



Commission Meeting Minutes and Minute Entries

Wednesday, May 20, 2020
Michael L. Brokaw Auditorium

Minutes and Minute Entries of the Commission Meeting of the Ada County Highway District held Wednesday, May 20, 2020 in the offices of the Ada County Highway District, 3775 Adams Street, Garden City, Idaho.

PRE-COMMISSION SESSIONS - 11:15 A.M.

Commission present: Goldthorpe and Arnold

Commission via teleconference: Hansen, Baker and May

Staff present: Director Wong, Price, Stanton, Cooney, Du Bois, Spears, D. Wallace, McCarthy, Edinson, K. Inselman and Spencer

Staff via teleconference: Daigle, Pestka, Berenger, G.Inselman, Bevins, Skiles and Carnegie

Public via teleconference: 20

1. Master Street Map Update - Phase 3

Presentation by Staff

Edinson Bautista, ACHD Sr. Transportation Planner, gave staff presentation. No official action was taken.

2. Fairview & Locust Grove Intersection - Work session to present Corridor Management for Fairview Avenue from Locust Grove to Eagle Rd.

Information Only

Brian McCarthy, ACHD Project Manager, gave staff presentation. No official action was taken.

PRE-COMMISSION AGENDA - 11:45 A.M.

Commission present: Goldthorpe and Arnold

Commission via teleconference: Hansen, Baker and May

Staff present: Director Wong, Price, Stanton, Cooney, Du Bois, Spears, D. Wallace, McCarthy, Edinson, K. Inselman and Spencer

Staff via teleconference: Daigle, Pestka, Berenger, G.Inselman, Bevins, Skiles and Carnegie

Public via teleconference: 39

The Commission reviewed the Agenda. No official action was taken.

COMMISSION MEETING AGENDA - 12:00 P.M.

Commission Present: Rebecca Arnold and Kent Goldthorpe

Commission via teleconference: Sara Baker, Jim Hansen and Mary May

Staff Present: Director Bruce Wong, Steve Price, Michael Stanton, Ken Cooney, Scott Spears, Nicole Du Bois, Mindy Wallace, Kristy Inselman, Dave Wallace and Stacey Spencer.

Staff via teleconference: Paul Daigle, Dave Wallace, Gary Inselman, Jennifer Berenger, Sherwin Pestka, Dyan Bevins, Lloyd Carnegie and Mitch Skiles

Public via teleconference: Over 200+ Zoom participants

Commissioner May called the meeting to order at 12:00 p.m. and welcomed everyone.

The Commission and Audience recited the pledge of allegiance.

Commissioner May recognized Christine Tannler for receiving the GOFA Budget Award.

Commissioner May addressed the audience with tips on how to testify in a virtual meeting.

ADOPT AGENDA - REQUEST FOR ADOPTION

A change to the originally published meeting agenda occurred less than forty eight (48) hours prior to the start of the meeting. The Commission is required to make a motion to approve the posted Amended Agenda. The Amended Agenda is effective upon the passage of the motion.

ACTION TAKEN: Kent Goldthorpe made a motion to adopt the agenda. Rebecca Arnold seconded.

Motion went to vote and carried unanimously.

CONSENT AGENDA - ACTION ITEMS

1. Minutes & Minute Entries
Request for Approval

ACTION TAKEN: Jim Hansen made a motion to Approve the Consent Agenda. Sara Baker seconded.

Motion went to vote and carried unanimously.

REGULAR AGENDA ITEMS - ACTION ITEMS

Commissioner May asked the Commission to act on Item #2 first as Item #1.

1. **Crystal Springs Apartments - Certificate of Zoning Compliance (CZC):**
Request for Approval

ACTION TAKEN: Kent Goldthorpe made a motion to Defer the item for one week. Rebecca Arnold seconded.

Motion went to vote and carried unanimously.

2. **Ordinance No. 244 – Amending Title II of the ACHD Code with the addition of a new Policy Section 7400:**
Request for Adoption Public Hearing

Commissioner May opened the Public Hearing.

Commissioner May addressed the audience.

Scott Spears, ACHD Assistant General Counsel, presented staff report.

Commissioner Goldthorpe disclosed for the record of having ex parte discussions with Mr. DeHass.

