



North Central Texas Council of Governments

SUMMARY

Sustainable Public Rights-of-Way Subcommittee

Thursday, October 4, 2018

1:00 PM, Fourth Floor Large Meeting Room

NCTCOG Offices, CPIII

600 Six Flags Drive, Arlington, Texas 76011

Co-Chair: Robert Woodbury, City of Cedar Hill

Co-Chair: Misty Christian, Kimley-Horn

1. **Welcome and Introductions.**

Robert Woodbury led introductions.

DISCUSSION/PRESENTATION/ACTION ITEMS

2. **Legislative Update.** NCTCOG staff will review new legislative and regulatory updates related to small cell utilities.

Derica Peters, NCTCOG, presented the summary from the past meeting and addressed specific issues relating to each "Hot Topic". Tamara Cook, NCTCOG, briefly talked about the *FCC Order Effects on Municipalities* handout. On September 14, 2018, NCTCOG sent several emails to the region about the FCC draft order regarding small cell implementation. Through these emails and the associated conference call, NCTCOG solicited public comments, thoughts, and actions on the draft order. On September 26, 2018, the FCC made the order effective.

3. **Small Cell Discussion.**

The attorney Cathy Cunningham was invited to attend this meeting in order to give a legal perspective on Small Cells to the members of SPROW. Some changes and additions were made to the final ruling from the draft document. Although the content of the order is very similar to existing Texas legislation, some new standards were created.

- The commission adopted a new standard that prevents a city from doing anything that will "materially inhibit or prohibit" service providers from providing services rather than filling "significant gaps" in service.
- Federal fees standards were changed from "actual cost" to a "reasonable cost" as determined by the FCC.
- Some important changes on registration and application requirements were made. According to page 75.145, cities cannot require applicants to attend pre-application

616 Six Flags Drive, Centerpoint Two
P.O. Box 5888, Arlington, Texas 76005-5888
(817) 640-3300 FAX: 817-608-2372
www.nctcog.org

meetings or register prior to application submittal. The attorney suggested that registration and application are submitted on the same day. City officials are encouraged to reinforce registration.

- Cities were also encouraged to require permit application filing in person or by mail. The “shot clock” begins when the application is filed. Filing by email is discouraged because the timeline begins when the email is sent, even if the recipient of the email is out of office and does not see it until a later date.
- Cities were encouraged to include their design manual in the appropriate ordinance, rather than as a reference or attachment. This eliminates any legal questions of whether the design requirements are formally published. A universal design manual may provide a helpful start for cities who do not already have one, but it would have to leave ample room for customization to each entity’s individual needs. There are many inconspicuous, or even attractive, options for small cell infrastructure, but the cities need to ensure that their design manual reflects their preferences.
- Undergrounding requirements for certain pieces of the small cell infrastructure are no longer allowed.
- “Wireless technology” isn’t really wireless. Proliferation of small cells and other wireless technologies will also require extensive deployment of fiber. This adds another layer of complication to the issue of utility coordination.
- Authority over state highway right of way within city limits is unclear. Cities would like clarification on this so that they know who is responsible and who can enforce design standards.
- It is unlikely that the proposed STREAMLINE Small Cell Deployment Act will be passed now that the FCC order is in effect. The proposed legislation and the order contained similar language.
- Cities are encouraged to revisit their existing ordinances with the assistance of their city attorney.
- Area ordinances that might provide helpful guidance include the City of Irving and the City of Richardson.

OTHER BUSINESS AND ROUNDTABLE DISCUSSION

4. Roundtable Discussion.

Manny Palacios

- *Would like to learn more about City of Lewisville tower power requirements and regulations mentioned during Small Cells discussion.*

Robert Woodbury

- *Share a flow chart that he created on small cell implementation processes.*

5. Schedule for the Next Meeting. January 2018, TBD.



North Central Texas Council of Governments

6. Adjournment.

If you have any questions regarding the meeting or agenda items, please contact Kathleen Myers by phone at (817) 695-9107, or by email at kmyers@nctcog.org.

Thank you.

If you plan to attend this public meeting and you have a disability that requires special arrangements at the meeting, please contact Crysta Guzman by phone at (817) 695-9231 or by email at cguzman@nctcog.org, 72 hours in advance of the meeting. Reasonable accommodations will be made to assist your needs.

**616 Six Flags Drive, Centerpoint Two
P.O. Box 5888, Arlington, Texas 76005-5888
(817) 640-3300 FAX: 817-608-2372
www.nctcog.org**

