

CITY COUNCIL STUDY SESSION MINUTES

July 20, 2021

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Council Chambers on the 20th day of July, 2021, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:

Councilmembers Foreman, Hall,
Holman, Lynn, Peacock, Schueler,
Studley, Tortorello, Mayor Clark

ABSENT:

None

Item 1, being:

DISCUSSION REGARDING PROPOSED AMENDMENTS TO SMALL CELL FACILITIES.

Ms. Beth Muckala, Assistant City Attorney, said Senate Bill 1388 (SB1388) was implemented November 1, 2018, to address right-of-way (ROW) issues. She said new technology is proposed for the ROW for enhanced cellular network and data download speeds and cities are working with providers to find a balanced approach to protect assets in the ROW. She said cellular networks are federally regulated in addition to State law and the Federal Communication Corporation (FCC) has a great interest in making sure that small cell facilities that enable 5G (fifth generation) technology are expanded.

Ms. Muckala said cities have some ability to regulate specific aspects, but companies are complaining that cities are slowing expansion and the FCC is listening. She said the City of Norman can regulate placement, construction, and modification of wireless facilities, charge fair and reasonable compensation, and manage ROW's. The City cannot prohibit small cell facilities on Oklahoma Gas and Electric (OG&E) light poles and investor owned utilities must provide access to their poles unless there are capacity, safety, or reliability issues. The City cannot require too much documentation, use regulations to prohibit the provision of wireless service, or discriminate between providers.

Ms. Muckala said SB1388 created the Oklahoma Small Wireless Facilities Deployment Act (Act) that applies to collocation of small wireless facilities by a wireless provider in the ROW and deployment of utility poles to support small wireless facilities.

The City can require a permit if generally applicable to requests for ROW access by other entities and must determine whether application is complete within 20 days. After receipt of the completed application, the City has 75 days to approve or deny the application and consolidated applications will be allowed for collocation of up to 25 small cell facilities. The approved work must be completed in one year with a permit being valid for ten years. The evaluation of permit applications can only require information needed to demonstrate compliance with the Act and cannot dictate placement on a particular pole or require multiple systems on one pole. The evaluation cannot require quid pro quo, must follow all applicable safety codes, and application cannot be denied unless certain conditions are not met, e.g., height, safety issues, etc.

Item 1, continued:

Ms. Muckala said new or modified poles cannot be more than ten feet taller than the tallest existing pole within 500 feet or 50 feet above ground level. Small cell antenna must fit in an enclosure of no more than six cubic feet in volume and associated equipment cannot exceed 28 cubic feet in volume. She said entities must follow reasonable and objective criteria for concealment of small wireless facilities in designated areas and on decorative poles. New small cell facilities and related poles cannot interfere with vehicular access to adjacent property or be placed in a location that would interfere with an existing individual tree canopy or block or encroach on sidewalks or walkways. Cities may adopt reasonable and non-discriminatory spacing requirement for new poles and ground-mounted equipment and as long as the equipment does not interfere with another company's equipment, more than one small cell facility can be placed on the same pole. No new pole for a small cell facility can be installed if it is located within 500 feet of an existing wireless support structure on the same side of the street.

Permit fees may be required of similar types of construction, but must be reasonable. Collocation fees are \$200 for the first five small cell facilities and \$100 for each additional small cell facility; however, collocation and pole placement or installation cannot exceed \$350 per pole. There is also an occupancy fee if the small cell facility is going to be placed on City-owned poles, which would be \$20 per pole and \$20 per small cell facility.

Ms. Muckala said the City's small cell facility regulations strike a balance between FCC ruling and State law to ensure compliance with both. The regulations will be placed in Section 431.2 of the Zoning Ordinance and small cells are a permitted use in all zoning categories. Small cells must comply with applicable building codes as well as federal and state law and collocation on an existing pole or new pole will be allowed, but each will require an engineering analysis. If collocation cannot be accomplished, the vendor must provide an affidavit for why collocation will not work and a new pole needs to be installed.

Ms. Muckala said Staff looked at many comparable situations within the State that included Bixby, Little Rock, Owasso, and Broken Arrow, but most of the language was borrowed from Bixby's ordinance.

The proposed schedule for moving forward is Planning Commission review on August 12, 2021, with First Reading on Council's agenda on September 14, 2021, and Second Reading on September 28, 2021.

Councilmembers agreed to moving the amended ordinance forward as proposed by Staff.

Items submitted for the record

1. PowerPoint entitled, "Small Cell Wireless Facilities," dated July 20, 2021

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Item 2 being:

DISCUSSION REGARDING POTENTIAL CHANGES IN MINIMUM PARKING REQUIREMENTS.

