Approval of the amendment to Article 34 (Communication Antennas) will not be detrimental to the public health, safety, or welfare or injurious to the property or improvements in the zone or vicinity in which the property is located because Personal Wireless Communication Facilities currently are allowed within the public right-of-way along all zones throughout the City. The proposed amendment further clarifies standards for the development of wireless facilities within the right-of-way; modifies and streamlines the review process by creating a new Wireless Facility Permit; and established clear Design Guidelines for wireless communication facilities within the public right of way. All facilities would continue to be required to conform to FCC "Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation." No development project is proposed.

2. The properties/zones involved are suitable for the uses permitted and would not be detrimental to surrounding properties because the proposed the public right-of-way can adequately accommodate wireless communication facilities and the amendment only includes appropriate processing development standards and processing requirements to evaluate the appropriateness of a proposed wireless facilities proposed within the public right-of-way.

3. Escondido's economy relies on innovation and providing job opportunities for the City's residents. Ubiquitous, high speed mobile broadband is proven to have a significant impact on a country's economic competitiveness and social prosperity. The proposed Zoning Code Amendment facilitates the development of the City's telecommunication network, which is supported by numerous goals and policies. The proposed amendment would be consistent with General Plan Goals and Policies that call for a "Diverse and Economically Prosperous Economy" that address the need to provide broad economic prosperity and support for businesses of all sizes. General Plan Mobility and Infrastructure Goals (Goal 7, page I-19 and Telecommunication Goal 7, page III-51) call for providing quality communication systems that enhance economic viability, governmental efficiency and equitable access for all. The proposed amendment also is consistent with General Plan Economic Prosperity Goals (Goal 9, page I-21) to provide adequate infrastructure to support and maintain the economic vitality of Escondido businesses. Telecommunication Policy 17.8 requires compatible colocation of telecommunication facilities that are designed in a manner to minimize visual impacts on surrounding uses, and Telecommunication Policy 17.9 encourages the City to work with utility companies to provide opportunities for siting telecommunication facilities on city-owned property and public right-of-ways.

4. The proposed code amendment is exempt from environmental review in conformance with CEQA Guideline Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendment to the Zoning Code (Article 34) only establishes criteria to assess and process applications for the development of wireless communication facilities within the public right-of-way. The proposed zoning code amendment is not a "physical condition" that will impact the environment for the purposes of CEQA. Therefore, the proposed code amendment is not subject to CEQA under the General Rule and no further environmental review is necessary.

5. The proposed zoning code amendment would not affect any specific plans.

EXHIBIT "B"

Proposed Amendment to Section 33-704 (k) pertaining to Personal Wireless Service Facilities in the Right-of-Way.

(k) Public Right-of-Way. All requirements of this Article shall apply to the placement, construction, modification, reconstruction, or repair of any personal wireless service facilities proposed within the public right-of-way, except to the extent precluded by state of federal law. The following general requirements also shall apply:

(1) All personal wireless service facilities must comply with the City's requirements for an encroachment permit as set forth in Chapter 23 of this code and any guidelines adopted pursuant to this Article. All applicants shall enter into a license agreement as provided by the City to the extent the facility is proposed to be located on City facilities.

(2) Personal wireless service facilities in the right-of-way shall be installed on existing street light poles or substantially similar replacement poles in the same location. Where it has been demonstrated that it is not feasible to locate on an existing street light or similar replacement pole, a wireless facility may install a new streetlight to supplement existing lighting. New or replacement street light poles shall be designed to resemble the appearance and dimensions of a street light typical of the surrounding neighborhood, including size, height, color, materials and style, whenever feasible. Where it has been demonstrated that it is not feasible to locate on a new streetlight, a wireless facility may locate on an existing traffic signal, utility pole, bus stop, or other appropriate vertical structure within the right-of-way. The installation of a new structure, that is not a street light, may be permitted by minor conditional use permit. The installation of a new wooden pole is not permitted.

(3) All personal wireless service facilities in the right-of-way shall be sited in order to minimize potential visual and compatibility impacts with adjacent properties. In residential areas, placing wireless facilities along non-classified residential streets and along the front yard of single-family residential properties should be avoided. Wireless facilities must be designed to be visually unobtrusive with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses. The equipment must be painted or textured to match the color or surface of the structure on which they are attached, or otherwise screened to reduce their visibility.

(4) No more than two panel antennas may be mounted on a single pole or structure. No antenna may exceed three feet in length. Antennas shall be vertically mounted to a pole or support structure (excluding strand mounts) in compliance with any applicable separation requirements. An antenna enclosure attached to the top of a utility pole or street light shall be cylindrical in shape and shall be not exceed four feet in height. New street lights or replacement poles must match the height and design of the existing street light in the same neighborhood. In no case shall a new wireless facility exceed 35 feet in height. The antennas and other related equipment shall be mounted as close to the pole as possible, with no more than a four-inch gap, to minimize impacts to the visual profile. Pole-mounted equipment, exclusive of antennas, shall not exceed seven cubic feet in dimension. Pole-mounted equipment and antennas shall not extend eight inches in width from the pole in any direction. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

(5) The spacing between existing poles and new personal wireless service facilities must avoid visual clutter and maintain the existing character of the surrounding neighborhood. In residential

areas, an individual wireless carrier must provide a minimum separation of 300 feet from any of their other wireless facilities within the right-of-way.

(6) No personal wireless service facility may be located within the right-of-way where there are no overhead utility facilities or streetlight poles unless permitted pursuant to a minor conditional use permit. No new overhead wires shall be allowed in areas where undergrounding of utilities has occurred or is anticipated.

(7) All other non-antenna equipment associated with the personal wireless service facility shall be placed underground, except any required electric meter or disconnect switch associated with an installation on an existing utility pole. Equipment shelters shall not be allowed in the public right-of-way where their presence would interfere with existing uses or infrastructure, and shall be located as to minimize impacts to neighborhood aesthetics, pedestrian access, and vehicular site distance and safety.

(8) Wireless Facility Permits. All new personal wireless service facilities proposed within the right-of-way, collocations or modifications to existing wireless facilities shall require the issuance of a wireless facility permit. The Director may establish the forms and submittal requirements to implement the requirements of this Article. The Director may refer any application for a wireless facility permit to the Planning Commission for consideration at a noticed public hearing.

(A) Administrative Permit. All proposed facilities which meet all the requirements in this Article and any adopted guidelines may be processed through an Administrative Wireless Facility Permit. The Director shall determine whether an application meets the requirements of this Article and any adopted guidelines. The application shall follow the procedures and fees for a Plot Plan and design review.

(B) Minor Conditional Use Permit. All other proposed facilities that the Director determines do not meet the requirements of this Article or any adopted guidelines must be processed through a minor conditional use permit. The applicant must pay any necessary application fees in accordance with a minor conditional use permit application.

(C) Zoning Administrator findings. In addition to the findings in Section 33-1203, the Zoning Administrator must also make the following findings in approving a minor conditional use permit for a personal wireless service facility:

I. That the applicant has demonstrated that the site is necessary to close a significant gap in service;

II. That the location proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible;

III. That the design proposed conforms to the requirements of this Article and any adopted guidelines to the maximum extent possible; and

IV. That the applicant has demonstrated a good-faith effort to identify and evaluate more preferred locations and that alternative locations are not feasible or potentially available.

(9) The City Council may, by resolution, establish additional criteria and guidelines for the location, operation, design and review of personal wireless service facilities in the public right-of-way.

ESCONDIDO
City of Choice

CITY COUNCIL

For City Clerk's Use:
☐ APPROVED ☐ DENIED
Reso No. _____ File No. _____
Ord No. _____

Agenda Item No.: 6
Date: June 14, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Sheryl Bennett, Director of Administrative Services

SUBJECT: Adoption of Fiscal Year 2017-18 Annual Operating Budget and the Appropriations Limit (Gann Limit) for Fiscal Year 2017-18

RECOMMENDATION:

It is requested that the City Council adopt Resolution No. 2017-75, approving the Fiscal Year 2017-18 Annual Operating Budget. It is also requested that the City Council adopt Resolution No. 2017-76, approving the Appropriations Limit (Gann Limit) for Fiscal Year 2017-18.

FISCAL ANALYSIS:

The General Fund budget has been submitted with the assumption that the City will continue to show economic growth. The proposed Fiscal Year 2017-18 General Fund Operating Budget is a balanced budget without the use of reserves and projects a 3 percent increase in total revenues and 7 percent increase in total expenditures. The budget document can be viewed on the City's website at: https://www.escondido.org/annual-operating-budget.aspx.

