



Community & Economic Development Division
Planning and Development Services

7447 East Indian School Road, Suite 105
Scottsdale, Arizona 85251

To: Honorable Mayor and City Council
From: Keith Niederer, Telecom Policy Coordinator *KN*
Through: Randy Grant, Planning & Economic Development Executive Director *RG*
Date: September 15, 2020
Re: Presentation regarding 5G/Small Wireless Facilities within the City

At the August 25, 2020 City Council meeting, the City Council directed staff to schedule a presentation, discussion and possible staff direction regarding the implementation of 5G in the City. This presentation will occur during a City Council Work Study Session on September 22, 2020.

Attached is the staff PowerPoint that will be presented at this meeting.

Small Wireless Facilities and Planned 5G Rollout

September 22, 2020

Keith Niederer, Telecom Policy Coordinator

Wireless Update

- City Council voted at their August 24th meeting schedule a presentation, discussion and possible staff direction regarding the implementation of 5G
- City Council and staff have received correspondence over the past several months from residents with concerns about the quantity and locations of new wireless facilities and their perceived health effects and requesting that the City Council issue a moratorium.

What is 5G?

- 5G is a generic term for the next (or fifth) generation technology standard for wireless cellular networks.
- All wireless facilities are connected via fiber optic for fast latency.



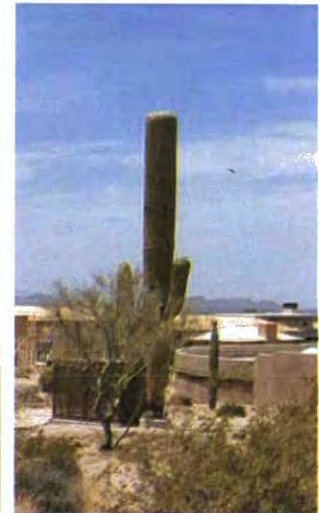
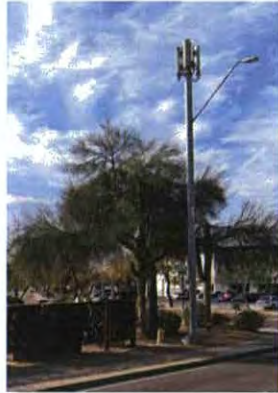
How is it different from 4G?

- 4G operates in the MHz frequency range. 5G will operate in the GHz range.
 - Advantage: GHz has a greater bandwidth, giving higher data download speeds
 - Disadvantages: GHz has a shorter range, requiring a higher density of antenna locations.
 - Use of higher frequencies are creating health concerns for some individuals.
 - FCC issued RF standards in 1996 that all carriers must abide by. An inquiry was opened in 2013, but FCC declined to make any updates.



Wireless Communication Facilities in Scottsdale

- 2003: Current WCF Ordinance takes effect



Scottsdale regulation: 2008-2012

- Crown Castle Distributed Antenna System (DAS) Project
- 270 sites total (170 in public ROW)



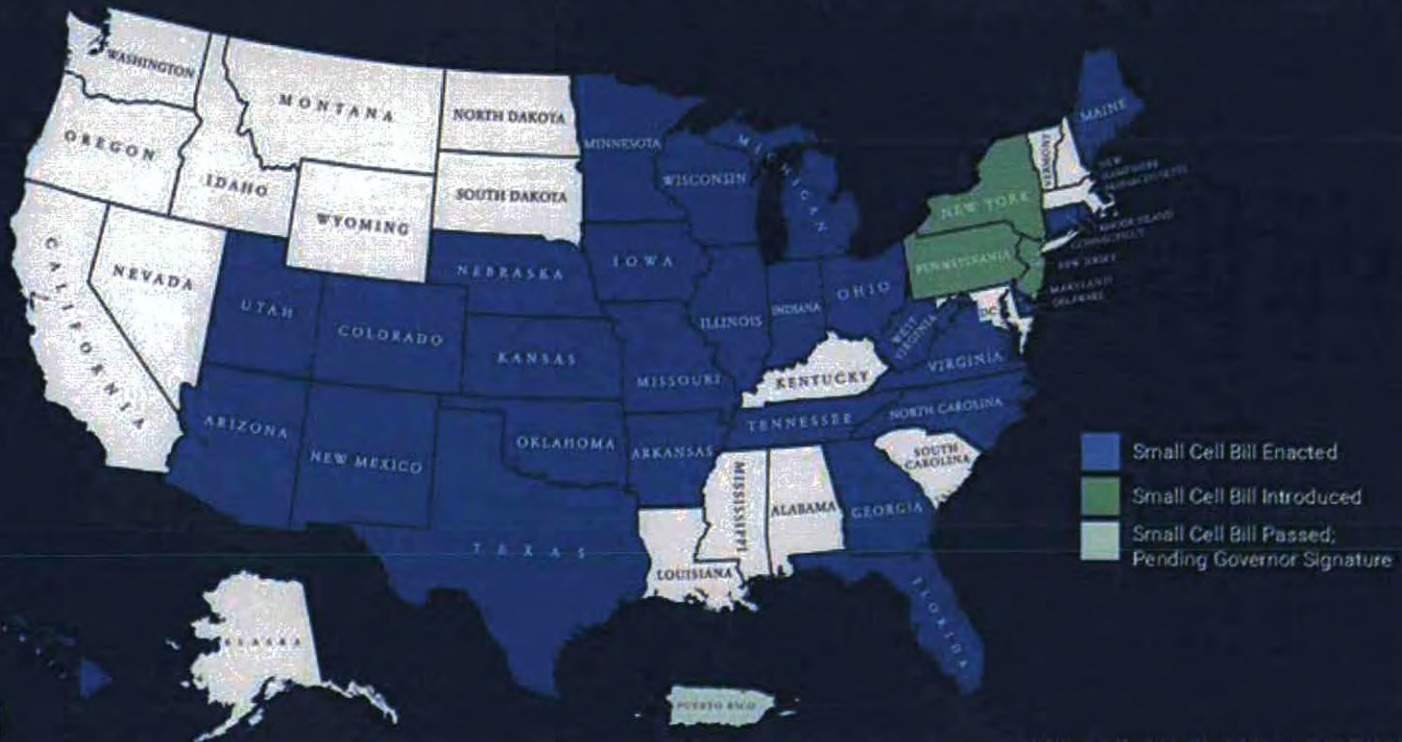
State Legislature approved HB 2365 in 2017

Arizona State Legislature approved House Bill 2365 effective August 9, 2017

- Grants wireless carriers the ability to collocate small wireless facilities and other related equipment in all Arizona City or County Rights-of-Ways (ROW) and public utility easements. (Including local residential streets)



28 States Have Enacted Small Cell Legislation



Additional elements of HB 2365 / ARS 9-591

- Exempts Small wireless facilities from zoning process/hearings.
- Introduced a Shot Clock.
 - 20 days for City Staff to determine and notify if application is complete.
 - 75 days for City Staff to approve or deny the application, or application is automatically deemed approved.
- Requires ROW and City owned poles (such as streetlights and signal poles) to be made available.
- Prohibits cities or counties from issuing moratoriums.
- Does not allow for a “significant gap” test that developed under federal law.
- Limits annual use fees to \$50 per site, with an additional \$50 if attached to a City owned pole.
- Limits plan review and permitting fee to \$750.

Additional elements of HB 2365 / ARS 9-591

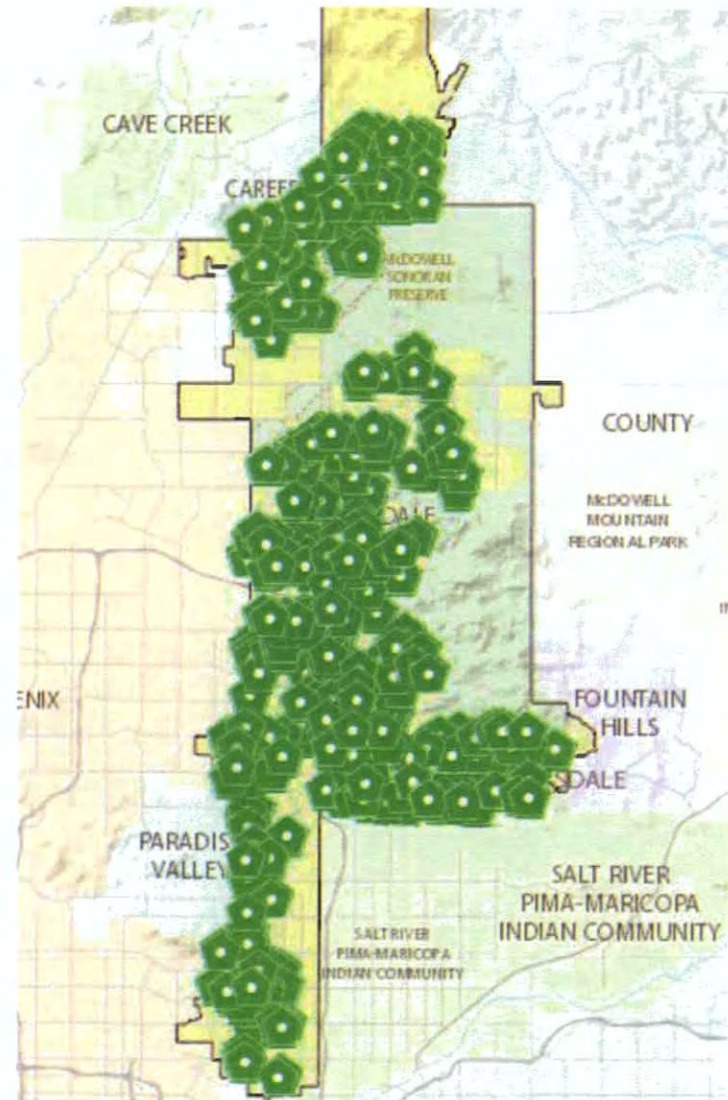
- Preserves ROW management functions for public safety.
- Allows for reasonable aesthetic and screening requirements.
- Zoning Ordinance requirements continue to apply to non-SWF sites, and sites located outside of the ROW.
- Each SWF shall follow the Standard Terms and Conditions for wireless sites in the ROW, which was approved by City Council in January 2018 with Resolution 11005.
- Standard terms include insurance and indemnification requirements and requires compliance with FCC rules.



Examples of Built Small Wireless Facilities in Right-of-Way

Current facilities

- As of September 2020, there are 273 Small Wireless Facilities in Scottsdale



Federal – Telecommunications Act of 1996

There are also Federal laws and FCC Regulations/Orders. These laws/regulations do not directly address 5G but address wireless communication facilities in general.