Commissioner Goldthorpe provided comment.

Commissioner Baker asked several questions of Mr. Spears. Mr. Spears responded.

Commissioner Arnold disclosed for the record having an ex parte discussion with a woman and an invitation of a meeting from a lobbyist. The meeting never took place.

Commissioner Hansen asked several questions of Mr. Spears. Mr. Spears responded.

Commissioner May disclosed for the record of ex parte discussion with a couple legislators and the Mayor of Eagle.

Lynette Daudt, 1401 W. Idaho Street, #213, Boise, Idaho, testified.

Ann Huycke, 10900 W Wasdale Dr., Boise, Idaho, testified.

Hank Allen, 687 Rush Ct., Eagle, Idaho, testified.

Rick Walsh, 4081 N. Breeze Creek Way, Meridian, Idaho, testified.

Steve Price, ACHD General Counsel, provided comment.

Susan Lang, 4926 N Sorrento Dr, Boise, Idaho, testified.

Mr. Price provided comment.

Paul Gavin, 62 Harrison Ave., Sausalito, California, testified.

Cathy Cooke, 688 N 29th, Boise, Idaho, testified.

David DeHaas, 1116 Vista Ave, Boise, Idaho, testified.

Commissioner May recessed the meeting at 1:18 p.m.

Commissioner reconvened the meeting at 1:30 p.m.

Christie Hodge, 2769 Emily Meadows, Eagle, Idaho, testified.

Deanna Smith, 1208 Jefferson St., Boise, Idaho, testified.

Heidi Caye, 1934 Division Ave., Boise, Idaho, testified.

Ryan Hasey, 3308 Front Runner Lane, Boise, Idaho testified.

Paul Gavin, 62 Harrison Ave., Sausalito, California, testified.

Dan Peterman, 145 W Cranmer Dr., Meridian, Idaho, testified.

Mr. Price provided comment.

Commissioner Goldthorpe asked questions of Mr. Price. Mr. Price responded.

Commissioner Arnold asked questions of Mr. Price. Mr. Price responded.

Commissioner Baker asked questions of Mr. Price. Mr. Price responded.

Commissioner Baker asked questions of Mr. Spears. Mr. Spears responded.

Mr. Price provided comment.

Commissioner Baker asked question of Mr. Price. Mr. Price responded.

Commissioner May provided comment.

Mr. Price provided comment.

Commissioner May provided comment.

[LynetteDaudt](#)

[AnnHuycke](#)

[AnnHuycke2](#)

[RickWalsh](#)

[SusanLang](#)

[PaulGavin](#)

[CathyCooke](#)

[RyanHasey](#)

ACTION TAKEN: Rebecca Arnold made a motion to Continue and keep open the Public Hearing until the night meeting of June 24th, amending to July 1st. seconded.

ACTION TAKEN: Sara Baker made a motion to Substitute Motion to Continue and keep open the Public Hearing until June 3rd. Rebecca Arnold seconded.

Commissioner Hansen provided comment.

Commissioner May provided comment.

Motion went to vote and carried 3-2.

Ayes: Mary May, Rebecca Arnold, and Sara Baker.

Nays: Kent Goldthorpe and Jim Hansen.

Commissioner Arnold provided comment.

Commissioner May recessed the meeting for a break at 2:42 p.m..

Commissioner May reconvened the meeting at 2:52 p.m.

3. Cedarbrook:

Request for Approval

Modification from Policy

Mindy Wallace, Planning Review Supervisor, presented staff report.

Commissioner Goldthorpe asked several questions of Ms. Wallace. Ms. Wallace responded.

Commissioner Goldthorpe asked a question of Dave Wallace.

Dave Wallace, ACHD Deputy Director of Planning and Projects, responded.

Commissioner Goldthorpe asked several questions of Ms. Wallace. Ms. Wallace responded.

Commissioner Baker asked a question of Ms. Wallace. Ms. Wallace responded.

Commissioner Baker provided comment.

Commissioner Goldthorpe provided comment.

Commissioner Baker provided comment.

Commissioner Hansen asked several questions of Ms. Wallace. Ms. Wallace responded.

Commissioner Arnold provided comment.

Commissioner Goldthorpe provided comment.