It is the City's goal to maintain ongoing financial structural stability. We use a multi-year financial plan as one tool to help reach this goal. It facilitates a process of projecting future revenues and expenditures using various assumptions and highlights the long-term effects of financial decisions.

It should be noted that in considering a long-term view, staff is currently projecting deficits in Fiscal Years 2018-2021. There are two reasons for this projection. First, we have chosen to use conservative revenue estimates of just 2 percent for these years. More importantly, we have also used preliminary CalPERS rate increase assumptions provided to us earlier this year in making the projections. This summer the City will receive the CalPERS valuations, which will have the City's actual contribution rates and projections based on CalPERS newly adopted rate structure to decrease their discount rate from 7.5 to 7.0 percent over three years, beginning in July 2018. CalPERS is reducing the discount rate in order to strengthen the long-term sustainability of the fund in order to pay promised benefits, as well as to reduce risk of volatile contribution increases in the future from investments.

The longer term deficit projections bring home the "CalPERS underfunding" issue. Staff will be providing the City Council with options in the near future to address the CalPERS' payments in order to increase financial stability and eliminate long-term deficit scenarios. Several opportunities related to future revenues will also be presented.

One of the key areas staff is focusing on is the favorable outcome received from the State's Department of Finance regarding the Escondido Successor Agency.

The State of California's passage of Assembly Bill X1 26 dissolved Redevelopment Agencies and replaced them with Successor Agencies effective February 1, 2012. The Dissolution Law nullified most agreements between redevelopment agencies and their sponsoring communities, including loans made between cities and their redevelopment agencies. As a result, the loan balance of $9,832,652 between the City of Escondido General Fund and the Community Development Commission was disallowed by the State Department of Finance.

The Dissolution Law was amended by AB 1484 and further amended by SB 107. The amendments provided that after receiving a finding of completion from the California Department of Finance, loan agreements between a former redevelopment agency and their sponsoring community would be eligible for repayment provided the Oversight Board made a finding that the loan was for a legitimate redevelopment purpose. The Oversight Board made a finding that the outstanding loans were for legitimate redevelopment purposes on January 24, 2017.

The City received notification in April from the State Department of Finance confirming that the loans were for legitimate redevelopment purposes and are eligible for reinstatement. As a result, the Successor Agency is able to pay back the loan plus interest to the City from the former Escondido Redevelopment Agency. The annual loan repayments are subject to specified limitations outlined in a complex formula and twenty percent of repaid loan amounts have to be deposited into the City Housing Successor Agency Fund.

The City estimates receiving a total of $16 million over a 5-year repayment schedule which includes $9,832,652 of principal and $7,800,000 of interest. The first loan repayment will be made in Fiscal Year 2018-19. The City anticipates receiving approximately $3.2 million to the General Fund and $800,000 to the Housing Successor Agency Fund. It is staff's recommendation that decisions regarding these loan repayments be deferred until after the September workshop discussing CalPERS issues and long-term financial projections.

Attachment "A" to this staff report is the General Fund Multi-Year Financial Plan through fiscal year 2021.

The current General Fund reserve balance is $17.4 million.

Respectfully submitted,

Sheryl Bennett
Director of Administrative Services

CITY OF ESCONDIDO
FY 2017-18 Operating Budget
General Fund Multi-Year Financial Plan

ATTACHMENT A

	ADOPTED 2016-17	PROPOSED 2017-18	PROJECTED 2018-19	PROJECTED 2019-20	PROJECTED 2020-21
Sources of Funds:					
Estimated Revenue	$ 91,416,000	$ 97,285,710	$ 99,231,425	$ 101,216,055	$ 103,240,375
Successor Agency-Redev. Loan Repayment	-	-	3,200,000	1,612,000	5,400,000
Transfer from Gas Tax	2,055,000	2,055,000	2,055,000	2,055,000	2,055,000
Transfer from Hegyi Trust	1,000	1,000	0	0	0
Transfer from Wastewater	25,000	25,000	25,000	25,000	25,000
Deposit - PEG Fees	11,000	11,000	11,000	11,000	11,000
TOTAL, Sources	93,508,000	99,377,710	104,522,425	104,919,055	110,731,375
Uses of Funds:					
General Fund Operating Budget-PERS	16,189,370	17,367,310	19,800,000	22,800,000	26,600,000
General Fund Operating Budget-All Other	76,454,755	81,306,680	85,818,990	88,918,990	92,038,990
Total General Fund Operating Budget	92,644,125	98,673,990	105,618,990	111,718,990	118,638,990
Transfer to Recreation	223,100	0	0	0	0
Transfer to ASES	0	67,290	67,000	67,000	67,000
Transfer to Reidy Creek Golf Course-Debt Service	365,550	368,850	366,795	369,595	367,170
Transfer to Reidy Creek Golf Course-Operations	0	102,150	100,000	100,000	100,000
Transfer to Vehicle Parking District	95,225	95,430	95,430	95,430	95,430
Transfer to Successor Agency-Housing	25,000	25,000	25,000	25,000	25,000
Advance Paybacks to Public Facilities Fund	155,000	45,000	45,000	45,000	0
TOTAL, Uses	93,508,000	99,377,710	106,318,215	112,421,015	119,293,590
TOTAL, Sources Over/(Under) Uses	$ -	$ -	$ (1,795,790)	$ (7,501,960)	$ (8,562,215)

PURPOSE

It is the City's goal to maintain ongoing financial structural stability. This multi-year financial plan is one tool used to help reach this goal. It facilitates a process of projecting future revenues and expenditures using various assumptions and highlights the long-term effects of financial decisions.

ASSUMPTIONS

The multi-year financial plan above is based primarily on the following key assumptions for fiscal years 2018-19 thru 2020-21:

1) 3% increase in projected salaries primarily for step increases
2) CalPERS employer contribution increases based on preliminary rate increases provided by CalPERS: Approximately $2 million in 2018-19, $3 million in 2019-20 and $4 million in 2020-21
3) 5% increase in the cost of medical insurance
4) $600,000 a year increase in workers' compensation charges in order to build the reserve to actuary recommended levels
5) 3% increase in all other overhead
6) 3% increase in maintenance and operation costs to cover items such as increases in the cost of various contracts and utilities
7) The past several years the Fleet department has used available fund balance to balance their budget. It is recommended that charges to departments be increased the next several years. Projected increases are $1.3 million in 2018-19, $220,000 in 2019-20 and $120,000 in 2020-21.
8) The benefits administration department has also been using available fund balance the past several years. A $15,000 increase in charges is recommended for 2018-19.
9) 2% increase in estimated revenue
10) Loan repayment from the Successor Agency-Redevelopment projected to be $16 million over five years. The first loan repayment is due during fiscal year 2018-19.

CONCLUSION

Another goal of the City is to maintain a balanced budget without the use of reserves. In order to completely fund the assumed increases in expenditures, revenue would need to increase by 4% in 2018-19, 8% in 2019-20 and 3% in 2020-21 to have a balanced budget. Revenue and expenditure projections will be continuously monitored and adjustments will be made both quarterly and during the annual budget process in order to maintain a balanced budget.

RESOLUTION NO. 2017-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, ADOPTING OPERATING BUDGETS FOR CERTAIN CITY DEPARTMENTS FOR FISCAL YEAR 2017-18 SUBJECT TO ANY AMENDMENT MADE PURSUANT TO COMPENSATION PLANS FOR THE CITY OF ESCONDIDO AND ESTABLISHING CONTROLS ON CHANGES IN APPROPRIATIONS TO VARIOUS FUNDS AND DEPARTMENTS

BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

SECTION 1. That the budgets for all City Departments for the period July 1, 2017, through June 30, 2018, inclusive, contained in the FY 2017-17 Operating Budget Document (a copy of which is on file in the Office of the City Clerk) as amended by Council, are adopted as the final budgets for the 2017-18 fiscal year, subject to any further amendments pursuant to approval of Compensation Plans for employees of the City of Escondido.

SECTION 2. That the amount designated as Department Total for each department and each fund in the budgets on file with the City Clerk, is hereby appropriated to the department or fund for which it is designated subject to adjustments for Compensation Plan approvals. Such appropriations as adjusted shall not be increased without approval of the City Council, except that transfers within funds, may be approved by the City Manager. All amounts designated as Employee Services, Maintenance and Operation, and Capital Outlay in each budget on file with the City Clerk, are hereby appropriated for such uses to the department or fund under which they are listed, subject

to any amendments made pursuant to approval of Compensation Plans for employees of the City of Escondido, and shall not be increased without approval of the City Manager.