Telecommunications Act of 1996

- 47 U.S.C. Sec. 332 addresses mobile (wireless) services and preserves state/local authority over wireless tower siting.
 - Local govt. shall not unreasonably discriminate among providers of functionally equivalent services.
 - Local govt. shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - **Expressly prohibits Radiofrequency regulation by state or local government. Sec. 332(c)(7)(B)(iv)**
 - **No State or Local government may regulate the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. This would include any alleged health impacts from environmental exposure to radio frequency emissions.**

Federal – FCC Small Cell Orders 2018

FCC “Small Cell Orders” 2018

- Designed to facilitate 5G implementation nationwide
 - Carriers can choose which regulations to follow, in states that already had a small wireless facility bill approved, as there are some differences in equipment sizes and fees.
- Challenges to FCC Orders
 - Provision mostly upheld in courts
- NEPA regulations. FCC created categorical exclusions for 5G small cells needing an Environmental Assessment.
 - This includes most SWF installed in Scottsdale, except potentially historical districts.

Federal – National Environmental Policy Act

- Wireless Facilities are categorically exempt from NEPA, unless:
 - Located in a wilderness area
 - May affect threatened and endangered species
 - May affect properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), or cultural sites
 - Located within a floodplain where equipment will not be placed at least one-foot above base flood elevation

Federal – National Environmental Policy Act

- Wireless Facilities are categorically exempt from NEPA, unless:
 - May affect migratory birds if the towers are over 450-feet; or that involve high intensity lighting in a residential area; or cause RF emissions in excess of FCC-established limits.
 - FCC delegates initial NEPA determination to the wireless carriers.
 - There is no requirement for State and Local authorities to require a NEPA approval prior to permit issuance.

Small Wireless Facilities and Planned 5G Rollout

September 22, 2020

Keith Niederer, Telecom Policy Coordinator

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 4:13 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #131)

Comment on 09-22-2020 Agenda Item (response #131)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 4:12:35 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	I strongly oppose the continued rollout of 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Sarah
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	sarahowensaz@gmail.com

Phone:	(480) 540-8196
Address:	6319 E MONTREAL PI Scottsdale, AZ 85254
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 4:13 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #130)

Comment on 09-22-2020 Agenda Item (response #130)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 4:12:33 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Towers
COMMENT	
Comment:	I strongly oppose the continued rollout of 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Jessica Smothermon
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	jsmothermon@gmail.com

Phone:	(602) 317-7422
Address:	7917 E Cactus Wren Rd
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 4:40 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #132)

Comment on 09-22-2020 Agenda Item (response #132)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 4:39:50 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Wireless
COMMENT	
Comment:	I strongly oppose the continued rollout of 4G/5G cell towers. The FCC refuses to do even one independent safety study. Radiation at much lower levels has been proven to cause cancer and is associated with a plethora of illnesses as well as DNA damage. The pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%. Additionally, the 5G network is foundational to surveillance and data capture, both of which violate our constitutional rights.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Stuart Zahn
CONTACT INFORMATION	

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:	stuart.zahn@gmail.com
Phone:	(602) 708-1906
Address:	
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 4:57 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #133)

Comment on 09-22-2020 Agenda Item (response #133)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 4:56:22 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	Cell Towers
COMMENT	
Comment:	My husband and I strongly oppose the continued rollout of 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe. Please use more caution and know that we strongly oppose such action.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	John & Jocelyn White
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	

Email:	<u>Jocelyn@2jw.net</u>
Phone:	(714) 425-3323
Address:	8512 e. Eagle claw drive 85266
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 6:42 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #134)

Comment on 09-22-2020 Agenda Item (response #134)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 6:41:14 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Cell Towers
COMMENT	
Comment:	I firmly oppose the continued rollout of 4G/5G cell towers, first and foremost because pulse-modulated microwave radiation causes scientifically proven adverse health effects. Additionally, cell towers near homes decreases property values by an average of 20%. Lastly, the wireless industry has conducted no studies showing they are safe for humans.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Beth Hansen
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 7:10 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #135)

Comment on 09-22-2020 Agenda Item (response #135)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 7:09:27 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Cell Towers
COMMENT	
Comment:	I strongly oppose the continued rollout of the 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe. There is a blantant lack of concern on the government level regarding this technology. It's time for Scottsdale to set a new safety standard and ask the tough questions that put our safety first.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Hayley Hayes
CONTACT INFORMATION	

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:	<u>hayleyhayes11@gmail.com</u>
Phone:	
Address:	
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Wednesday, September 16, 2020 7:30 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #136)

Comment on 09-22-2020 Agenda Item (response #136)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/16/2020 7:29:35 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G rollout
COMMENT	
Comment:	5G has not been proven safe. There are many reasons that it may be dangerous. We do not want to be test subjects. Please do not subject us to this experiment. Keep Scottsdale safe!
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Morgan
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	
Phone:	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Thursday, September 17, 2020 9:32 AM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #137)

Comment on 09-22-2020 Agenda Item (response #137)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/17/2020 9:31:00 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G towers in my neighborhood
COMMENT	
Comment:	<p>I AM STRONGLY OPPOSED TO 5G TOWERS IN MY NEIGHBORHOOD My points: -We do not need faster service. This is nothing but another gimmick to collect consumer money. -There have been multiple studies showing a potential link to this technology and poor health outcomes. Why do we need to wait until people start getting sick to stop this? We do not need to encourage this with COVID wearing us down. I am a retired registered nurse and registered dietitian. We know toxins are detrimental to the mind and body. Stop killing the planet. It's killing us. -Life isn't worth two nickels when we are sick. Sometimes, no amount of money can heal us. We are a burden to the society that needs to take care of us and we do not contribute to production. Keeping our independence and health is far more important than faster phone service.</p>
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	

Name:	JoLee Kennedy
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	jolee.d.kennedy@gmail.com
Phone:	(602) 312-6647
Address:	5305 E Windrose Dr
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Thursday, September 17, 2020 10:41 AM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #138)

Comment on 09-22-2020 Agenda Item (response #138)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/17/2020 10:40:38 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	I strongly oppose the continued rollout of 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Thursday, September 17, 2020 12:27 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #139)

Comment on 09-22-2020 Agenda Item (response #139)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/17/2020 12:26:23 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	Wireless facilities
COMMENT	
Comment:	<p>I have lived in Scottsdale since 1970. I currently have my house on the market for a fraction of its worth do to the health consequences of 32 cell phone towers within a 1:2 mile radius of my house to include the tower I affectionately call "The Juggernaut " that looms over my house where myself and my family eat sleep and play all year round. I would attach a picture if I could but next time you are on Miller Rd north of Chaparrel Rd just look up. Can't miss it. So far this year six saguaros in line of sight have fallen over dead. My health over the last year has declined significantly. My oxygenation at home is between 92 and 95. I have developed debilitating brain fog and migraines. When I am away from the house, out of Scottsdale and it's ubiquitous radio frequency emissions, my levels get better and the migraines subside. Coincidence? Perhaps. But I am not hanging around to find out. Unfortunately the lovely juggernaut is crushing my sale ability of my house. Who wants a cell tower of any magnitude shining in their bedroom window much less the Juggernaut with it's five tiers of RF emitters and all the surrounding dead cacti and half</p>

	<p>dead trees and foliage. Nobody and I have the comps to prove it. Please take in and really consider the consequences of not taking action to protect your constituents which I believe includes your families.</p>
<p>Comments are limited to 8,000 characters and may be cut and pasted from another source.</p>	
<p>NAME</p>	
<p>Name:</p>	<p>Anne Pogue</p>
<p>CONTACT INFORMATION</p>	
<p>Please provide the following information so someone may follow up with you if they have questions about your comment (optional).</p>	
<p>Email:</p>	<p>annespie@ymail.com</p>
<p>Phone:</p>	<p>(480) 201-8351</p>
<p>Address:</p>	<p>5028 N 78th St, Scottsdale</p>
<p>Example: 3939 N. Drinkwater Blvd, Scottsdale 85251</p>	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Friday, September 18, 2020 8:58 AM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #140)

Comment on 09-22-2020 Agenda Item (response #140)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/18/2020 8:56:57 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G cell towers
COMMENT	
Comment:	Thank you for discussing this important issue. Please take a few minutes to view this before the meeting. https://www.youtube.com/watch?v=jHZpYKsP0wY&ab_channel=ValeriMarsh
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Valeri Marsh
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	6marshes@gmail.com

Phone:	(602) 723-9745
Address:	7674 E Sutton Drive
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Friday, September 18, 2020 11:05 AM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #141)

Comment on 09-22-2020 Agenda Item (response #141)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/18/2020 11:03:51 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	Dear Council Members, I strongly oppose the 4G/5G towers that are going up all over our city because of the deadly health consequences of them. It goes against our constitutional rights to have these right by our homes where we can't escape the dangers of them. Please, I urge you to do your research before just approving them. These will affect you and your loved ones as well with permanent consequences.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Debbie Wiener
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	

Email:	<u>Healingoils@cox.net</u>
Phone:	
Address:	
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Friday, September 18, 2020 2:19 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #142)

Comment on 09-22-2020 Agenda Item (response #142)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/18/2020 2:18:24 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	I strongly oppose the installation of 5G in Scottsdale. As a physician, I am well aware of the health risks 5G presents. There are no studies to prove its safety, while there are plenty of studies that show harm from this level of radiation. If you have questions about these harms, please contact me and I can explain them to you. PLEASE consider the health of your citizens and do not allow 5G into our neighborhoods. Thank you.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Jennifer Fontius
CONTACT INFORMATION	

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:	<u>jenniferfontius@gmail.com</u>
Phone:	(480) 563-3211
Address:	PO BOX 28423, Scottsdale, AZ 85255
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Saturday, September 19, 2020 3:02 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #143)

Comment on 09-22-2020 Agenda Item (response #143)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/19/2020 3:01:21 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5 g towers
COMMENT	
Comment:	I oppose 5g towers in Scottsdale because of the proven detriments to health and the fact that nowhere enough studies have been conducted on the effect of 5 g on humans.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Natasha Wiener
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	Natasharenee6@gmail.com
Phone:	(480) 799-8725

Address:	6420 E. Gary RD., Scottsdale AZ 85254
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Sunday, September 20, 2020 6:18 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #144)

Comment on 09-22-2020 Agenda Item (response #144)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/20/2020 6:17:19 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	<p>I opposed the installation of 5G. 5G has numerous health and privacy implications, and I don't think most people fully understand the grave impact it will have on our community and our lives. When I explain the health risks of 5G, unanimously friends and neighbors are adamantly opposed, and honestly scared by it. It will also greatly increase the surveillance of our citizens, both legal and illegal. There is a reason that citizens in other countries are tearing down 5G towers that have been erected. Please consider the risks of 5G before you impose it on all of us in Scottsdale.</p>
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Eric Anderson
CONTACT INFORMATION	

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:	anderson.e.g@protonmail.com
Phone:	
Address:	9828 E Gamble Lane, Scottsdale, AZ. 85262
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Sunday, September 20, 2020 8:31 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #145)