Commissioner Hansen provided comment.

Commissioner Goldthorpe disclosed for the record ex parte communications with the neighbors in the area.

Sonia Daleiden, Kittelson and Associates, 101 S Capitol Blvd., Boise, Idaho, testified on behalf of the applicant.

Commissioner Hansen asked a question of Ms. Daleiden. Ms. Daleiden responded.

Commissioner Hansen asked a question of the applicant.

Adam Capell, Toll Brothers, 3633 Overland, Meridian, Idaho, responded.

Commissioner Hansen asked a question on Mr. Capell. Mr. Capell responded.

Commissioner Hansen asked several questions of Ms. Daleiden. Ms. Daleiden responded.

Debbie Wyler, 4720 S Roth Lane, Meridian, Idaho, testified.

Commissioner Goldthorpe asked a question of Ms. Wyler. Ms. Wyler responded.

Commissioner Goldthorpe asked a question of Ms. Wyler. Ms. Wyler responded.

Lisa Brady, 1506 N 12th, Boise, Idaho, testified.

John Mooney, 7153 Highland Valley Drive, Meridian, Idaho, testified.

Sonia Daleiden, Kittelson and Associates, 101 S Capitol Blvd., Boise, Idaho, testified in rebuttal.

Commissioner Goldthorpe asked a question of Mr. Wallace. Mr. Wallace responded.

Commissioner Baker asked a question of General Counsel.

Steve Price, ACHD General Counsel, responded.

Commissioner Goldthorpe asked a question of Mr. Price. Mr. Price responded.

ACTION TAKEN: Kent Goldthorpe made a motion to Approve the Cedarbrook subdivision Annexation and Rezone recommendation to the City of Meridian with the additional comment to look a bicycle recommendations on Linder and in the subdivision and remand the preliminary plat back to staff to work with the City of Meridian and the Developer to re look at the mid-mile collector. Rebecca Arnold seconded.

Commissioner Baker provided comment.

Commissioner Hansen provided comment.

Motion went to vote and carried unanimously.

**4. Bicycle Advisory Committee - Bylaw Modification:
Request for Adoption**

Kristy Inselman, ACHD Sr. Transportation Planner, presented staff report.

Commissioner Baker asked several questions of Ms. Inselman. Ms. Inselman responded.

Dave Wallace, ACHD Deputy Director of Planning and Projects, provided comment.

Ms. Inselman continued with staff report.

Commissioner Goldthorpe asked a question of Ms. Inselman. Ms. Inselman responded.

Lisa Brady, 1506 N 12th Street, Boise, Idaho, testified.

Deanna Smith, 1208 E Jefferson, Boise, Idaho, testified.

Commissioner May provided comment.

ACTION TAKEN: Kent Goldthorpe made a motion to Approve the Bicycle Advisory Committee By Law amendments as recommended by staff. Rebecca Arnold seconded.

Commissioner Hansen provided comment.

Motion went to vote and carried 4-1.

Ayes: Mary May, Kent Goldthorpe, Rebecca Arnold, and Sara Baker.

Nays: Jim Hansen.

**5. Bicycle Advisory Committee Appointments:
Request for Approval**

Kristy Inselman, ACHD Sr. Transportation Planner, presented staff report.

Lisa Brady, 1506 N 12th Street, Boise, Idaho, testified.

Commissioner May provided comment.

Commissioner Hansen asked a question of Ms. Brady. Ms. Brady responded.

ACTION TAKEN: Sara Baker made a motion to Approve the Bicycle Advisory Committee Appointments as recommended by staff. Kent Goldthorpe seconded.

Motion went to vote and carried unanimously.

DISCUSSION ITEMS

Commissioner May asked for any Public Comments, seeing none, Commissioner May adjourned the meeting at 4:15 p.m.

Highway District Officials:

I attest and affirm that the following statements are true, accurate and within my personal knowledge.

1. I am Lynette Daudt, a licensed health care professional for over twenty years. I am a successful business owner. I live and work in Boise.

2. In 2020, nearly all new wireless facilities (WTFs) for Telecommunications service aren't needed, because the existing telecommunications coverage is adequate. This has been simply demonstrated by your constituents successfully making calls all over Ada County every day of the year. Wireless Applicants do not have rights to construct or operate WTFs without **first** establishing the need for them.