SECTION 3. That the approval of the Operating Budget Document, including the Department Total expressed for each department, and any subsequent amendments shall include approval for all actions of the City acting as Successor Agency of the former Escondido Redevelopment Agency as expressed in said Operating Budget Document.

RESOLUTION NO. 2017-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, ADOPTING AN ANNUAL APPROPRIATIONS LIMIT FOR THE 2017-18 FISCAL YEAR AS REQUIRED BY LAW

WHEREAS, Article XIII-B of the California State Constitution requires that the City of Escondido calculate an appropriations limit for each fiscal year, commonly known as the "Gann Limit;" and

WHEREAS, the Gann Limit is based on a combination of a population factor and an inflation factor as outlined on Exhibit "B," which is attached to this resolution and incorporated by this reference; and

WHEREAS, the City Council desires at this time and deems it to be in the best public interest to adopt an annual Gann Limit for Fiscal Year 2017-18 as listed on Exhibit "A," which is attached to this resolution and incorporated by this reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.

2. That the City Council adopts the calculation of the annual Gann Limit for the Fiscal Year 2017-18. The Gann Limit is adopted on a provisional basis as the limit may need to be adjusted when current assessment data are available. The 2016-17 Gann Limit Calculation, which is attached to this resolution and incorporated by this reference, is finalized as shown on Exhibit "B."

EXHIBIT A
GANN CALCULATION
2017-18

	PROCEEDS	NON-PROC.
PROPERTY TAXES	25,392,000	
OTHER TAXES:		
Sales and Use Tax	38,064,000	
Property Transfer	718,000	
Franchise	6,531,000	
Transient Occupancy Tax	1,769,000	
RPTTF Residual Payment	950,000	
LICENSES AND PERMITS:		
Business Licenses	1,887,000	
Plumbing Permits		40,000
Building Permits		450,000
Electrical Permits		119,000
Mechanical Permits		40,000
Other Permits		458,000
FINES, FORFEITURES AND PENALTIES:		
Parking Fines		305,000
Other Court Fines		924,000
Library Fines and Fees		62,000
REVENUE FROM USE OF MONEY:		
Interest Income	67,540	19,460
REVENUE FROM OTHER AGENCIES:		
Post Reimbursement		33,000
State Highway Maintenance		10,000
Grants		746,000
Rincon Fire Agreement		2,023,000

	PROCEEDS	NON-PROC.
CHARGES FOR CURRENT SERVICES:		
Zoning Fees		125,000
Subdivision Fees		37,000
Environmental Impact Reports		54,000
Sale Maps and Publications		500
Special Police Services		100,000
Plan Check Fees		449,000
Engineering Fees		1,199,000
Paramedic Services		5,581,000
Conservation Credit		161,000
Other Current Services		1,458,500
Community Services		2,416,000
OTHER REVENUE:		
Leased Property		3,383,505
Transfer Station Fee		681,000
Other Revenue		179,000
Mobile Home Rent Control		64,000
Reimbursement from Outside Agencies		575,000
GAS TAX FUND:		
Revenue from Use of Money		
Interest Income		13,940
Revenue from Other Agencies		
State Gas Tax 2105		876,300
State Gas Tax 2106		534,000
State Gas Tax 2107		1,132,000
State Gas Tax 2107.5		10,000
State Gas Tax 2013		603,600
TOTALS	75,378,540	24,862,805
LESS: STATE MANDATES (Estimated)	(20,000)	
APPROPRIATIONS SUBJECT TO LIMIT	75,358,540	
GANN LIMIT FOR 2017-18	1,110,787,007	
MARGIN	1,035,428,467	

EXHIBIT B
GANN LIMIT CALCULATION

	POPULATION FACTOR USED	INFLATION FACTOR USED	
2001-02 Limitation		Non Residential	266,116,209
2002-03 Factor	County Growth	Assessed Valuation	1.06892
2002-03 Limitation		Non Residential	284,456,938
2003-04 Factor	County Growth	Assessed Valuation	1.08706
2003-04 Limitation		Non Residential	309,221,759
2004-05 Factor	County Growth	Assessed Valuation	1.07214
2004-05 Limitation		Per Capita	331,529,017
2005-06 Factor	County Growth	Personal Income	1.06597
2005-06 Limitation		Per Capita	353,399,986
2006-07 Factor	County Growth	Personal Income	1.04937
2006-07 Limitation		Non Residential	370,847,343
2007-08 Factor	County Growth	Assessed Valuation	1.07955
2007-08 Limitation		Per Capita	400,348,249
2008-09 Factor	County Growth	Personal Income	1.05687
2008-09 Limitation		Per Capita	423,116,054
2009-10 Factor	County Growth	Personal Income	1.01888
2009-10 Limitation		Per Capita	431,104,485
2010-11 Factor	City Growth	Personal Income	0.98883
2010-11 Limitation		Per Capita	426,289,048
2011-12 Factor	City Growth	Personal Income	1.03269
2011-12 Limitation		Non Residential	440,224,437
2012-13 Factor	County Growth	Assessed Valuation	1.27787
2012-13 Limitation		Non Residential	562,549,601
2013-14 Factor	County Growth	Assessed Valuation	1.59242
2013-14 Limitation		Non Residential	895,815,236
2014-15 Factor	County Growth	Assessed Valuation	1.06226
2014-15 Limitation		Per Capita	951,588,693
2015-16 Factor	County Growth	Personal Income	1.05045
2015-16 Limitation		Per Capita	999,596,343
2016-17 Factor	County Growth	Personal Income	1.06192
2016-17 Limitation		Per Capita	1,061,491,349
2017-18 Factor	County Growth	Personal Income	1.04644
2017-18 Limitation			1,110,787,007

ESCONDIDO
City of Choice

Agenda Item No.: 7
Date: June 14, 2017

FUTURE CITY COUNCIL AGENDA ITEMS

Updated June 8, 2017

AGENDA ITEMS AND CITY COUNCIL MEETING DATES ARE SUBJECT TO CHANGE. CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617

June 21, 2017 4:30 p.m. (include CIP)	
	PRESENTATIONS
	North County Stand Down
	CONSENT CALENDAR
	Second Amendment for Vehicle Outfitting Services with American Emergency Products (E. Domingue) *The City of Escondido and American Emergency Products entered into an agreement dated August 4, 2014 to provide vehicle outfitting services. The Request for Proposal for Vehicle Outfitting Services No. 14-1 contained three (3) one-year option periods. The City and American Emergency Products desire to enter into a Second Amendment for vehicle outfitting services for Option Period 2, to extend the agreement through June 30, 2018.*
	Public Services Agreement with Wittman Enterprises (S. Bennett) *A three (3) year Public Service Agreement with Wittman Enterprises was approved by City Council in FY 2013/2014. City staff conducted a RFQ with Wittman being the only responder. The City of Carlsbad awarded a contract to Wittman Enterprises, LLC after preparing an RFP and conducting an extensive interview process with other EMS billing firms. Staff is recommending that a new three-year Public Services Agreement be awarded to Wittman Enterprises based on the RFQ that was conducted by City Staff as well as the City of Carlsbad findings.*
	Annual Submission of the City of Escondido 2017 Investment Policy (D. Shultz) *In accordance with California Government Code Section 53646(a)(2), the City Treasurer may prepare and submit to the legislative body a statement of Investment Policy and any changes thereto, which will be considered at a public meeting. The Investment Policy provides the City with guidelines for the investment of City funds.*
	Appointment to the Public Art Commission (D. Halverson) *An appointment needs to be made to fill an unscheduled vacancy on the Public Art Commission, term to expire March 31, 2018.*

June 21, 2017
Continued

	PUBLIC HEARINGS
	Five-Year Capital Improvement Program and Project Budgets for Fiscal Year 2017/18 (S. Bennett) *This action will adopt the City's Five-Year Capital Improvement Program and TransNet Program of Projects for FYs 2017/18 – 2021/22.*
	CURRENT BUSINESS
	FUTURE AGENDA ITEMS (D. Halverson)

June 28, 2017
4:30 p.m.