Comment on 09-22-2020 Agenda Item (response #145)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/20/2020 8:30:10 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Tower Installment
COMMENT	
Comment:	<p>I strongly oppose the continued rollout of 4G/5G cell towers in Scottsdale. I am incensed about the health threat to my daughter who attends Chaparral High School if this technology is located on or near campus much less our home. Peer-reviewed in the hundreds have demonstrated that pulse-modulated microwave radiation produces detrimental health effects. Not to mention that cell towers near residences decreases property values by an average of 20% when Scottsdale could install Ethernet with the same speed benefits of 5G. The Arizona Dept. of Health needs to pause the wireless industry until it has conducted studies showing they are safe in the long and short term.</p>
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	S Walther

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email: imagebearers2-imagebearers2@yahoo.com

Phone:

Address:

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Sunday, September 20, 2020 8:34 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #146)

Comment on 09-22-2020 Agenda Item (response #146)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/20/2020 8:33:45 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Wireless
COMMENT	
Comment:	<p>I am writing with concerns about plans to implement and install small-cell wireless infrastructure (5G) based on recent FCC rules that lack credible, independent research to support its safety. This ruling essentially allows installment anywhere with minimal local control or oversight. The FCC rules allow these wireless facilities 10-20 feet from homes on rights of way while at the same time not allowing local jurisdictions the ability to protect the health and safety of nearby residents. The FCC regulations for safety were adopted in 1996 based on industry-science for that era. They have not been updated for current 5G millimeter-wave technology and are outdated for proposed 5G systems. I urge the City Council to require any organization bringing forth a request to place 5G cells within our city limits to also concurrently provide current, independent verifiable research that verifies the safety of 5G. Steve Tyrrell Scottsdale Resident</p>

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name: Steve Tyrrell

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email: azstevet@cox.net

Phone: (602) 509-2765

Address: 7753 E. Catalina Dr, Scottsdale, 85251

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 10:41 AM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #147)

Comment on 09-22-2020 Agenda Item (response #147)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 10:40:26 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Wireless Request
COMMENT	
Comment:	Please see the Power Point presentation submitted via email on 9-22-20 titled Solutions for Safety, Liability, and Legal Non-Compliance Problems in Scottsdale's Current Wireless Ordinance It will not attach here. Thank you.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Valeri Marsh
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	6marshes@gmail.com

Phone:	(602) 723-9745
Address:	7674 E Sutton Drive
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: Jagger, Carolyn
Sent: Tuesday, September 22, 2020 1:04 PM
To: Cordova, Rommel
Subject: FW: Power Point: SOLUTIONS for Safety, Liability, and Legal Non-Compliance Problems in Scottsdale's Current Wireless Ordinance
Attachments: FINAL PRESENTATION CITY COUNCIL SEPT 22.pptx

From: Jon and Val Marsh <6marshes@gmail.com>
Sent: Tuesday, September 22, 2020 10:36 AM
To: Lane, Jim <JLane@ScottsdaleAZ.Gov>; City Council <CityCouncil@scottsdaleaz.gov>; City Manager Mailbox <citymanager@scottsdaleaz.gov>; Jagger, Carolyn <cjagger@scottsdaleaz.gov>; Scott, Sherry <SScott@scottsdaleaz.gov>; Kuester, Kelli <KKuester@Scottsdaleaz.gov>; Ben Moriarity <bmoriarity@scottsdalecity.gov>; Niederer, Keith <KNiederer@Scottsdaleaz.gov>; kathy@kathylittlefield.com
Subject: Power Point: SOLUTIONS for Safety, Liability, and Legal Non-Compliance Problems in Scottsdale's Current Wireless Ordinance

⚠ External Email: Please use caution if opening links or attachments!

Hello-

The attached PowerPoint contains additional details as a follow-up to [THIS VIDEO](#).

The problems outlined in the presentation pose serious threats to our public safety and our economy. The conflict between your obligations to provide advanced telecom services and protect the health and welfare of our community CAN be solved with legal, workable SOLUTIONS outlined here. We wish to work with you to preserve Scottsdale as Most Livable City.

Thank you for your consideration of the attached information.

Respectfully,

Valeri Marsh (on behalf of Scottsdale residents)



**Solutions for Safety, Liability,
and Legal Non-Compliance
Problems in Scottsdale's
Current Wireless Ordinance:
September 22, 2020**

Conflict in Local Duties & Obligations

TO PROTECT

VS .

TO PROVIDE

- **Public Safety**
- **Property Values**
- **Sustainability**
- **Quiet Enjoyment of Streets**

**Advanced Telecom
Services***

*[47 U.S.C. § 153](#) (1) Advanced communications services:

VoIP service | Electronic messaging service | Video conferencing service,

i.e. **TELECOMMUNICATION** services **NOT** Broadband/**INTERNET** services

Scottsdale's Values per AZ Constitution & Scottsdale General Plan

- **AZ Constitution, Article II**
- **Section 2.** *All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.*
- **Section 4.** *No person deprived of life, liberty, or property*
- **Section 8.** *No person shall be disturbed in his private affairs, or his home invaded, without authority of law.*



PRESERVE MEANINGFUL OPEN SPACE



ENHANCE NEIGHBORHOODS



SEEK SUSTAINABILITY



SUPPORT ECONOMIC VITALITY



ADVANCE TRANSPORTATION



VALUE SCOTTSDALE'S UNIQUE LIFESTYLE & CHARACTER

Currently: No Public Safety, Ordinance *Ultra Vires*, Incomplete Permit Applications, Inadequate Insurance, Transfer of Liability, Property Values Threatened, Privacy Violations, Reported Injuries w/ 4G/5G Densification



Our Asks

- Work with the public on **New Broadband Plan** that **balances the needs** Scottsdale residents and the telecom industry
- Create **New ERP Policing Plan** to **generate revenue** by locally regulating Vertical, Horizontal and Power for Wireless Telecom Facilities (WTFs), consistent with [47 U.S. Code § 324](#)
- Create **New Equipment Standards** that respect residents' constitutional and inalienable rights to safety and privacy

Sustainability: Federal Requirement to Use Minimum Power

Per 47 U.S. Code § 324

“In all circumstances...all [licensed] radio...**shall use the minimum amount of power necessary** to carry out the communication desired.”

Vs.

“Small” WTF ‘s @ 60 feet from residence using **25 Million times more power than needed** for required voice service

2019-2020 DC Circuit Rulings

August 9, 2019: “Every new wireless telecommunications facility (“WTF”) must undergo NEPA review

October 1, 2019: FCC willingly surrendered its Title II regulation of “telecommunications service” (Broadband Internet/Video/Gaming), assigning it to unregulated Title I “information service” -- it no longer qualifies for 1996-TCA preemption. The only service the FCC regulates now as **Title II is wireless phone calls.**

March 13, 2020: FCC applied fraudulent accounting methods for 20 years, allowing **\$Billions of Illicit Cross-Subsidies** from State Wireline Utilities to Private Wireless Companies. ***States can now correct this.***

TCA Preemption Clause: “Environmental Effects” are NOT the Same as “Health Effects”

“No State or local government ... may regulate the **placement, construction, and modification** of personal wireless service facilities on the basis of the **environmental effects** of radio frequency emissions ...”

“environmental effects”



“health effects”



Regulate Vertical and Horizontal Distances and Effective Radiated Power

V • H • P

The Three Amigos of Antennas!

Vertical • Horizontal • Power

There's a New Sheriff in Town — a Friendly \$5 Fuse



A Friendly \$5 Fuse can Generate Much-Needed Revenue for Scottsdale

Cap Effective Radiated Power at
0.1 Watt of ERP



Over 20,000 Peer-Reviewed Studies

“Microwave radiation can have 4,500 different neurological and physiological symptoms in your body which may not manifest themselves for hours, months, even years.”

Barrie Trower, PhD Physics,
Weapons Expert, Ministry of Defense,
Microwave Warfare

<https://bioinitiative.org/rf-color-charts/>

<http://www.oymradio.com/images/barrietrower/Dangerous%20EMF%20Radiation.pdf>

Reported Biological Effects from Radiofrequency Radiation at Low-Intensity Exposure
(Cell Tower, Wi-Fi, Wireless Laptop and 'Smart Meter' RF Intensity)

EMF (Watts/Kilogram)	Reference
0.0021 W/kg	A significant change in cell proliferation rate attributable to chemical feeding. RFN induces non-thermal stress proteins (HSP 70) (GSM)
0.004 - 0.01 W/kg	100 MHz cell phone RFN caused pathological leakage of blood-brain barrier. Blood at lower SMI levels and lower W-CM equivalent to frequency of pathological changes and 20% increase in DNA replication in human
0.0021 W/kg	Cell phone RFN induces genomic (chromosome) and to significantly increase chromosome lesions, which may be indicators of future cell disease
0.004 W/kg	Sports damage from excessive stress and cerebral resistance levels resulted from 2-hr per day 10-day exposure to 10 GHz
0.002 W/kg	Demands system effects - alteration of PFC count (antithyroid-producing cells)
0.02 W/kg	A single 2-hr exposure to GSM cell phone radiation results in various neuronal damage (brain cell damage) and death of neurons, hippocampus, and other regions of brain tissue (low dose rate brain barrier is also showing alteration (p < .05)) (following only one cell phone treatment)
0.028 W/kg	Activity of 2-pur nucleotides in cancer (panc) was altered in rats after 20 minutes exposure to cell phone signal (GSM)
0.021 W/kg	Decrease in eating and drinking behavior
0.021 W/kg	Hyperactivity caused by 200 MHz cellular telephone radiation is countered by exposure to ultra-wide band pulse (UWB) for 30 min
0.001 - 0.040 W/kg	A 5 to 10 year phone exposure causes dramatic contamination: impaired DNA repair mechanisms; and 2 DNA damage (brain tissue) response to the effect (acute) radiation in rats (the low dose of exposure) (HSP sensitive (HSP) would have different response to function of DNA repair rate, compared to healthy individuals, effects depend on cancer frequency) (11 W/kg = 0.37 W/kg but 100 W/kg = 0.96 W/kg)
0.05 W/kg	Significant increase in firing rate of neurons (20%) with pulsed 900 MHz cell phone radiation exposure (not cell cell) in awake brain rats

Stress proteins, HSP, disrupted immune function	Brain tumors and blood-brain barrier
Reproductive/fertility effects	Obese, neuron firing rate, EEG, memory, learning, behavior
Oxidative damage/DNA damage/DNA repair failure	Cancer (other than brain), cell proliferation
Disrupted calcium metabolism	Cardiac, heart muscle, blood pressure, vascular effects

Reported Biological Effects from Radiofrequency Radiation at Low-Intensity Exposure
(Cell Tower, Wi-Fi, Wireless Laptop and 'Smart Meter' RF Intensity)