3. The [Ninth Circuit Court of Appeals](#) ruled in 2005 in Metro PCS v San Francisco that "significant gap in coverage" must be proven, otherwise the County will not have to grant a new WTF license. Specific instructions can be added in §7400 that a neutral third-party RF professional, hired by the County (but paid for by the applicants) shall perform a drive test for all Telecommunications service frequencies for all carriers. This drive test can be required every six months and the cost of these tests can be paid for by the Wireless applicants.

4. Further, §7400 could include the 2005 Ninth Circuit requirement that "If a significant gap in coverage is present, Then the telecoms may install . . . using the least intrusive means." Thus, any licensing agreement must be worded to comply with this Ninth Circuit ruling, and §7400 must likewise be redrafted in compliance and in protection of the public against unnecessary WTF construction and operations.

Thereafter, if another gap in coverage is proven by a neutral third party, only then, per the Ninth Circuit ruling, may the applicant apply for modification or an additional facility, **and** using only the least intrusive means. These requirements are missing in §7400. Let's fix that before going forward.

6. Verizon CEO Lowell McAdam stated in May 2018: <https://youtu.be/FwAsr1pC13Q> :

"We have now busted the myth that [5G frequencies] have to be line-of-sight — they do not. We busted the myth that foliage will shut [5G] down . . . that does not happen. And the 200 feet from a home? We are now designing the network for over 2,000 feet from transmitter to receiver."

This statement vacates the need for nearly all proposed sWTFs in public rights-of-way because existing macro towers can co-locate new 4G/5G antennas. **That is the least intrusive means in Ada county.**

7. ACHD, in §7400, is missing a golden opportunity to incentivize the completion of fiberoptics-to-the-premises (FTTP) by invoking its police powers over the public rights-of-way. Fiber optics provides broadband in ways that preserve the quiet enjoyment of streets in residential areas, something the **ACHD must protect**. Wireless broadband, in contrast, can pump excessive Effective Radiated Power into residential neighborhoods if it is not sufficiently regulated by the ACHD. Think of **BIG DATA [loud]** (Internet, video, streaming and gaming) via fiber optics and only **small data [soft]** (phone calls and texts) via Wireless.

8. The public has the right to determine what we need as a community in §7400. In our fire-prone state, fiber-optics provides the best long-term, safe, secure, reliable, and energy-efficient solution for broadband. During the northern California fires, those with landlines received notice and got out. Those with only wireless phones, got no alerts and died in greater numbers. An electrical box owned by the utility PG&E started that fire. To avoid fires, **PUT EVERYTHING UNDERGROUND.**

I'm asking you to postpone the vote on this unfinished legislation, or if you do vote please VOTE "No" until §7400 complies with federal laws and precedents.

Ada County can lead the way: let's do our best for all Idahoans. With collaboration, we can create a ground-breaking law that meets our needs and values.

I have expressed no matter of mere concern but solely matters of substance, fact and law.

Signed,

A handwritten signature in black ink, appearing to read "Lynette Daudt".

Lynette Daudt
1401 W Idaho Street, #213
Boise, ID 83702

I attest and affirm that the following statements are true, accurate, and within my personal knowledge.

Ordinance 244

EMR and Human Health
Dr Ann Huycke MD, NMD

Research on electromagnetic radiation (EMR) and human health number over 14,000 studies .
Serious medical conditions include but not limited to:

- Arrhythmias,
- Decreased fertility
- Neurodegenerative effects including Alzheimer's, dementia, ADD, autism, depression, anxiety and insomnia
- Increased cancer

These are the health effects from our current 4G, which was instituted without careful assessment and preliminary human testing. 5G will be layered on top of these health conditions with their own set of illnesses.

The Environmental Health Trust has published studies showing 5G
is absorbed into the sweat glands (refuted by the industry saying that EMR stays on the surface of the body) and will cause skin cancers
bacteria and cells are effected by mmwave frequencies
DNA damage has occurred with mmwave. This is a precursor to cancer.

Furthermore, the watery parts of the body will be more vulnerable to mmwaves causing diseases of the eyes (blindness) and the kidneys (kidney failure, possibly needing dialysis).