	PRESENTATIONS
	County of San Diego Treasurer-Tax Collector: Dan McAllister
	CONSENT CALENDAR
	Amendment to Sections 12.H and 13 of the Mobilehome Rent Review Board Guidelines (B. Martin/M. McGuinness) *On May 3, 2017, the City Council considered proposed changes to Section 12.H. of the Guidelines. City Council voted to continue the agenda item for sixty (60) days and instructed staff to communicate with mobilehome park residents and owners about the proposed changes.*
	Tow Services Agreement (C. Carter) *Current Tow Contracts expire on June 30, 2017. Staff has conducted a request for qualification process (RFQ) and evaluated contractors to determine a list of qualified vendors. Contracts will be established with qualified towing companies.*
	Fiscal Year 2016 Operation Stonegarden Grant and Budget Adjustment (C. Carter) *The Escondido Police Department received a $25,000 grant for Stonegarden Operations. Grant funds will cover overtime expenses related to crime suppression operations.*
	Fiscal Year 2017-18 Department of Alcoholic Beverage Control Local Law Enforcement Grant and Budget Adjustment (C. Carter) *The Escondido Police Department received a FY 2017-18 Department of Alcoholic Beverage Control Local Law Enforcement Grant in the amount of $59,192. The Police Department will use this allocation to fund overtime expenses related to Shoulder Tap Details, Minor Decoy Operations, and training. Grant funds will enhance local efforts to reduce alcohol-related problems in the community.*

	CONSENT CALENDAR
	Bid Award for Water and Wastewater Treatment Chemicals (S. Bennett) *To procure chemicals for the Water and Wastewater Treatment plants.*
	Contract Award for Right-of-Way Landscape Maintenance Services (E. Domingue) *On May 5, 2017, requests for proposals for Right-of-Way Landscape Maintenance Services were mailed to landscape contractors. On June 1, 2017 at 2:00 p.m., the bid closes. The Public Services Agreement is for two years with three one-year extension options.*
	Award Purchase of Fuels for Fiscal Year 2017-18 (E. Domingue) *Annual award of Fiscal Year 2017-18 unleaded and diesel fuel purchase.*
	Lease of Property at 340 North Escondido Boulevard to A Step Beyond, A California Corporation (J. Petrek) *A ground lease is proposed for A Step Beyond to construct an approximate 1,200 sq. ft. office and meeting area located in a secluded area of the site, in conjunction with their leased studio space at the California Center for the Arts.*
	PUBLIC HEARINGS
	Public Hearing to Adopt a Resolution of Necessity to Initiate Condemnation Proceedings (J. Procopio) *Need Green Sheet*
	CURRENT BUSINESS
	FUTURE AGENDA ITEMS (D. Halverson)

Weekly Activity Report

June 8, 2017

FEATURED THIS WEEK

- The City is taking next steps to explore a BMX facility by issuing a Request for Qualifications (RFQ) inviting qualified firms to submit information on their ability to design, construct, operate, and maintain a BMX facility in Jesmond Dene Park. We expect more interest not requiring them to expend large resources on a detailed submittal at this point in the process. Any final proposal will involve amending the Jesmond Dene Park Master Plan. The requested proposals will cover design, construction, operation, and maintenance of the project to avoid the need to identify a new City funding source.

- Our Housing Program will be receiving a refund of $120,000 due to the federal government's recent reversal on its position regarding HOME funds. The HOME funds Escondido receives from the federal government have a "use by" date; if the allocation is not committed by a specific date the funds must be returned. A few years ago, the City Council allocated HOME funds to Solutions for Change for their project now under construction on S. Escondido Boulevard. That project relied on funding from multiple sources that did not come through in a timely manner delaying the project; as a result, we had to return HOME funds back to the federal government. The federal government has reversed its position and is now refunding $120,000 in HOME funds that Escondido can use in an RFP for a future project.

SPECIAL EVENTS

Ford and Friends Car Show – Grape Day Park – 8:00 a.m. to 3:00 p.m. Saturday, June 10
Car Show displaying around 200 vehicles with proceeds benefiting Meals on Wheels

Sip the City North County – Maple Street Plaza – 5:30 p.m. to 8:30 p.m., Saturday June 10
With over a dozen urban wineries to taste, local winemakers to meet, delicious food, and live entertainment, Sip the City is a splendid way to close out San Diego Urban Wine Week! Tickets are $25 and includes tasting tickets for each winery and light fare. Buy tickets here: https://sdurbanwineries.ticketleap.com/stc-finale/details

Symphony in the Park – Grape Day Park – 6 p.m. to 8 p.m., Sunday June 11
Free afternoon of music. Bring your low-backed chair, beach blanket, friends and family. Relax in the park as you listen to wonderful music presented by the Palomar College Symphony Orchestra.

ECONOMIC DEVELOPMENT

- Triple Crown Sports will be hosting a youth softball tournament at Kit Carson Park June 10-11, 2017. Teams will be participating in from all over Southern California. It is expected that 500 families will be traveling to Escondido for this event.

- Forgotten Barrel, Escondido's newest boutique winery is now open. To celebrate their opening, there will be live music in their tasting room on Saturday, June 10 from noon to 4 p.m. For more information about the winery, visit: https://www.forgottenbarrel.com/

COMMUNITY DEVELOPMENT

Major Projects Update

The following major projects are currently being reviewed and coordinated with Planning, Engineering, Fire, Building and Utilities staff. A complete description of each project can be viewed here. Updates provided below cover project milestones that occurred last week.

Commercial / Office:

1. Escondido Research and Technology Center – East (ERTC) (Developer: James McCann) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: A grading plan for a temporary parking lot to serve the hospital was approved June 13, 2016, and the parking lot is now under construction.

2. Escondido Research and Technology Center – West (ERTC) (Developer: James McCann) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: Construction is underway on the approximately 76,000 square foot medical office building with a linear accelerator. Palomar Health also will be constructing their new outpatient center adjacent to the site at 2185 Citracado Parkway.

3. Centerpointe 78 Commercial (Developer: Lars Andersen, Pacific Development) – The grading plan was approved on May 10, 2017. Planning has approved a modified front elevation that would eliminate the second set of entry/exit doors. A building permit for the supermarket shell building was issued last week. Building plans for the tenant improvement of the market were submitted into plan check on May 9, 2017. The architectural details for the stand-alone pad building on the east side of the property (i.e. Starbucks) filed for design review on June 6, 2017 and is currently being reviewed by staff.

4. Westfield Theater (Developer: Kim Brewer, Westfield) – *This project has been placed on hold by Westfield while they finalize lease negotiations so there is no change from the following update reported last week:* No grading, building or improvement plans have been submitted by the developer at this time.

5. Felicita Development, LLC (Developer: Katherine Park, Creative Design Associates) – *This project is on hold pending further direction and submittal of information from the applicant*: Follow-up meetings conducted by the applicant with staff and the wildlife agencies lead staff to believe a revised project is forthcoming.

6. Springhill Suites (Developer: Raj Patel, San Bernardino Hospitality LLC) – *The applicant is cleared to start construction so there is no change from the following update reported last week:* Construction is expected to commence within the next month.

7. Centre City Commercial Center (Developer: Todd Dwyer) – Revisions to the traffic study have been reviewed by staff leading to the issuance of the Draft Mitigated Negative Declaration for a 30-day public review period that ends on June 8, 2017. A demolition plan

for the existing motel and restaurant buildings on the site was submitted the third week of May. The right of access to Centre City Parkway is scheduled for consideration by City Council on June 7, 2017.

Industrial

1. StorQuest (Developer: The William Warren Group, Inc.) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: Revised building plans for this approved self-storage facility at 220 W. Mission Ave. were submitted to the Building Division on March 22, 2017 and routed to Esgil for re-check. The second check of grading plans was received by Engineering the week of April 30, 20174 and returned back to the applicant with comments two weeks ago.

2. Victory Industrial Development (Developer: Scott Merry, Badiee Development) – The applicant has secured his permits from the Army Corps, Regional Board, and CA Fish and Wildlife. The grading plan has been approved, BMP's are installed and the permit has been issued. Signal plans and street improvement plans have been approved. A pre-construction conference was held at the site last week and construction is ready to commence. Initial site grubbing started this week.

3. Escondido Self-Storage Facility (Developer: Brandywine Homes, Inc.) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: Building plans grading plans, landscape plans and the final map have been submitted and comments have been provided by staff and Esgil. Engineering will be sending out comments on the third check of the grading plan this week.

4. Innovative Industrial Development (Developer: Scott Merry, Badiee Development) – Comments on the building permit application have been returned. Landscaping drawings were submitted on May 9, 2017. The second check of the grading plan was resubmitted to Engineering on May 1, 2017. Comments on the landscape submittal and grading permit application are scheduled to go out this week.