EMF (Watts/Kilogram)	Reference
0.5 W/kg	100 MHz pulsed RF affects firing rate of neurons (gamma-aminobutyric acid) neurotransmitter levels had no effect
0.28 - 0.75 W/kg	Decrease in brain function after chronic exposure to 915 MHz RFN
0.8 - 0.9 W/kg	Mouse embryonic developing fragile cranial nerves from in vitro 900 MHz The authors say "100% results clearly show that even modest exposure (0.6-4 W/kg) for 22 days" is sufficient to interfere with the normal course developmental process
0.8 and 1.7 W/kg	Increase in DNA single and double-strand DNA breaks in rat brain cells with exposure to 900 MHz (GSM)
0.763 W/kg	GSM 900 MHz, 217 Hz significantly decreases neuronal development and size of axons, due to DNA damage and neuronal cell death of hippocampus and cerebellum in 10-day (GSM) mouse embryo
0.67 W/kg	Altered normal neural performance after exposure to GSM cell phone radiation (900 MHz GSM digital cell phone signal)
0.67 W/kg	Change in human brainwaves: decrease in EEG potential and statistically significant change in alpha (8-12 Hz) and beta (13-32 Hz) brainwave activity in humans at 900 MHz, exposure 45 min per day for 30 days (cellular equipment)
0.9 W/kg	Decreased sperm count and more sperm cell death (exposure) after 20 days exposure, 2 hr per day
> 2.0 W/kg	Rats exposed to mobile phone radiation on (EMERGENCY ONLY) for 15 hr (900 MHz) (GSM) mobile 2 times per day for 23 days showed decreased number of neurons follows in pups born to these pregnant rats. The authors conclude "the continued number of failures in pups in spite of mobile phone radiation suggest that embryonic exposure has toxic effects on neurons"
0.4 - 1.0 W/kg	One 6-hr exposure to 900 MHz cell phone radiation of human sperm cells caused a significant dose response and reduced sperm motility and viability; relative oxygen species levels were significantly increased after exposure to 1.0 W/kg study confirms deleterious effects of 10 hr per to human sperm. The authors conclude "7 (Male) findings have clear implications for the ability of exposed mating pairs and by extent of reproductive apt, potentially affecting both their fertility and the health and wellbeing of their offspring"
1.0 W/kg	Motor cortex degraded by exposure to cell phone frequency RF increased free-radical damage

Stress proteins, HSP, disrupted immune function	Brain tumors and blood-brain barrier
Reproductive/fertility effects	Obese, neuron firing rate, EEG, memory, learning, behavior
Oxidative damage/DNA damage/DNA repair failure	Cancer (other than brain), cell proliferation
Disrupted calcium metabolism	Cardiac, heart muscle, blood pressure, vascular effects

Reported Biological Effects from Radiofrequency Radiation at Low-Intensity Exposure
(Cell Tower, Wi-Fi, Wireless Laptop and 'Smart Meter' RF Intensity)

Power Density (Microwatts/cmeter/sq) - uW/cm2	Reference
0.10 uW/cm2	RFN at 900 MHz for 2-12 hours caused DNA breaks in Neutrophils cells
0.010002	Changes in behavior (aggression) after 0.5-hour exposure to pulsed RFN
10 / 100 uW/cm2	Increased risk of motor operators of cancer; very short latency period; and response to exposure level of 0.01 uW/cm2
0.2 uW/cm2	RFN caused function effect in cells - cell affect more chronic cell disorder
13.0 uW/cm2	RFN affected human lymphocytes - induce stress response in cells
38 uW/cm2	Stress in serum (cortisol) (of stress hormones)
28.2 uW/cm2	RFN increased free radical production in rat cells
39.6 uW/cm2	Increase systemic effects - alteration of PFC count (antithyroid-producing cells)
49 uW/cm2	Pulsed RFN affected serum testosterone levels in mice
50 uW/cm2	Cell phone RFN caused pathological leakage of the blood-brain barrier in 1 hour
80 uW/cm2	An 80% reduction in RFN sleep compared to memory and learning functions
80 uW/cm2	RFN caused structural changes in cells of mouse embryos
80 uW/cm2	Pulsed RFN affected hormone functions in white blood cells
86 uW/cm2	Cells of the brain are activated by 15-minute of 900 MHz cell phone
87 uW/cm2	RFN affects gene related to cancer
82.0 uW/cm2	RFN caused genetic changes in human white blood cells
100 uW/cm2	Changes in immune function
100 uW/cm2	A 24.2% drop in testosterone after 6 hours of GSM RFN exposure
100 uW/cm2	A pathological leakage in the blood-brain barrier with 900 MHz cell RF

Stress proteins, HSP, disrupted immune function	Brain tumors and blood-brain barrier
Reproductive/fertility effects	Obese, neuron firing rate, EEG, memory, learning, behavior
Oxidative damage/DNA damage/DNA repair failure	Cancer (other than brain), cell proliferation
Disrupted calcium metabolism	Cardiac, heart muscle, blood pressure, vascular effects

Fiduciary Responsibility Protect Property Values

“Based on 3G/4G infrastructure alone, **Realtor Magazine** cited a **20% price decrease for properties near cell towers**. Furthermore, a survey by the National Institute for Science, Law & Public Policy (NISLAPP) found that **94% of homeowners are “less interested and would pay less”** for a property located near a cell tower or antenna.”

20% Loss in Property Value (Colorado Study)

NEW (5G)

OLD (4G)

- “Studies uniformly indicate there is significant impact on residential property values from installation of cell towers and antennas.”
- Real Estate studies estimate homes to decline at least \$150,000 per house near a tower.
- High density placement is required for small cell towers to work - an estimated 300,000 total towers are coming to Colorado with most distance of 200 feet apart, that means cell towers every 2 to 10 houses. ** Additional equipment columns up to 20 cubic feet may be attached to poles.
- Even more large cell towers still required to support 5G infrastructure.
- Estimated 20,000 5G satellites will be launched by 2021. This is 10 times our existing coverage.
- Cell towers located inside neighborhoods.
- NO protective boundaries on small cell towers.
- The new FCC ruling allows small cell towers to be placed within any public right of way without city or public approval.
- 5G utilizes millimeter wave technology, never before used on large scale and close proximity to living things.
- NEW extended frequency bandwidth: 30-300 GHz.
- The FCC has been completed at this time to confirm health/environmental impact of 5G technology deployment of this scale.

- Based on 3G/4G infrastructure alone, **Realtor Magazine cited a 20% price decrease for properties near cell towers**. Furthermore, a survey by the National Institute for Science, Law & Public Policy (NISLAPP) found that 94% of homeowners are “less interested and would pay less” for a property located near a cell tower or antenna.
- Broad range spacing for 4G - towers are larger, spaced out and include zoning regulatory rights.
- Less than 1,000 3G/4G satellites presently launched to date.
- Cell towers located outside neighborhoods.
- Current frequency bandwidth: 3-6 GHz range.
- Independent studies have raised health and environmental concerns for this technology.

How can Colorado residents take action to help our state/city officials regain control over where 5G small cell towers can be placed?

- Print/Post/Share this information with your family, friends, neighbors, schools, gyms, local businesses and community organizations.
- Research 5G small cell towers plans near you.
- Voice your concerns to your local Representatives, Commissioners, Real estate associations and FROs.
- Contact: 5GColoradoAction@gmail.com

We need SUPPORT → www.facebook.com/groups/5GColoradoAction/ ← Please JOIN now

Evidence: Dense 4G/5G sWTFs Are Harming Residents

Sacramento, CA: *60 feet* from home | San Francisco, CA: *12 feet* from home | Santa Rosa, CA: *25 feet* from home



After one month, children in Sacramento **sickened**; and family spent \$10,000+ to shield home; after three months, woman in San Francisco was diagnosed with **brain tumor** (removed Mar 2, 2020); after two months, woman in Santa Rosa **moved and sold her home** at 23% below market value.

Electromagnetic Sensitivity

<https://www.omegaonline.org/article-details/The-Prevalence-of-People-With-Restricted-Access-to-Work-in-Man-Made-Electromagnetic-Environments/2402#:~:text=The%20prevalence%20of%20people%20restricted,moderate%20IEI%20EMF%20EHS.>

The Prevalence of People With Restricted Access to Work in Man-Made Electromagnetic Environments

The current evidence is assessed as indicating that, in addition to subconscious sensitivity, the prevalence of IEI-EMF/EHS is **between about 5.0 and 30 per cent of the general population for mild cases, 1.5 and 5.0 per cent for moderate cases and < 1.5 per cent for severe cases.** The prevalence of people restricted in their access to work in a man-made electromagnetic environment is estimated at 0.65 per cent of the general population, at about 18% of the general population with moderate IEI-EMF/EHS. The estimate of 0.65% equates to 435,500 people in the UK's population of 67 million

How Many Potential Lawsuits Could Arise from Scottsdale Residents with Electromagnetic Sensitivity?

If this statistic **extrapolates** to Scottsdale,
24/7 exposure to high levels of radiation
could affect between **12,766 to 76,593**
residents who have only **MILD** sensitivity!

Wireless industry will **NOT** pay for this.

So-Called “small” Wireless Telecommunications Facilities (sWTFs) are Falsely Branded

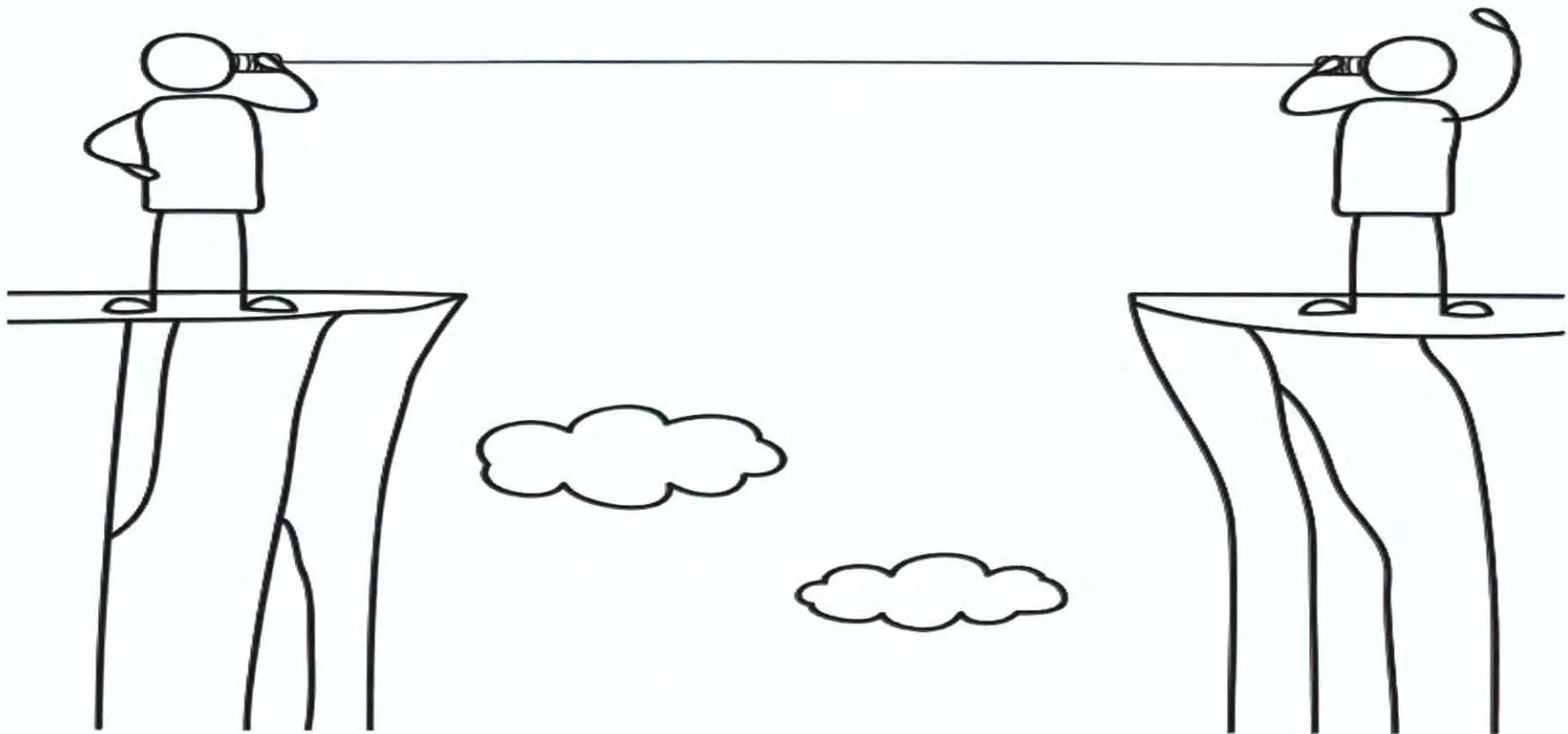
more powerful than 0.002 $\mu\text{W}/\text{m}^2$ (-85 dBm) from a Macro cell