The National Toxicology Program, a \$30 million study over 20 years exposed 70000 rodents to EMR. The results were available in 2016. The study showed an increase of schwannomas (heart tumors) and gliomas (brain tumors), as well as cardiomyopathy (enlarged heart) and DNA damage.

The result should have caused a mandatory cessation of wireless radiation, as happened with asbestos and lead.

The FDA requested the study, yet when presented with the results, stated they wouldn't apply this information to humans.

The cell phone companies and the FCC currently state there is "no harm from EMR, we have no plans to do any studies".

20 May 20
AA

As a doctor, I know for a fact that we don't want a cell tower 20 feet from a child's bedroom. I recommend the commissioners vote no to ordinance 244 today (20 May 2020).

I have expressed no matter of mere concern but solely matters of substance, fact and law.

Anthony De MD NMD
20 May 20

Addendum to my testimony

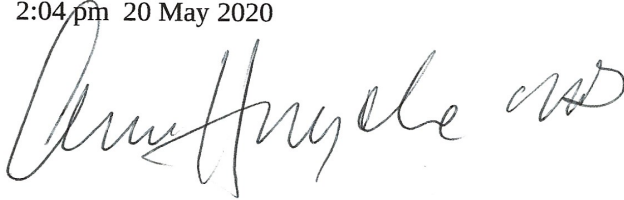
Ann Huycke MD NMD
Regarding Ordinance 244

I attest and affirm that the following statements are true, accurate, and within my personal knowledge.

I wish to revise my statement that stated that although the extant science is inadequate, which I did concede, any science hereafter submitted is rendered.

I have expressed no matter of mere concern but solely matters of substance, fact and law.

Ann Huycke MD NMD
2:04 pm 20 May 2020

A handwritten signature in cursive script, appearing to read "Ann Huycke MD", followed by a small, stylized mark.

May 20, 2020

ACHD Board of Commissioners, thank you for this opportunity.

I, Rick Walsh, attest and affirm that the following statements are true, accurate and within my personal knowledge. I'm a husband, father of 5 daughters ages 12 to 1, and a Meridian small business owner. The construction and operations of small cell towers in residential areas directly affects my family....

Pursuant to § 8-5B-3 of the Ada Zoning Code, when considering an application for a conditional use permit, the applicant is required to prove, and your Board is affirmatively required to find, that the "proposed use shall not create undue adverse impacts on surrounding properties."

So-called "small cells" have multiple adverse impacts on the residential character and actual value of these properties. Notably, the D.C. Circuit Court of Appeals ruled last year that *every* application in the US for these wireless telecommunications facilities (WTFs) must go through review under the National Environmental Policy Act and the National Historic Preservation Act. This ruling needs to be acknowledged in our new ordinance.

Decisions with zoning agencies are quasi-judicial. In the Idaho Supreme Court case *Neighbors for a Healthy Gold Fork Vs. Valley City*, the court held that in planning and zoning decisions due process requires four things: 1. Notice of proceedings; 2. A transcribable, verbatim record of proceedings; **3. Specific, written findings of FACT; and 4. An opportunity to present and rebut evidence.**

Ada County residents thus have the right to see specific findings of facts and be afforded the opportunity to present rebuttal evidence. Not only should this be stated in our new ordinance, it should be carried out in practice in each public meeting here.

When determining whether a resident's rights have been violated, courts have held that rights were harmed when: 1) property values are impacted; or 2) the variance will interfere with the use and enjoyment of property (*Hungate v. Bonner County*).

Substantial evidence indicates that the property value will be impacted and the resident will suffer interference with the use and enjoyment of the property if a WTF is placed near the home.

The Meridian Wireless Communication Facilities Codes states:

A. ... "The purpose of this section is to accommodate the communications needs of the city of Meridian's residents and businesses while at the same time protecting

the safety, aesthetic appeal and general welfare of the community. Furthermore, it is the purpose of this section to regulate the impact of communication towers within the city limits and to provide for the wireless communication needs of the public."

Please note these points:

1. The provision of wireless telecommunication services to the residents and businesses of the city of Meridian is complete, with no gaps in coverage: we all can make calls without a problem.