5. North American Self-Storage (Developer: Russ Colvin) – This project is participating in the expedited plan check program; the demo permit has been issued. The applicant submitted a second plan check for the grading plan on April 13, 2017, and comments from all departments were provided back within 13 days. A boundary adjustment to combine the two lots on the site is ready to record. The applicant is coordinating construction timing for an off-site water line with multiple departments. The applicant submitted for a third plan check on June 2, 2017.

City Projects

1. Micro-Filtration Reverse Osmosis (Developer: City of Escondido Utilities Department) – *No further updates to this item will be provided while litigation is in progress:* The Planning Commission approved the proposed CUP on December 13, 2016. An appeal of that decision was filed and the City Council denied the appeal on January 11, 2017 and affirmed the Planning Commission's decision to approve the project.

2. Wastewater Collections Yard Expansion (Developer: City of Escondido Utilities Department) – *Project review is on-going but there are no new milestones to report this week*: Grading, building and landscape plans are now being reviewed by staff. Utilities staff is assessing value engineering options in an effort to reduce the cost of the facility. The most likely option will be to build the project in phases starting with two of the three approved buildings.

3. HARRF Biogas to Energy Project (Developer: City of Escondido Utilities Department) – *Communications with the applicant are on-going but no construction plans have been submitted since the project was approved and there are no new milestones to report this week:* A Conditional Use Permit for the project was approved by the Planning Commission December 13, 2016.

4. Lake Wohlford Replacement Dam (Developer: City of Escondido Utilities Department) – *Project review is on-going but there are no new milestones to report this week*: A Draft EIR was prepared and issued for a 45-day public review period that began on October 4, 2016 and closed on November 17, 2016. Staff and AECOM are now in the process of coordinating responses to the comments that were received during the public review period. A field visit with staff from the state and federal wildlife agencies took place on May 11, 2017, to review biological mitigation requirements.

Institutional

1. Escondido United Reformed Church (Developer: Brent Cooper) – A revised grading plan has been approved. Building plans have gone through one round of plan check. The applicant submitted a CUP modification application on May 25, 2017, to increase the size of the sanctuary and classroom buildings and delete Phase 4. Staff is currently reviewing that application.

2. Self-Realization Fellowship Center (Developer: John Pyjar, Domusstudio Architecture – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: The CUP application was submitted on November 14, 2016. Staff reviewed the initial submittal and sent a letter to the applicant on December 14, 2016, indicating that the application was incomplete and specifying the additional information that was necessary to complete the application. The applicant resubmitted revised plans and technical studies on May 19, 2017.

Residential

1. Oak Creek (Developer: Jason Han, New Urban West) – *This project has been placed on hold by the developer while the City completes construction of the Southwest Sewer Project so there is no change from the following update reported last week*: No grading or improvement plans have been submitted by the developer at this time.

2. Amanda Estates (Developer: Jason Han, New Urban West) – *This project has been placed on hold by the developer while the City completes construction of the Southwest Sewer Project so there is no change from the following update reported last week*: No grading or improvement plans have been submitted by the developer at this time.

3. Pradera (Developer: Moses Kim, Lennar Homes) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: This project is nearing completion as there are only one or two phases remaining to construct.

4. Lexington (Zenner) (Developer: Eric Johnston, KB Homes) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: The applicant received building permits for 10 new homes on April 18, 2017. Building permits for 15 additional homes were issued on May 4, 2017, and eight more homes were issued on May 9, 2017. The applicant and Engineering staff are engaged with the County Water Authority on a necessary utility crossing through a short section of their easement.

5. Stella Park Condominiums (Developer: Edward Kaen, ETP, LLC) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: Lyon Homes submitted a precise grading plan on March 28, 2017. A final map, street improvement plans and landscape plans were also submitted on April 17, 2017. Building plans were submitted into plan check on April 6 and landscape plans on May 1. The rough grading permit was issued on May 22, 2017 allowing construction to start on the project.

6. Wohlford (Developer: Jack Henthorne) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: The Draft EIR has been posted on the city website and released for a 45-day public review period that ended on May 12, 2017. The EIR consultant has forwarded draft responses to comments to staff for review. Potential Development Agreement terms are now being considered.

7. Latitude II (Developer: Peter Zak, Lyon/NCA) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: A grading permit has been issued and grading is back underway. Building plans are nearing approval pending approval of the final map. The final map has been scheduled for City Council approval on June 7, 2017. Utilities has issued comments for the off-site water line plans.

8. Canyon Grove Estates Tract 932 (Developer: John Vance, Shea Homes) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: The model homes have been completed and are now open. Construction of the phases is underway with three more phases receiving building permits last week. Engineering comments on the precise grading plan for the remainder of the development were sent on May 16, 2017.

9. Safari Highlands Ranch (SHR) (Developer: Jeb Hall, Concordia Homes) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: A second revised tentative map depicting various minor changes and clarifications to roads, easements and drainage facilities was submitted on April 25, 2017. Revised technical engineering reports as well as responses to staff comments also have been submitted for review. The revised studies have been loaded on the City's website at the following link: Safari Highlands Ranch Specific Plan - City of Escondido. Staff anticipates that the Draft EIR will be out for public review in June or July of 2017.

10. High Pointe Tract 693-J (Developer: Russell Schaeffer, True Life Communities) – *The applicant continues to actively market the property and there is no change from the following*

update reported last week: Staff has prepared a bond and fee letter based on the proposed grading and landscape plans, and has sent it to the applicant.

11. Del Prado (Developer: Kerry Garza, Touchstone Communities) – *Communications with the applicant are on-going but there are no new milestones to report this week:* No grading or improvement plans have been submitted by the developer at this time.

12. 701 San Pasqual Valley Rd (Developer: Bob Stewart) – Staff has met several times with the applicant to help work through project design and storm water issues. A Draft Mitigated Negative Declaration has been submitted and staff has provided comments to the applicant on the draft and technical studies. A request for a three-year extension of time for the previously approved ten-lot subdivision (Tract 895) will be considered by the City Council on June 7, 2017.

13. Veterans Village (Developer: Veterans Village of San Diego) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* Demolition has been completed. Grading is underway. Building permits were issued on March 31, 2017.

14. Escondido Gateway (Developer: Greg Waite, Integral Communities) – The builder (Lyon Homes) is coordinating with city staff to resolve ownership and title issues regarding three strips of land under existing excess right-of way that is proposed to be vacated for the applicant's use. It is expected that those title issues will be resolved through a combination of quitclaims and eminent domain. A NCTD Board meeting is scheduled on June 15, 2017, which will resolve some of the issues. A revised rough grading plan and street improvement plans were resubmitted about three weeks ago and Engineering sent comments back last week. Asbestos and lead-based paint abatement should start next week in preparation for demolition of the vacant building on the site. Abatement should commence on June 8, 2017, which would enable demolition in early July.

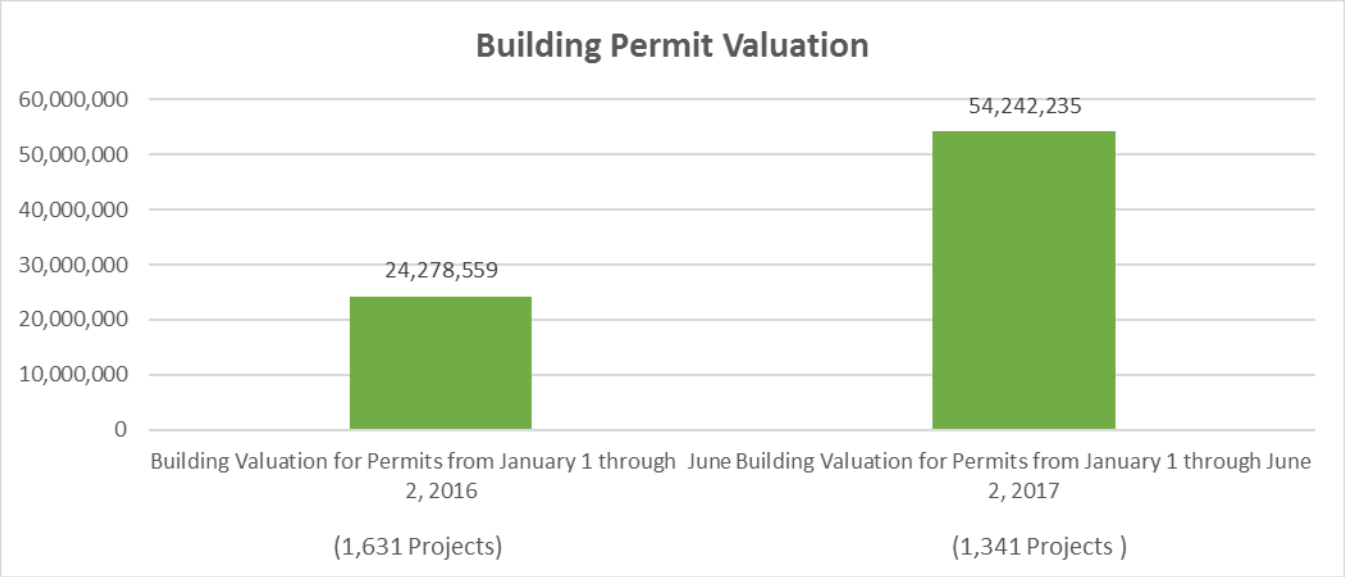
15. The Villages at Escondido Country Club (Developer: Jason Han, New Urban West, Inc.) – A project resubmittal in response to the city's November 30, 2016 letter was received on March 16, 2017. Planning staff has provided a location on the city's website for ECC project-related documents and plans. It is anticipated that a draft EIR will be released for public review and comment at the end of the month. Project status and other related information can be accessed at the following link: ECC - City of Escondido