What Really Matters; Excessive Effective Radiated Power (ERP) That Results in RF Microwave Radiation Intensities in 2nd-Story+ Bedrooms

<u>Cell Tower</u>	<u>Vertical</u> Distance Off Ground	<u>Horizontal</u> Distance Away	<u>Power</u> in Bedroom (2nd Story)
Small Cell	35 Feet	60 Feet	50,000 Ave. Radiation Units
Macro Cell	200 Feet	2,500 Feet	0.002 Ave. Radiation Units

Note: -85 dBm provides **5 Bars** of telecom service (source: [link to](#) *The Truth About 4G/5G in Sacramento*)

0.1 watts = 5 bars, 1-mile radius, 3000 callers



1996 H. R. Conf. Report No. 104-458

*“The conferees also **intend** that the phrase “unreasonably discriminate among providers of functionally equivalent services” will provide localities with the flexibility to treat facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under **generally applicable zoning requirements** even if those facilities provide functionally equivalent services. For example, the conferees **do not intend** 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.**”*

Operations of Cell Towers is NOT Preempted

See the
Federal Telecommunications Act
of 1996 (“TCA”)
at **47 U.S. Code § 332 (c)(7)(B)(4)**

TCA Preemption Clause: “Environmental Effects” are NOT the Same as “Health Effects”

“No State or local government ... may regulate the **placement, construction, and modification** of personal wireless service facilities on the basis of the **environmental effects** of radio frequency emissions ...”

“environmental effects”



“health effects”



Permit Applications are Missing NEPA Reviews

4. Permit **applications** are missing NEPA reviews and are therefore **incomplete** and **unlawfully permitted**. Such action is *ultra vires* – outside the law.

December 26, 2019

PRESIDENT
Alex Gahagan

Via email (Drew.Parker@westernspring.com)
Drew Parker
Government Relations Specialist, Central Region
Crown Castle
947 Parkview Blvd
Lombard, Illinois 60148

RECIPIENT
Head of Region
William Edmister
James Turill
Nancy Chan
Scott Pyle
JAMES JEFF

RE: Village of Western Springs
Crown Castle Application #2
Small Wireless Facility on Wood Covered Utility Pole
Location: 5040 Fair Stone Avenue

CLIENT
James Hirsch

MANAGER
Sigmund

DIRECTOR
Chris Lee
Pat Buchanan
Mark Bush
Matthew Spahr
Patrick Murray
Oliver Rubin

The Village of Western Springs is in receipt of a small cell application emailed to the Village by you on November 26, 2019 (the "Application"). Staff has reviewed the Application and finds it to be incomplete and/or deficient based on the following:

- The Application was not submitted on the Village's Small Cell Application Form. A copy of that form is attached for your use. The Village's Small Cell Application Form should be completed and returned with your residential.
- Please provide all information required in the Application Checklist and Requirements section of the Village's Small Cell Application Form, including, but not limited to, the following missing information:

... [snip] ...

- Provide information showing this installation has received any required review (e.g., environmental assessment and review) by the FCC pursuant to the National Environmental Policy Act ("NEPA"), or is exempt from such requirements. If exempt, please state what the basis is for the exemption and provide proof, including supporting documents that establish that this installation meets such exemption.

WILLAGE OF
WESTERN SPRINGS
Illinois

What Are You Looking For?

Government Departments Business Residents Community How Do I...?

Home - News Flash

30 Permit Applications

Posted on December 18, 2019

Crown Castle Permit Application #1 (withdrawn 1-8-20)

- **THE PERMIT APPLICATION WAS WITHDRAWN BY CROWN CASTLE PERMIT LLC, AS OF 08/30/19.**

Crown Castle Permit LLC has submitted a permit application for the "Installation of a small wireless facility on an existing wood utility pole" within the Village of Western Springs. The permit application is currently under review by the Village. The permit application is provided below. Questions pertaining to the permit application should be directed to Crown Castle.

APPLICANTS:
Crown Castle Fiber LLC
947 Parkview Blvd
Lombard, IL 60148

Drew Parker
920.692.0209 (2618.8418.1201)
P. 630.463.1777
C. 347.213.8642

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All Categories

Permit Applications

Government News

Newsroom Services

Residential

Small Cell Applications

Projects

Inadequate Insurance = Huge Liability for City of Scottsdale

“Self-insurance”: Bait and Switch

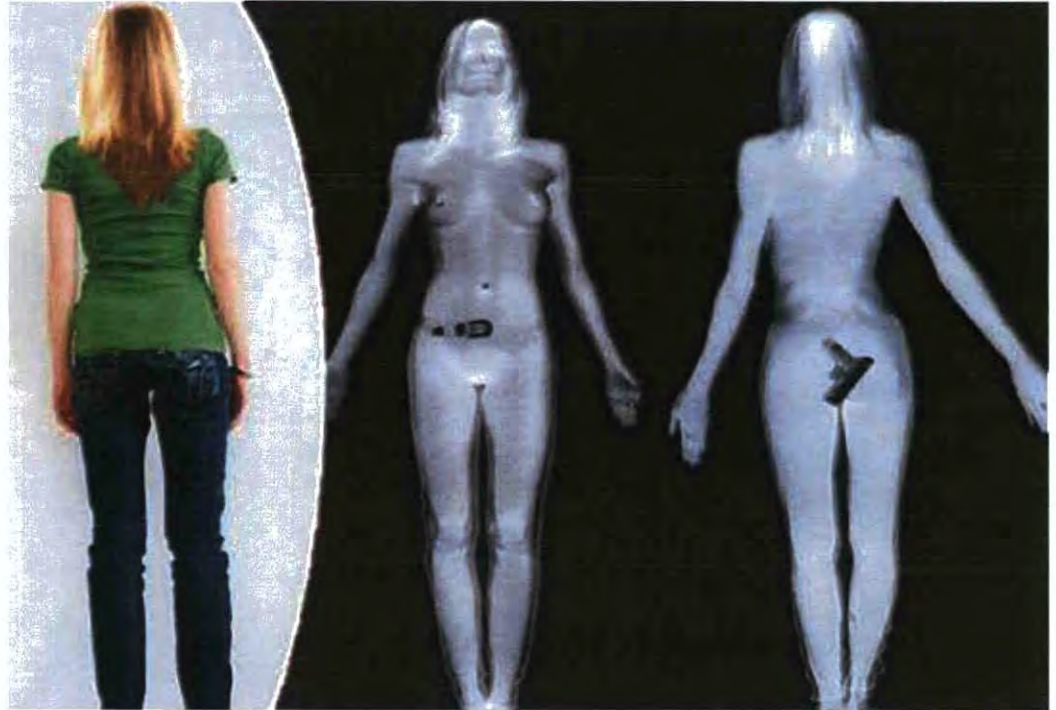
Pollution exclusions

Inadequate assets



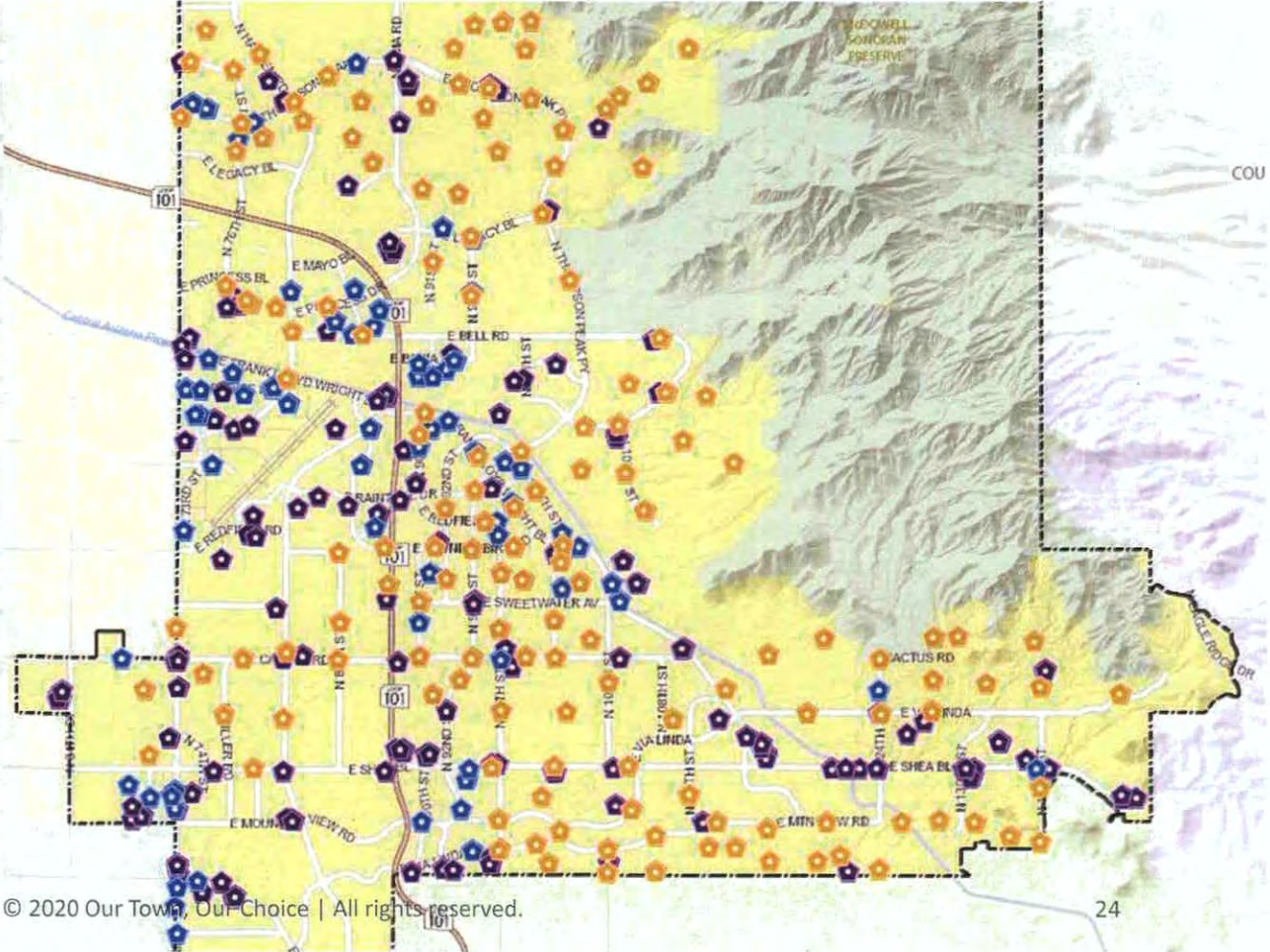
Privacy is Gone in Front Yards (and in homes) . . .