4. Co-location of new wireless communication equipment is required, when possible, to reduce the number of towers.

Under the Meridian Code, Section C: "The process for wireless communication facilities is dependent upon standards as set forth in this section and the district in which the facility is located."

2. A proposal for a new commercial communication tower shall not be approved unless the decision-making body finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved structure and/or tower.

3. It shall be the burden of the applicant to demonstrate the proposed tower or antenna cannot be accommodated on an existing or approved tower or structure.

In closing, my 8-year-old daughter was diagnosed electromagnetically sensitive, she had trouble sleeping and was seeing light flashes with her eyes closed at bedtime. An optometrist couldn't figure out what was wrong, but we found the problem and resolved it. However, if a WTF were placed near our home, we'd have no way to do so. You must include protective provisions in the new ordinance. Thank you.

Sincerely,

Rick Welsh

5/20/20

I attest and affirm that the following statements are true, accurate, and within my personal knowledge.

My name is Susan Lang. I live in Boise. I lead a Facebook group of 92 people watching the influx of 4G/5G facilities in the Treasure Valley and who oppose them in residential areas. I respectfully request, based on deficiencies with Ordinance 244, that you postpone your vote until these are resolved.

We Idahoans are independent and self-reliant, and expect to be involved in the critical decisions that affect us. We will thank you for reflecting on our contributions.

Your mandate and oath require your support of local values, NOT the telecom industry. No public input was solicited or allowed in the drafting of the Ordinance. We would remedy that with scientific and technical facts, legal precedents, and intelligent options. But this cannot rightly be handled by a Chinese videochat company: we object to the process and believe it unlawful.

The production of an Ordinance is urgent to no one but the telecom industry. This process effectively shut the public out of deliberations, eroding confidence in our officials. For regular Commission meetings, Idaho code states that the public is "invited, welcomed, and encouraged to attend." Online meetings cannot substitute for direct interaction: they exclude some people, and disallow essential in-person communications. The Commission was urged to wait until governor's orders had passed, or even until public input were included in the Ordinance, but the Commission declined. As I stated in an Affidavit emailed to you yesterday, the ACHD website was down at least five hours on Sunday. Worse, the agenda for today's meeting was unavailable to the public. As late as 12:20 pm Monday, it was not posted on the ACHD office doors. Idaho code states that agencies must post agendas 48 hours prior to regular meetings. Insufficient newspaper posting further impaired public notice. And until 3:15 pm yesterday, your phone recording stated that your office was closed due to the governor's orders, leading callers encountering that message to believe they could not phone you. You also wrote to say that you did not want phone calls. Mr. Wong stated that messages that arrived were "disadvantaging" us!

Given these circumstances, your constituents need a show of good faith and respect for due process. You must postpone the vote, or vote "No", until the Ordinance is refined in discourse with the public, with expert information and legal guidance. Given your written response yesterday to one of us, we see you are functioning on an FCC rule superseded by federal judicial precedents, and misrepresentations of the Telecommunications Act. The proposed Ordinance itself dares consider an antenna a mere "accessory" on a pole, as if to pretend it did not operate electronically to irradiate people ongoingly.

We deserve proper democratic process. Do not force this ordinance through without consideration of relevant facts and laws. Postpone the vote.

I have expressed no matter of mere concern but solely matters of substance, fact and law. Thank you.

I attest and affirm that the following statements are true, accurate and within my personal knowledge.

My name is Cathy Cooke, a certified Building Biologist and Electromagnetic Radiation Specialist, practicing in Ada County. I am an expert in measuring and mitigating radiofrequency/microwave (RF/MW) radiation exposures.

My business has been booming ever since Boise started installing so-called "small" Wireless Telecommunications Facilities (sWTFs) in the public rights-of-way because RF/MW exposures from sWTFs is actually tens of thousands of times higher than RF/MW from Macro Towers. This is because the sWTFs are so much closer. It is the proximity to homes and businesses that is so hazardous.

I use professional, certified, calibrated RF meters and always measure the peaks of RF/MW radiation, which is **thousands of times** higher than averages because the peaks of RF/MW are what **really matter**.