16. Ivy/Valley Parkway Mixed-Use Development (Developer: Abad Rahan Pars Inc./ Norm Wieme, Architect – *Project review and communications with the applicant are on-going but there are no new milestones to report this week:* The applicant has indicated that grading and building plans are expected to be submitted into plan check soon. Utilities staff is currently working on a reimbursement agreement for new water infrastructure that will be installed by the project in the adjoining alley.

17. North Avenue Estates (Developer: Casey Johnson) – *Project review and communications with the applicant are on-going but there are no new milestones to report this week*: An application to re-entitle aspects of the previously approved project that have expired and modify the project design to reflect new storm water requirements was submitted to the Planning Division on March 7, 2017. A first round of comments has been provided back to

the applicant and the applicant has indicated that revised plans should be resubmitted in about two weeks. The applicant will be coordinating easement and utility crossing issues with the County Water Authority, whose main underground water transmission lines cross the site.

Building Division



Building Permits Issued Last Week	Total Valuation
48	$1,478,962

1. 13 solar photovoltaic permits were issued for the week. The Building Division has issued 392 solar permits this year compared to 597 issued for the same time last year.

2. Continuing the recent surge in inspection request, our building inspectors responded to 185 inspection requests for the week. An average of 46 inspections per day. 14 inspections were held over on Friday.

3. Building has issued 105 single family dwelling permit this year and 112 multi-family units. Compared with 41 single family dwelling and 33 multi- family dwellings for same time last year.

4. Projects nearing permit issuance are:
   - Latitude 2: 112-unit apartment building at 610-660 Centre City Pkwy.
   - 917 W Lincoln: 3 new apartment buildings, 9 units.

5. The construction of the abandon 3-story mixed use building at 300 S Escondido Blvd (City Plaza) has received partial approval of roof faming and rough framing inspections. *No change from previous.*

6. The Solutions for Change affordable housing project at 1560 S Escondido Blvd is requesting a temporary certificate of occupancy.

7. Rough framing inspection is being requested this week at the Meadowbrook 3-story apartment building with underground garage at 2081 Garden Valley Glen. *No change from previous.*

8. Escondido Disposal is proceeding with finish work for the remodel of the existing administration building. Occupancy expected within two to three weeks.

9. Demolition of the previous bank building at 444 S. Escondido Blvd. is nearing completion. *No change from the previous.*

10. The medical office building at 2125 Citracado Pkwy has completed the foundation and underground plumbing.

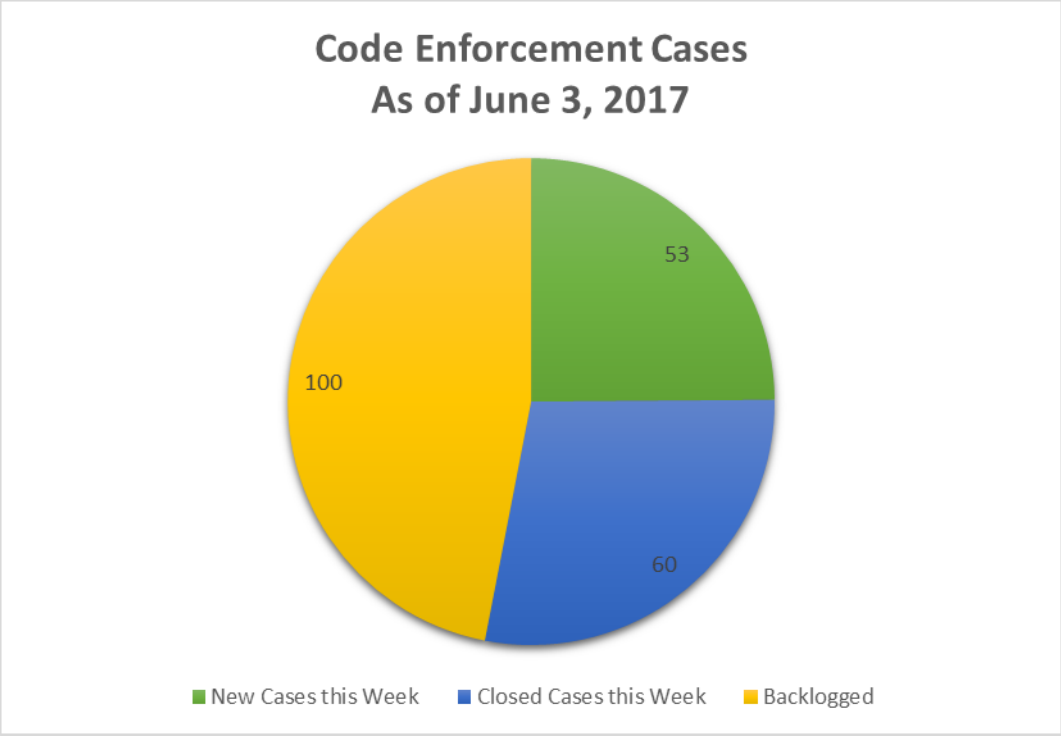
11. The Westminster Seminary at 1725 Bear Valley Pkwy has received foundation and underground plumbing approval for 6 buildings*. No change from the previous.*

12. Emanuel Faith Church at 639 E 17th Ave and the Church of Resurrection at 1445 Conway have received partial foundation inspections and underground plumbing inspections. Construction of the exterior masonry walls is progressing. *No change from the previous.*

13. The new Popeye's restaurant at 1541 E Valley Pkwy has received suspended ceiling, drywall and hood inspection approvals. Final inspection and occupancy is expected soon. *No change from the previous.*

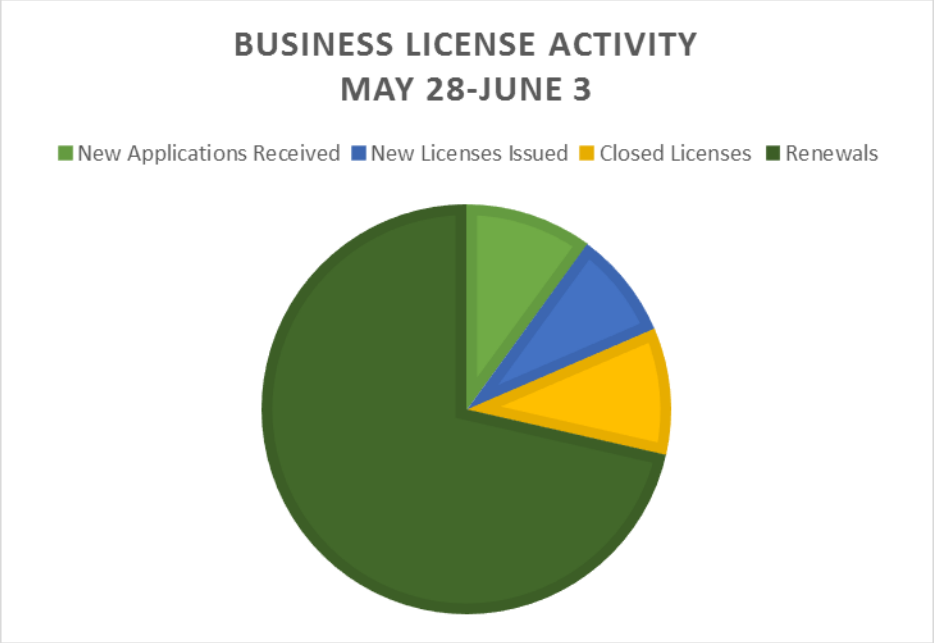
14. Permits were issued for 5 new single family dwellings for Phase 8 for Lennar homes, the Pradera project.