- **Loss of privacy:**
24/7 surveillance, just like in airports, mwWaves "see" through clothes & bounce off skin
- VentureBeat: body scanners show nearly nude images of people trying to board flights; OSI's Rapiscan Systems moving to other government agencies.

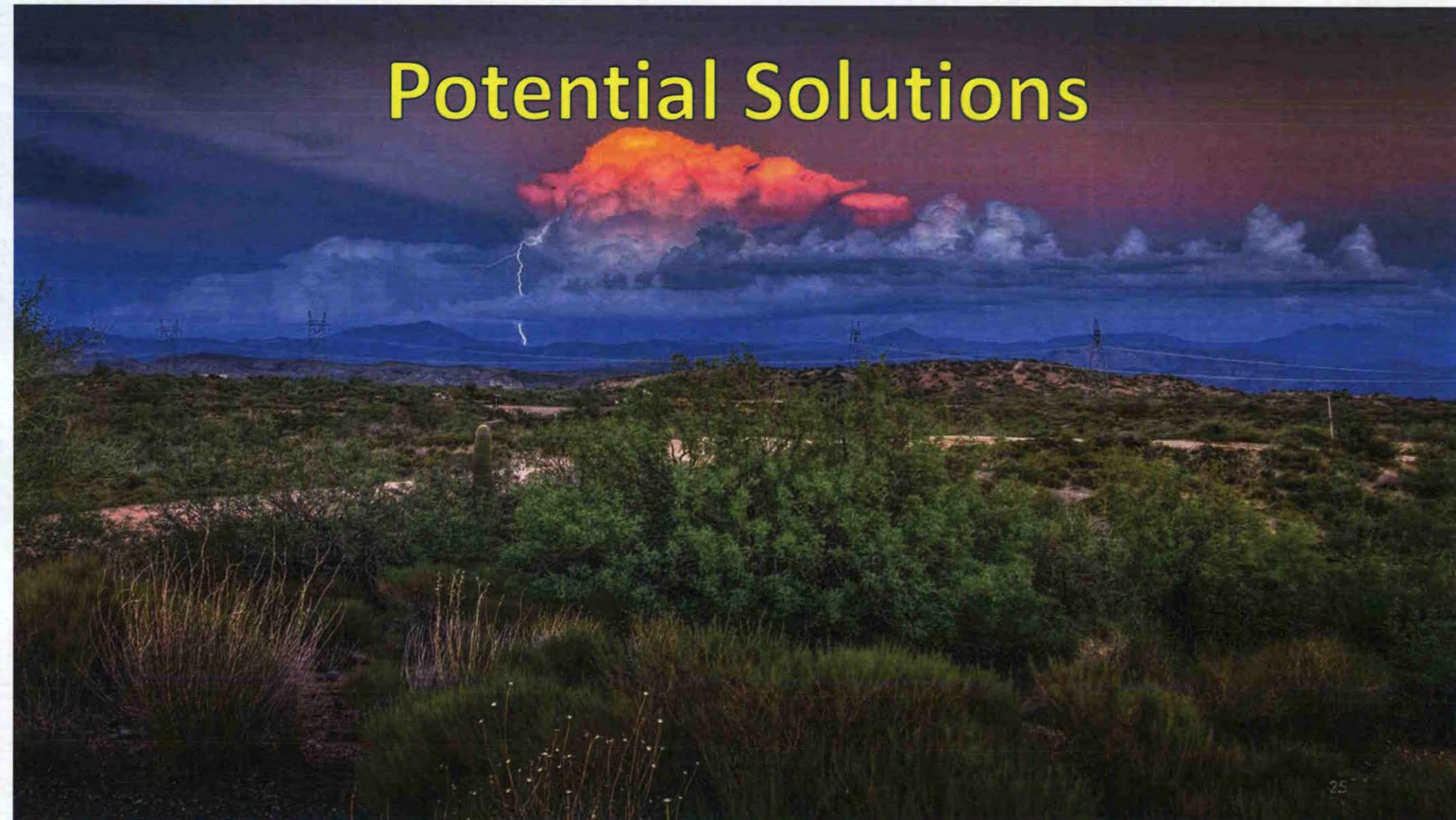


Millimeter-Wave Body scanners allow routine digital strip searches of individuals who are not suspected of any crime. For more info, see [EPIC: Radiation Risks lawsuit](#) and [EPIC: ATR lawsuit](#), and [EPIC: Suspension of Body Scanner Program](#)

Other States: “Let’s NOT End Up Like Scottsdale, AZ”



Potential Solutions



Regulate Vertical and Horizontal Distances and Effective Radiated Power (ERP)

V • H • P

The Three Amigos of Antennas!

Vertical • Horizontal • Power


There's a New Sheriff in Town — a Friendly \$5 Fuse



City Has Unwittingly Assumed Telecom Liability

Self-Insurance is a Bait-and-Switch; Current General Liability Insurance has RF-EMR Pollution Exclusion

<https://scientists4wiredtech.com/thisworks/>

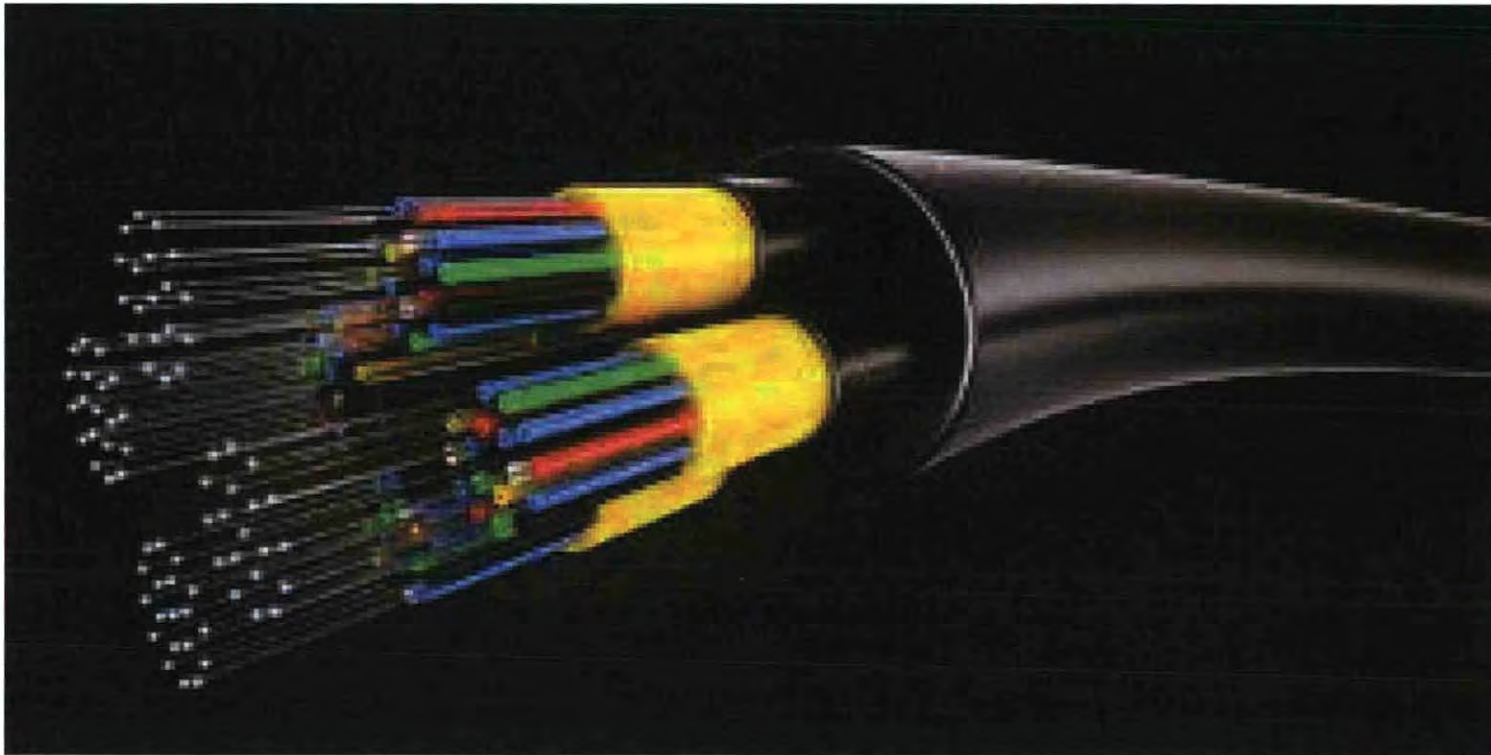


Why sWTFs Installed in Residential Areas Are Hazardous to Your Family:

- **Safety Hazard** — Constant pulsed, data-modulated, Radio-frequency Electromagnetic Microwave Radiation (RF-EMR) suppresses melatonin and the immune system, causes direct neurological, reproductive and DNA damage and significantly increases chance of contracting cancer. One sWTF antenna can output **22,000+ Watts** of Effective Radiated Power (ERP) . . . when all we need is **0.1 Watt** (ERP) for 5-Bars on a Cell Phone for calls.
- **Privacy Hazard** — Wireless cos. or Govt. agencies can install whatever they want on the sWTF: video cameras, listening and microwave devices for facial recognition and 24/7 tracking.
- **Property Value Hazard** — sWTFs significantly reduce property values. A peer-reviewed study in the Appraisal Journal, said homes near cell phone towers are devalued 20% to 25%.

Fiber Optic Broadband and Wireless Broadband are NOT Functionally Equivalent Services

<https://ourtownourchoice.org/leg/local/glen-ellyn-ordinances/improved-ordinance/#fttp>



Do We Really Want a “5G Future” . . .