Ms. Jane Hudson, Director of Planning and Community Development, said over the past several years, the Community Planning and Transportation Committee (CPTC) reviewed and discussed various options for parking regulations, both minimum and maximum parking requirements. Included in these discussion was Low Impact Development (LID)/Green Building Codes (GI), regulations and guidelines for developing parking areas that can be more environmentally friendly while still providing adequate parking for the associated businesses.

Ms. Hudson said different types of buildings require different parking levels. A restaurant with tightly packed tables needs more parking than a warehouse that is filled with boxes and very few employees. Offices tend to fall in the middle of industrial and dense retail uses. Most building and zoning codes specify parking ratios so before a developer can construct a building, they have to submit plans that describe the size of the building and parking lot. If the two do not align with location regulations, the building cannot be built. She said the needs market also determines how much parking a building may need, i.e., automobile driver heavy city or an area with limited public parking requiring more parking areas.

The CPTC was concerned about the parking requirements for larger retail/commercial establishments having excessively large parking lots that are typically utilized only a few times a year (seasonally) as well as other non-residential uses. Ms. Hudson said the Zoning Ordinance establishes the minimum number of parking spaces required as determined by specific uses, which is a standard of most cities. Off-street parking standards are an attempt to minimize spillover parking on public streets and residential neighborhoods to ensure safe and efficient movement of traffic by requiring the supply of parking at the site of the development be adequate to meet demand. While parking minimums require a certain number of parking spaces for a specific use, there can be other alternatives to the traditional minimum parking requirement. She said some developments do not need the required minimum parking established/determined by the Zoning Ordinance so they are “over parked.”

Ms. Hudson said the City has the opportunity to amend the Zoning Ordinance to convert the existing “required” parking ratio regulation to a “recommended” parking ratio on a lot. This option will not only offer flexibility to smaller developers, but will also benefit the City with stormwater runoff concerns. A recommended parking ratio allows the developer to customize the development to their specific needs while not negatively impacting the community with additional runoff.

It is possible establishing a “parking maximum” may be useful and has been used most extensively in central business districts where there is an existing build environment. Establishing a parking maximum can be an effective tool for communities interested in maximizing greenspace, managing stormwater runoff, increasing densities, and utilizing sustainable land development management tools while meeting transportation and parking demand throughout the community.

Item 2, continued:

Ms. Hudson said several cities across the nation have already removed minimum parking requirements and many more are looking at removing requirements, such as Edmond and Guthrie. She said a variety of stakeholder may wish to be involved in the discussion leading to decisions about off-street parking requirements that include local developers; business owners and their employees and patrons; community residents, and the general public.

Parking is an important component to zoning and land use decisions and parking availability affects trip generation, mode of transportation, urban form, as well as economic development. In addition, modes of transportation are changing and are expected to continue to change in years to come. The nation has seen an increase in modes of transportation such as ride sharing, e-scooters, e-bicycles, and busses. Also, with the recent shift in on-line shopping, delivery, or quick-stop pickup of orders (due to the pandemic), not all businesses need the amount of parking the City has historically seen. Many communities will be in a stage of transition until transportation behaviors level off at some point in the future, but Council wants to see amended maximum parking requirements as an interim solution to provide more flexibility during the period of transition.

Ms. Hudson said, ultimately, business owners know their parking needs and if a business does not have adequate parking they may lose business and the community could lose that business. In addition, the City never wants spillover parking to negatively impact adjacent residential neighborhoods. Allowing a recommended parking count will reduce a great number of parking spaces while setting the maximum parking count would allow businesses to develop to their needs and not go over the City's existing established parking requirements. She said determining new maximum ratios across the board would prove a hefty endeavor at this time so Staff recommends implementation of such a change be undertaken upon completion of the Engineering Design Criteria (EDC) update, which is a comprehensive review of the City's ordinances, standards, and guidance documents that includes EDC criteria; Center City Form Based Code (CCFBC); Wichita/Sedgwick County LID Manual; Norman 2025 Plan; parking requirements; and identifying potential barriers to implementation of Green Stormwater Infrastructure (GSI)/LID criteria. The EDC will establish guidelines that will need to be coordinated with any amended parking requirements within the Zoning Ordinance. Staff would also like to have time for public and stakeholder input as well as a professional study of industry mechanisms for new theories of parking controls and guidelines prior to making changes to the Zoning Ordinance.

Councilmembers were in agreement with Staff's proposal.

Items submitted for the record

1. Memorandum dated July 20, 2021, from Jane Hudson, Director, Planning and Community Development, to Mayor and City Council, with Exhibit A – Staff Update – Green Building Codes Update; Exhibit B – Community Planning and Transportation Committee minutes of April 22, 2021; Exhibit C - Existing Zoning Code – Parking, Section 431.5 – Off-Street Parking Requirements; and Exhibit D – Draft Annotated Ordinance for Recommended Parking

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The meeting was adjourned at 6:07 p.m.

ATTEST:

City Clerk

Mayor