Code Enforcement

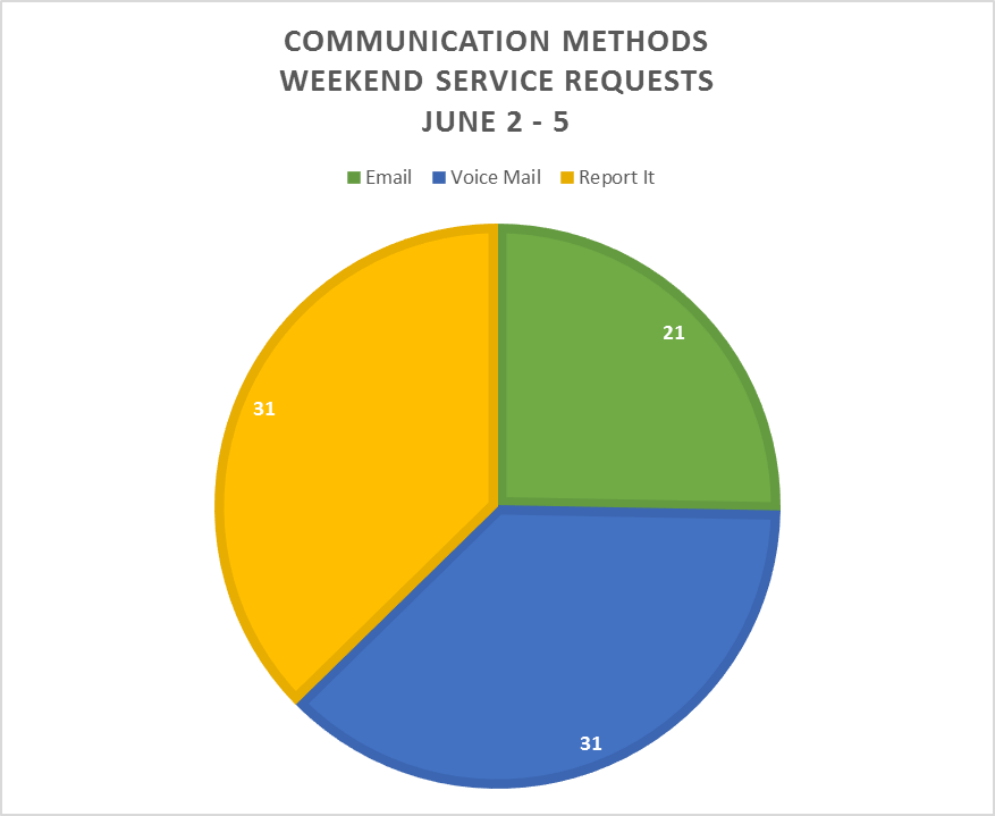


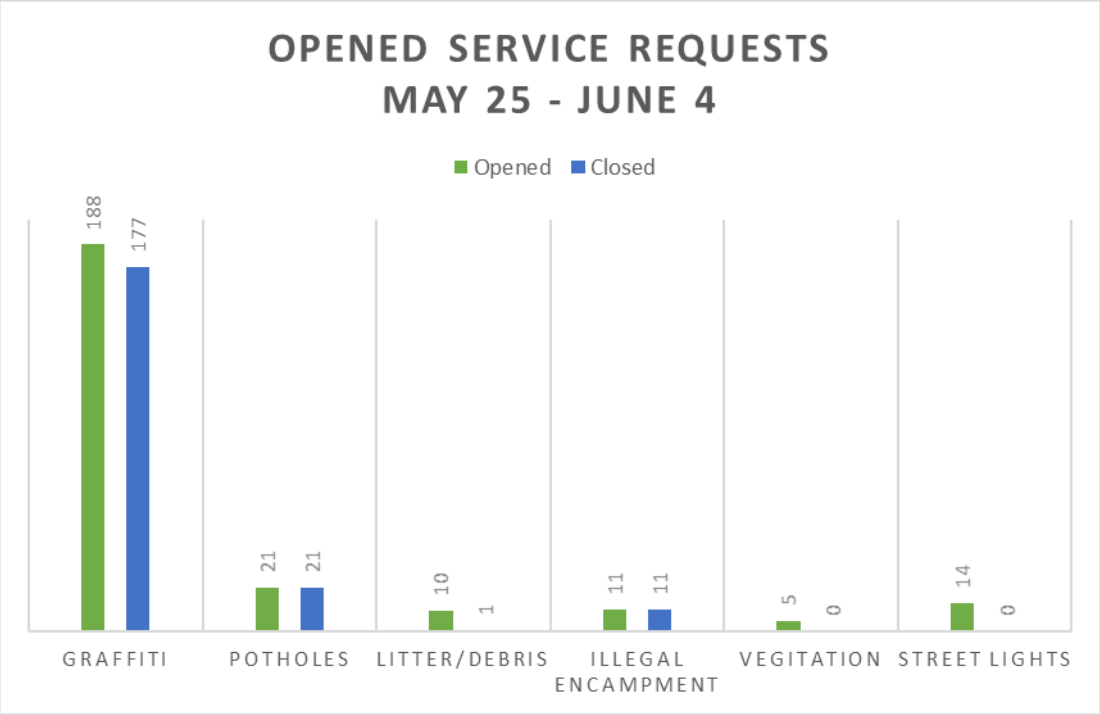
Total Open Code Cases	Illegal Signs Confiscated over the Previous Weekend
439	166

Business Licensing



Building Maintenance & Operations





Graffiti Restitution

Collected This Week	Collected Year to Date
$124	$4241.51

ENGINEERING

Capital Improvements

East Valley Parkway/Valley Center Road Widening Project

This project will widen the bridge over Escondido Creek north of Lake Wohlford Road, widen Valley Center Road, add medians and landscaping, and construct sidewalk from Beven Drive to the northern City limit. The project bids were opened May 25, 2017. Staff is waiting for Caltrans approval of bidders' documentation to award project.

East Valley Pkwy /Date and El Norte Parkway/Fig Traffic Signals

This project will add new signals at both of these intersections. The City has received Caltrans approval of the Authorization to Construct. Staff is making minor modifications to the plans, and anticipates advertising for bids by the end of June 2017.

Jim Stone Pool and Mechanical Building

San Diego County Health Department is scheduled to inspect pool improvements on June 8, 2017. The Building Department has signed off on the mechanical building improvements. Staff is working with SDG&E to re-set the gas meter so the pool can be heated. A final walk-thru and turnover date is scheduled for June 12, 2017.

Kit Carson Park Lighting Project

This project will remove existing parking lot lights in poor shape and replace them with new LED lights, and add lighting to parking areas that currently do not have lighting, bringing all affected areas up to current standards. Plans are due this week.

Neighborhood Streetlight Project

This project will add new streetlights to meet current lighting standards, and retrofit existing streetlights with LED fixtures at five established communities throughout the City (Cedar-Cedar Brook, Mission Grove, Rose to Foxdale, Rustic Village, The Elms). Staff anticipates advertising for bids by June 2017.

Private Development

Pradera - Lennar Communities

No changes from that reported last week; Vertical framing has now begun on the final phase of 16 homes.

Lexington Model Homes - KB Homes

The installation of the roadway base material has begun for the construction of the concrete curb and gutter improvements for the onsite streets.

Escondido Boulevard at 3rd Avenue

The contractor is continuing to place framing along the 3rd floor, lane closures along 3rd Avenue will be ongoing to allow for the lifting of construction materials to the third floor roof.

Tract 932 - Canyon Grove Shea Homes Community
Offsite traffic signal construction is continuing at Sheridan /Ash and El North /Vista Verde intersections this week, the signals are scheduled for activation on June 21 & 22, 2017. Onsite construction is concentrated on installation of roadway base material in advance of the new concrete curb and gutter improvements to be placed later this week.

Latitude II Condominiums by a Lyon Homes Partnership: Washington Avenue at Centre City Parkway
The remaining section of the storm drain box is being formed this week along the edge of Centre City Parkway. Onsite water line testing has been completed; the water line will be tied into the potable system later this week.