. . . in a soup of microwave radiation?

Invite the Public to the Table

- Work with the public on **New Broadband Plan** that **balances the needs** of Natural Persons (residents) and Unnatural persons (Billion Dollar Telecom Cos.)
- Create **New ERP Policing Plan** to **generate revenue** by locally regulating Vertical, Horizontal and Power for Wireless Telecom Facilities (WTFs), consistent with [47 U.S. Code § 324](#)
- Create **New Equipment Standards** that respect residents' constitutional and inalienable rights to safety and privacy



**Thank you for your
kind attention!**

About the Presenter

Profesora



Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 12:25 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #148)

Comment on 09-22-2020 Agenda Item (response #148)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 12:24:13 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	CITY COUNCIL WORK STUDY SESSION AGENDA #5
COMMENT	
Comment:	<p>Good evening, Please see the information provided by Verizon. Thank you for your consideration and please feel free to contact me with any questions. Thank you, Matt Clark Verizon Arizona State Director of Government Affairs Verizon is building the future with small cells. To provide our customers with excellent and reliable service, Verizon is deploying new wireless technology in Scottsdale, commonly referred to as small cells. Small cell deployments will enhance the speed and reliability of wireless service to keep up with increased data needs and to provide next generation wireless service where people live, work and play. Why are we expanding the wireless network? More people than ever before rely on wireless connections to manage their lives and businesses: • According to the June 2019 Ericsson Mobility Report, mobile data traffic per smartphone will rise from 7 GB per month in 2018 to 39 GB per month in 2024. • Around 57 percent of American households are now wireless only for voice service. • In January 2020, CTIA projected that there will be 31 billion connected devices by 2023. More wireless traffic needs more wireless facilities, just</p>

like more vehicle traffic needs more lanes. • Many wireless users share each cell site and congestion may result when too many try to use it at the same time. • Wireless coverage may already exist in an area, but with data usage growth increasing exponentially each year, more capacity is needed. • To meet capacity demands and provide the reliable service customers have come to expect from Verizon, we need to add more wireless antennas closer to users and closer to other cell sites. What is "5G?" 5G is the fifth generation of wireless communication technology. The first generation (1G) enabled cell phones with voice capability. The second generation (2G) brought text and voicemail. The third generation (3G) made possible smartphones, the app economy, and wireless access to the internet. And the fourth generation (4G) enabled video streaming and many other connected services and devices that we rely on and enjoy today. Verizon is upgrading to 5G to improve existing communications and to support innovative applications. 5G will enable self-driving cars, virtual and augmented reality, smart homes, smart buildings, and smart cities. 5G is at the heart of the Internet of Things. What makes wireless safe? No matter which generation of technology we use, all Verizon equipment must comply with federal government safety standards. Those standards have wide safety margins and are designed to protect everyone, including children. In December 2019, in a unanimous and bipartisan decision, the FCC affirmed those safety standards. The FCC took action after a lengthy proceeding, in consultation with multiple federal agencies and close examination of the RF research conducted for decades by scientists in the US and around the world. The research continues to this day, and agencies continue to monitor it. How does 5G work? Like the equipment used for earlier generations of wireless technology, 5G equipment uses radio waves, or radiofrequency (RF) energy. It's the same type of energy that is all around us and that has been used safely for over 100 years. RF energy is used for a multitude of consumer devices, including radios, televisions, cordless phones, cell phones, WiFi routers, and garage door openers. 5G equipment includes "small cells," which are low-powered radios attached to antennas. These small cells send and receive information from wireless devices using radio waves. 5G small cells support both mobile and fixed broadband internet services to homes and businesses. How is Verizon building the 5G network? You may see us installing 5G small cells on poles and at other locations in your neighborhood. The 5G small cells sometimes are physically closer to users and more numerous than the wireless equipment we've used in the past. That's because the 5G radio waves that are capable of supporting very fast speeds and low latency do not travel as far as the radio waves that 4G service uses. So to provide Verizon's 5G Ultra Wideband service, we have to use more small cells to cover the same area as 4G service. Verizon 5G is helping

companies and communities redefine what's possible. Over Verizon's 5G Ultra Wideband network, local governments and businesses alike will be able to turn real-time insights into action. A pivotal component of Verizon's 5G network strategy is investment in smart city solutions. By 2025, the global market for smart city services is estimated to reach \$2.57 trillion. Beyond the numbers, improving people's mobility in their evolving cityscapes has the potential to minimize the amount of time they spend snarled in traffic, searching for points of interest or waiting for important deliveries—the kind of improvements that pay dividends for decades. "We talk about 5G as the fourth industrial revolution," said Verizon CEO Hans Vestberg. "What we are doing is transformational. Here at Verizon, we not only have the best network for today, but also for tomorrow. It's why we always say: We don't wait for the future. We build it."

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name: Matt Clark

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email: Matthew.Clark2@verizon.com

Phone: (480) 392-4233

Address: 126 West Gemini Drive Tempe AZ 85283

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 3:17 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #153)

Comment on 09-22-2020 Agenda Item (response #153)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 3:15:52 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	<p>To: Scottsdale City Officials From: Kari Wagner, Scottsdale, AZ September 22, 2020 Dear Officials: I attest and affirm that the following statements are true, accurate and within my personal knowledge: Three and a half years ago, I founded a community wellness center to educate people who wish to live a healthier lifestyle. Increasingly, healthy people in the community are reporting symptoms such as shortness of breath and nausea that they attribute to the radiation from wireless facilities. Many small business owners and wellness practitioners I work with are also leaving Scottsdale and selling their homes on account of the dense deployment of these facilities. Even though, technically, the radiation itself is regulated by FCC, nothing in federal guidelines accounts for the multiplication of radiation exposure by time. This means that the 24-7-365 duration of wireless facilities' exposure is entirely unaccounted-for in federal and other laws. Thus, the protection of the public health, safety and welfare falls to you, our local officials. Please hear us out. On page 14 of City Planner Keith Niederer's presentation, the following statement is</p>

printed following the infamous preemption at 47 U.S.C. §332 (c)(7)(B)(4): "This would include any alleged health impacts from environmental exposure to radiofrequency emissions." This statement is false. This does not exist in any law, and derives from a fabrication in the 2nd Circuit; which, even if true, which it is not, would not apply here in the Ninth Circuit. This egregious misrepresentation on the public record requires immediate correction by the City. Please correct this. In fact, the Telecommunications Act of 1996 is purposed "to promote the safety of life and property", and any law at the state or local level purporting to contradict this is ultra vires. See the U.S. Congress's Conference Report, which additionally confirmed that "safety" is among the regulatory authorities of local governances. I have expressed no matter of "concern" or "passion", but solely matters of substance – of fact and law. I accept your oath of office to protect the safety of life and property.

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name: Kari Wagner

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email: kariwagner@yahoo.com

Phone: (480) 868-1346

Address: 2305 E Folley St, Chandler 85225

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 3:19 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #154)

Comment on 09-22-2020 Agenda Item (response #154)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 3:17:50 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G
COMMENT	
Comment:	<p>Dear Scottsdale Officials: I attest and affirm that the following statements are true, accurate and within my personal knowledge: As a doctor, my first obligation is Primum non nocere – First, do no harm. As public officials, your first obligation under your respective oaths is to protect the public safety. No agency, federal or otherwise, has acted to protect the public safety of Scottsdale residents from microwave radiation. In my review of many scientific studies in the vast field of radiofrequency/ microwave radiation bioeffects – more than 20,000 studies over the course of more than a century of research – I see overwhelming proof of adverse effects at whole-organism, system, organ, cellular, genetic and molecular levels. The mechanisms are positively known. There is no doubt that the deployment of such radiation, particularly in close proximity to sensitive areas such as residential zones, and near schools, playgrounds and healthcare facilities, is seriously harmful, both immediately and in the long-term, to humans, animals, insects and plants. I present herewith 12 scientific studies concluding harm to</p>

humans from wireless infrastructures. In conclusion, you must by law review applications thoroughly, including their respective antennas specs and effective radiated power (ERP), which are entirely within your regulatory jurisdiction, and deny those in excess and those without need, especially where in proximity to residences and children's study and play areas, even as the U.S. Congress instructed you to do in its Conference Report for the Telecommunications Act of 1996. I have expressed no matter of "concern" or "passion", but solely matters of substance – of fact and law. I accept your oath of office to protect the safety of life and property. Signed this 22nd day of September 2020, Benjamin Benulis, D.C.

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name:

Benjamin Benulis

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:

drben@fastmail.com

Phone:

(512) 300-5574

Address:

2901 E Indian School Rd, Apt 86 Phoenix AZ 85016

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 3:29 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #155)

Comment on 09-22-2020 Agenda Item (response #155)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 3:27:58 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	Deployment of 5G
COMMENT	
Comment:	<p>To: Scottsdale City Officials From: Julie Henderson, Scottsdale, AZ September 22, 2020 AMERICANS WITH DISABILITIES ACT AND FEDERAL HOUSING ACT REQUESTS. Dear Officials: I attest and affirm that the following statements are true, accurate and within my personal knowledge: This is an official request under the Americans with Disabilities Act (ADA) and the Federal Housing Act (FHA). As a National Board Certified Functional Medicine Certified Coach and practitioner, I have been aware of the current deployment. In about September 2019, my partner Brad and I both suddenly experienced the same unusual symptoms on the same day. Since that time I've felt worse... Brad was a healthy, 49-year-old, 6'4" man. On November 7, 2019 Brad told me he had heartburn. We went home, where he reported more heartburn and pain in his arms. He then had dry vomiting. He slept overnight and reported feeling better; but in the morning, after driving to his home, was nauseous again. I found him with a pool of blood around his head. He'd had a heart attack. At his home there was a so-called "smart" meter not far from his</p>

bedroom, and a small cell wireless facility very close to his home irradiating 24-7. This past weekend, I breathed in and had a sharp pain on my right upper chest, which lasted 22 hours, for which reason I went to the ER. The ER pros did various studies and found what was apparently a clot... This is unthinkable for me. The fact is that microwave radiation adversely affects blood cells, causing sticky, thick blood. It is possible that the marked increase in this radiation from newly constructed wireless facilities in Scottsdale caused these adverse events. I attach hereto some cardiac and blood pressure studies concluding harmful effects from such radiation.