People in ADA county are facing safety, privacy and property value hazards simply because the ACHD -- to date -- has failed to sufficiently regulate **Vertical** [pause] **Horizontal** [pause] and **Power** for sWTF antennas. **Vertical** is the number of feet off the ground), **Horizontal** is the number of feet away from homes and Power is the Maximum Effective Radiated Power (Watts ERP) that the antenna can output.

It is easy to calculate EPR from the antenna spec sheet. You multiply maximum power input by antenna gain for each channel and then sum the total.

When the original Macro Towers were constructed on hillsides, they had antennas with 200 feet of **Vertical** and 3,000+ feet of **Horizontal**. This **VHP** recipe allows the RF signal to waft into residential areas at a low enough level to enable calls and will not ruin the quiet enjoyment of streets.

But, when cell tower antennas have only 30-50 of **Vertical** and only 20-50 feet of **Horizontal**, then we have a real disaster. This means the ACHD **needs to cap** the maximum output power of these close-in sWTF antennas to that which enables phone calls, but will not ruin the quiet enjoyment of streets – just like the larger Macro towers.

Because the ACHD is not paying attention, this proposal today is allowing sWTFs to deploy **15,000 to 22,000 Watts ERP** 20 to 50 feet from our homes, when only 0.1 Watt of ERP is needed to go down the street for half-a-mile, provide 5 bars and a cell phone and 3,000+ people can simultaneously make a call.

None of my clients would want their children to sleep in the RF/MW radiation of a macro tower that is only 20-50 feet from their bedroom windows.

Our legislators understood this back in 1996 when they wrote the conference report explaining the **legislative intent** for the **1996 Telecommunications Act**.

The 1996-TCA Conference Report states:

"[T]he conferees **do not intend** [pause] that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's **50-foot tower in a residential district**."

An ERP Limit of 0.1 Watt for WTFs for all frequencies transmitted from a WTF can be enforced 24/7 with a fuse under a locality's lock-and-key, and can then allow a locality to levy fines for ERP violations.

Localities can use their police powers over the public rights-of-way to preserve the quiet enjoyment of streets by requiring a fiber optic sharing box on every WTF. A third piece of equipment can filter out the dirty electricity induced in the local electrical lines.

ACHD has an opportunity to include rational VHP regulation in section 7400 . We are fortunate to have a simple, cost-effective and revenue-generating solution. I urge Commissioners to not vote the current draft through tonight, revise it to include such regulation and bring it back in a few weeks.

Thank you.

I have expressed no matter of mere concern but solely matters of substance, fact and law.

Signed, May 20,2020

Cathy Cooke
cookecc@gmail.com

Read to Ada County Commissioners: 5/20/20
Emailed to Commissioners: 5/22/20

Commissioners:

The representations of public notice were not accurately stated by Legal Counsel, per the direct observation, photographic evidence, recordings, AND affidavits of community members.

Counsel failed, moreover, to distinguish between FCC Title I and Title II wireless facilities.

Further, 47 U.S.C. §332 (c)(7)(B)(4) maintains the operations of wireless facilities under local governances, for any and all reasoning.

The 20' setback, if increased, is not subject to a claim of effective prohibition. Legal Counsel's claim thereto is false.

The FCC rule to which Counsel referred as constraining ACHD has been superseded by 2019 federal judiciary precedents, of which he is apparently unaware.

The new ordinance is not comprehensive: it is neither informed by current federal laws and policies, nor in accordance with them.

Commissioners and Counsels refer to "5G" as a single deployment. This is false.

The term "5G", from an engineering perspective, includes many wavelengths and different types of deployments.

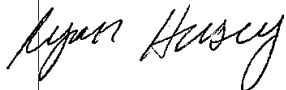
More importantly, the LAW makes these distinctions!

Due to Counsels' industry language usage, the Board is failing to distinguish these differences, despite the fact that the 1934 Communications Act, the 1996 Telecommunications Act in amendment, and the ruling following *Mozilla v FCC*, all REQUIRE such distinction.

Since Counsel fails to inform the Board about the true nature of these laws, and § 7400 et seq fails to provide for these differential deployments, the new ordinance is NOT in accordance with federal laws, precedents, and policies, and must by law be revised.

Thank you.

Sincerely,



Ryan Hasey
3308 E. Front Runner Ln.
Boise, ID 83717