Solutions Housing 1560 S. Escondido Boulevard
The final concrete improvements have been completed along Escondido Boulevard, the roadway paving restoration is scheduled for next week.

Veterans Village
No changes from that previously reported. The projects off site water improvements are idled this week while the developers design engineer determines the best solution for installing the project water mains around the multiple utility crossings along this projects frontage.

Tract 877 – Bernardo Ave. by Ambient Communities
The project is a 13 lot single-family residential project located at the cul-de-sac end of Bernardo Avenue. The developer has completed the mass grading of the project and is constructing wall footing onsite this week.

Palomar Medical Center
No changes from that reported last week: The hospital is nearing completion of the grading portion of the temporary parking lot located at Health Center Driveway North and Citracado Parkway. Concrete surface improvements are being stacked this week.

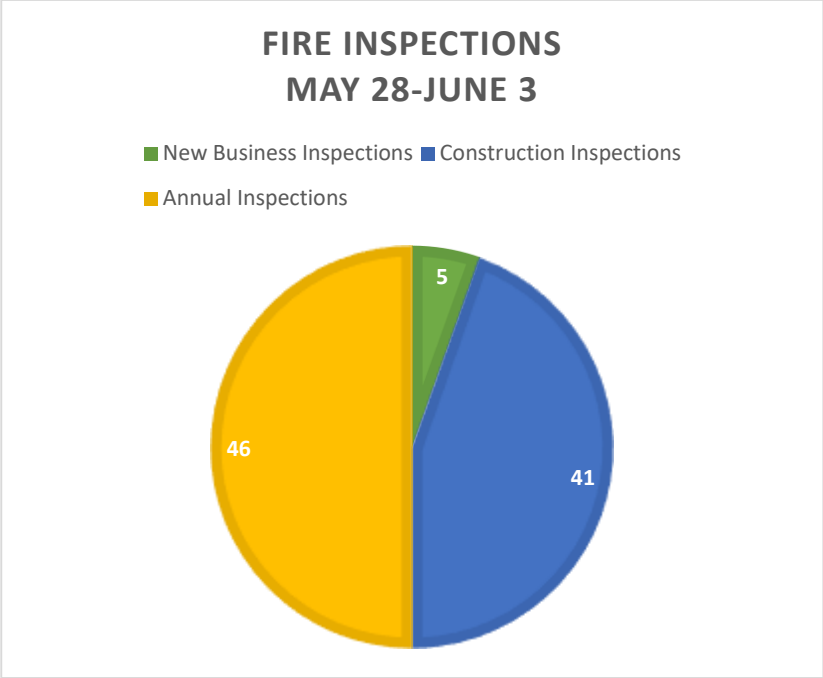
Victory Industrial Park
The preconstruction meeting was held on Thursday, May 25, 2017 in advance of the start of mass grading of the project. The project is located at 2005 Harmony Grove Road and is 5.4 acres in size. Onsite installation of erosion control elements is proceeding this week.

Center Point Project
The preconstruction meeting was held Thursday, May 25, 2017 in advance of the start of construction. The project is located on the old Toyota car dealership lot located at 999 Broadway. The onsite installation of erosion control elements is continuing this week.

Rincon del Diablo water project:
The water line tie-in is set for Thursday of this week at the Ash Street/Vista Avenue intersection.

FIRE

Inspections



Incidents

- On 6/4/17 at 1:14 p.m., the Escondido Police and Fire Communication Center received a report of smoke coming from a home located at 2599 Hass St. A structure fire response was dispatched to the location. The first arriving engine reported a single family home with heavy smoke and fire coming from the South side of the home. A second alarm was requested to contain the potential of the fire to spread to the vegetation outside the home. Initial reports stated someone was possibly inside the home. Aggressive action by the firefighters contained and controlled the fire in approximately 25 minutes. A search of the home was conducted after the fire was controlled, there were no victims located inside. In all, seven fire engines, two trucks, two rescue ambulances and three Battalion Chiefs responded to the fire.

  Three residents were displaced as the fire and smoke damage made the home uninhabitable. The Red Cross was requested to provide accommodations and support to the displaced persons. In addition, the Escondido Fire Department provided financial assistance to the residents through the California Fire Foundation's Supplying Aid to Victims of Emergency (SAVE) program.

  The cause of the fire is under investigation.

POLICE

Incidents

- On 5/28/17 at 12:07 hours, Patrol Units responded to 449 W El Norte Parkway #211, in reference to a stabbing. Upon arrival, officers detained the female suspect outside of the apartment. Officers contacted the male victim, who had a 3" laceration to his forehead. The subjects, both roommates, became argumentative inside of the apartment. The female suspect slashed the victim with a large butcher knife. The victim was transported to Palomar Medical Center for treatment of his injury. The suspect was booked into the Vista Jail for Felony Assault.
- On 5/30/17 at about 00:23 hours, officers responded to 925 Martin Drive in reference to an intoxicated male in the area carrying a wine bottle. The suspect was seen sitting on some steps, holding a broken wine bottle. The suspect falls forward onto the ground before being contacted by officers; medics respond. While handcuffed and being placed on a gurney, the suspect attempts to flee and a struggle ensues, with the suspect intentionally elbow-striking an officer in the head. The suspect was ultimately restrained and transported to Palomar Medical Center for booking-clearance. After being cleared for booking, the suspect again attempts to flee from officers and a second struggle ensues. He is ultimately controlled and transported to the Vista Jail for Felony Resisting Arrest and Drunk in Public. Two officers sustained minor injuries from the initial contact.
- On 5/30/17 at about 04:26 hours, Escondido Police Communications dispatches officers to 1068 N. Broadway in response to a suicidal adult who slit his arms and is unresponsive in the bathroom. Officers provide first aid until relieved by medics. There was a significant loss of blood, but the subject is likely to survive his injuries.
- On 05/31/17, at approximately 11:58 hours, a citizen called police and reported a subject attempting to steal license plates from cars in the parking lot at 1010 E. Valley Pkwy (King's Pawn). When confronted, the suspect threatened and stabbed the caller with a screwdriver. The caller sustained minor injuries to his little finger and right wrist. The suspect fled the scene in a bluish grey Nissan Maxima. The suspect is described as an older white male in his early 60s, wearing a maroon T-shirt, khaki shorts, flip flops.
- On 05/31/17 at 18:18 hours, a mother & daughter (juvenile) entered the Target store at 1280 Auto Park Way. Loss Prevention immediately recognized them from pictures sent them from another store where they stole a large amount of Enfamil baby formula. Both placed multiple cans of Enfamil in a shopping cart, exited the store and were subsequently arrested. Officers arrived and located their vehicle and after a consent search, they discovered the trunk full of Enfamil stolen from multiple locations. Investigation is ongoing. The 14 year old was sent to Juvenile Hall, and the adult parent was booked into the Vista Jail.
- On 06/02/17 at 03:15 hours, the manager of the storage facility at 1330 E. Grand Ave called Escondido Police to report seeing a Filipino male inside a storage unit that doesn't belong to him. The manager stated his facility has been hit several times (three recent cases taken by Escondido Police) and he believes this male is one of the suspects in those prior cases based on past surveillance video. Several officers arrive on scene and detain three Filipino males without incident. After further investigation and reviewing of video (past and present), the three detained Filipino males were arrested for burglary. Crimes of Property detectives responded to assist.

- On 06/03/17, at 00:11 hours, officers responded to a call of a subject stabbing his family at 260 N. Midway Dr. Upon arrival, officers found family members restraining the male suspect in the living room of the residence. The suspect's mother had been stabbed four times, his sister had been stabbed at least three times (including just over her left eye) and a third victim sustained less serious cuts to his hands. Officers detained the suspect and provided first aid to the victims. The wounds to the mother were determined to be life threatening and she was rushed into surgery. The suspect was placed under arrest for PC 664/187(a) Attempt Murder (three counts) and PC 203 Mayhem. Detectives from Crimes of Violence responded and obtained a full confession from the suspect.

Events

- Congratulations are in order for Sgt. Janice Kolhof, Officer Zach Perkins and Cadet Matt Cordova. The three of them along with of a few of their friends (a San Diego Sheriff deputy and a local Escondido business owner) qualified for this last weekend's Crossfit regionals in Del Mar. They competed against world class Crossfit athletes. This event is only one of eight regions world-wide to paint an accurate picture of the quality of competition. They finished 23rd overall and their best finish was 2nd in the heat of their last event. The name of their team was Crossfit Iconic.

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