<https://www.westonaprice.org/health-topics/does-short-term-exposure-to-cell-phone-radiation-affect-the-blood/> after 45 minutes of carrying exposure, Rouleaux formations occur; after 45 minutes active exposure, echinocytes form As a person who is now more susceptible to cardiac and Lung events, I've been advised by medical professionals to avoid ambient microwave radiation. So I hereby request under the Americans with Disabilities Act and the Fair Housing Act and its Amendments that City officials immediately enact a moratorium for the purpose of redesigning the Scottsdale ordinance to be a comprehensive Communications Ordinance inclusive of non-wireless options such as fiber-optics to the premises (FTTP), and that you revoke any permits that were not lawfully issued for wireless facilities. I seek to live within a community that is conducive to all living being's health. I have expressed no matter of "concern" or "passion", but solely matters of substance – of fact and law. I accept your oath of office to protect the safety of life and property. In Health we Seek, Julie Henderson, Scottsdale, AZ 85260 juliehenderson526@gmail.com 602.570.6099

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name:

Julie M Henderson

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:

juliehenderson526@gmail.com

Phone:

(602) 570-6099

Address:

15600 N Frank Lloyd Wright Blvd #1054 Scottsdale, 85260

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 3:45 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #156)

Comment on 09-22-2020 Agenda Item (response #156)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 3:43:48 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Wireless Request
COMMENT	
Comment:	https://scientists4wiredtech.com/thisworks/ This video shows a legal, workable solution that is not in conflict with HB2365 and modifies POWER output of antennas to a level that provides all the voice telecommunications we are required to provide and is SAFE. OPERATIONS of antennae was never pre-empted. Local officials have authority and obligation to use this regulatory power to uphold public safety.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Aliyah Marsh
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	

Email:	aliyahmarsh@gmail.com
Phone:	(602) 769-0193
Address:	7674 East Sutton Drive
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 3:48 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #157)

Comment on 09-22-2020 Agenda Item (response #157)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 3:47:24 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G Wireless Request
COMMENT	
Comment:	<p>The slide presentation Keith Niederer will be presenting tonight contains misinformation. Please see below: The slide presentation Keith Niederer will be presenting tonight contains misinformation. Please see below: Slide states: " 4G operates in the MHz frequency range. 5G will operate in the GHz range. RESPONSE: 4G is PULSE-MODULATED MICROWAVE RADIATION (0.3 - ~3 GHz), ALL of which has been proven harmful (see studies previously submitted). 5G is MICROWAVE RADIATION adding higher freq. to 4G (up to 70 GHz or higher....) 4G + 5G is microwave radiation. Adding them together is worse (and they both work in tandem)! Microwave (0.3-300 GHz) radiation is harmful !! "MHz" implies lower frequencies (AM.FM radio, which is not necessarily harmful). Misrepresentation!) • Advantage: GHz has a greater bandwidth, giving higher data download speeds RESPONSE: Is faster download speed worth harming health and ecology? Disadvantages: GHz has a shorter range, requiring a higher density of antenna locations. RESPONSE: As long as the basis of</p>

regulation is not environmental concerns, which are NOT health concerns (see comment on 2nd Circuit vs. 9th Circuit rulings below), YOU can regulate placement and keep densification OUT of residential neighborhoods. • Use of higher frequencies are creating health concerns for some individuals.

RESPONSE: Nobody is expressing "health concerns", or "perceived health effects", but rather have sent you hundreds of references to peer-reviewed, published studies demonstrating actual harm to persons, animals and insects. HB 2365 is certainly a real law, but it is not in compliance with federal laws in a number of ways. "Exempts Small wireless facilities from zoning process" There can be no exemptions for so-called "small" wireless facilities, since the D.C., Circuit Court of Appeals ruled on Aug 9, 2019 that FCC had overreached in its promotion of these facilities, and in its presumption that a NEPA approval of 1995 would qualify for this new deployment of ~800,000 close-proximity facilities that have usually very high Effective Radiated Power (ERP). HB 2365 was signed Aug. 9, 2017; thus the high federal court's decision supersedes HB 2365's provisions to the wireless industry. HB 2365 omits the federal regulatory titles under which it is intended to operate, which renders the law inoperable. HB 2365 cannot override lawfully any moratoria to be enacted on the basis of a public health emergency, in which the state of AZ and the City of Scottsdale currently fall, due to cv19. Moreover, a de facto public health emergency is occurring, if not officially declared, from the irradiation of nearly ubiquitous wireless facilities in Scottsdale. • What the Federal Govt. Tells Cities: 47 U.S. Code § 324 – "In all circumstances . . . all [licensed] radio . . . shall use the minimum amount of power necessary to carry out the communication desired." FCC Order 18-111: ¶ 157. "in the case of a natural disaster or other comparable emergency* an express or de facto moratoria that violates section 253(a) may nonetheless be "necessary" to "protect the public safety and welfare". . . emergency moratoria are legally permissible under 47 USC § 253." *COVID-19 is such an emergency! On Page 14, there is no indication of where the law in question is being quoted, or where the quote ends, indicating intentional misrepresentation. In fact, the last sentence is not and has never been any part of any law. It does not exist in law, and is merely a fabrication. A judge in the 2nd Circuit, purporting to quote this preemptive section, actually misquoted it on the record, which is in error and by its replication on other records is fraudulent. We are in the Ninth Circuit, in any case! •

<https://scientists4wiredtech.com/compare/> •
<https://scientists4wiredtech.com/legislation/1996-telecommunications-act-conference-report/> TCA preemption at 47 U.S.C. §332 (c)(7)(B)(4) is also misquoted. Highly dishonest to paraphrase "Mostly" is a characterization. The fact is that all FCC orders that have been superseded by the courts need to be viewed specifically and not ignored. One cannot ignore

the federal courts' dispositions by simply mischaracterizing them. "Challenges to FCC Orders" does not even name the challenges. It suppresses the citation such that no one on the City Council can look them up to check. Case No, 18-1129 Keetoowah et al. v FCC and Case No, 18-1051 Mozilla v FCC. FCC's categorical exclusions were merely rules, and admittedly by FCC itself, PRESUMPTIVE RULES, which are not laws, and do not override the US Congress or the federal courts. On page 14, RE (mis) quotation of TCA preemption clause: Please notice that OPERATIONS of facilities is NOT included. It was removed in 1996. It was never pre-empted. You can regulate operations and you can cap the power to safe levels. Additionally, per Per 47 U.S. Code § 324 "In all circumstances...all [licensed] radio...shall use the minimum amount of power necessary to carry out the communication desired." "Small" WTF 's @ 60 feet from residence using 25 Million times more power than needed for required voice service All other powers are given to local authorities. Please see the Power Point presentation I submitted via email (it did not attach to public comment page).

Comments are limited to 8,000 characters and may be cut and pasted from another source.

NAME

Name: Valeri Marsh

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email: 6marshes@gmail.com

Phone: (602) 723-9745

Address: 7674 E Sutton Drive

Example: 3939 N. Drinkwater Blvd, Scottsdale 85251

Cordova, Rommel

From: webmaster@scottsdaleaz.gov
Sent: Tuesday, September 22, 2020 7:29 PM
To: Cordova, Rommel
Subject: Comment on 09-22-2020 Agenda Item (response #162)

Comment on 09-22-2020 Agenda Item (response #162)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 09-22-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/09-22-2020
Submission Time/Date:	9/22/2020 7:28:23 PM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	5G cell towers
COMMENT	
Comment:	I strongly oppose the continued rollout of 4G/5G cell towers because pulse-modulated microwave radiation produces proven detrimental health effects, cell towers near residences decreases property values by an average of 20%, and the wireless industry has conducted no studies showing they are safe.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	Vianeit Martel
CONTACT INFORMATION	
Please provide the following information so someone may follow up with you if they have questions about your comment (optional).	
Email:	Mvianeit@gmail.com

Phone:	
Address:	
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	

Jagger, Carolyn

From: Paul McGavin <paul.mcgavin@scientists4wiredtech.com>
Sent: Tuesday, September 22, 2020 4:39 PM
To: Scott, Sherry; Lane, Jim; Whitehead, Solange; Klapp, Suzanne; Korte, Virginia; Littlefield, Kathy; Milhaven, Linda; Phillips, Guy; Thompson, Jim; Stockwell, Brent; Murphy, Bill; Jagger, Carolyn; Niederer, Keith; Hartig, Brad
Cc: Lank, Kim
Subject: Re: Arizona State Law Violations Prohibiting Members of the Public from Attending 4G/5G Council Study Session

⚠ External Email: Please use caution if opening links or attachments!

September 22, 2020

Ms. Sherry Scott
City Attorney
City of Scottsdale, AZ
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251
480-312-2405

To: City of Scottsdale City Council Members:

Mayor, Jim Lane — jlane@ScottsdaleAZ.gov
Vice Mayor Solange Whitehead — SWhitehead@Scottsdaleaz.gov
Council Member, Suzanne Klapp — sklapp@scottsdaleaz.gov
Council Member, Virginia Korte — vkorte@scottsdaleaz.gov
Council Member, Kathy Littlefield — klittlefield@scottsdaleaz.gov
Council Member, Linda Milhaven — lmilhaven@scottsdaleaz.gov
Council Member, Guy Phillips — gphillips@scottsdaleaz.gov

To: City of Scottsdale Employees

City Manager, Jim Thompson JThompson@ScottsdaleAZ.gov | 480-312-2811
Assistant City Manager, Brent Stockwell BStockwell@ScottsdaleAZ.gov | 480-312-7288
Assistant City Manager Bill Murphy BMurphy@ScottsdaleAZ.gov | 480-312-7954
City Attorney Sherry Scott sscott@ScottsdaleAZ.gov | 480-312-7816
City Clerk Carolyn Jagger cjagger@ScottsdaleAZ.gov | 480-312-2411

Re: Arizona State Law Violations Prohibiting Members of the Public from Attending 4G/5G Council Study Session, Round 2

[To City Clerk, Carolyn Jagger <cjagger@ScottsdaleAZ.gov> (480-312-2411). Will you please put this email and its attachments into the public record for the 9/22/2020 City Council Meeting, Work Study Item #3: 4G/5G Wireless — Presentation, discussion and possible direction to staff regarding the implementation, process and framework for locating small wireless facilities within the City. Thank you for doing so.]

>>>> Kari Wagner wrote on 9/22/2020 4:28 PM:

Hi. We were denied the Zoom Link and escorted out of the building by head of security with 4 police officers behind him.

We were asked to wait outside. He did come out and politely informed us the only comments they have taken since March is via the public comment section (which we are all aware of). There is no zoom link. It's not on zoom at all- per city.

Ben was told when he arrived they aren't meeting in the building- which would obviously be a **blatant lie**.

I was informed by telepho9ne today around 11:00 am by Cathleen Butteweg, MMC, Deputy City Clerk/Records Manager that the following was going to happen tonight.

City Council Members will attend the 9/22/2020 meeting in person at the Kiva; tonight's video should clear up the truth of the matter

1. Mayor, Jim Lane — jlane@ScottsdaleAz.gov | 480-312-xxxx
2. Vice Mayor Solange Whitehead — SWhitehead@Scottsdaleaz.gov
3. Council Member, Suzanne Klapp — sklapp@scottsdaleaz.gov
4. Council Member, Virginia Korte — vkorte@scottsdaleaz.gov
5. Council Member, Kathy Littlefield — klittlefield@scottsdaleaz.gov
6. Council Member, Linda Milhaven — lmilhaven@scottsdaleaz.gov
7. Council Member, Guy Phillips — gphillips@scottsdaleaz.gov

City Officers will attend in person on 9/22/2020 meeting in person at the Kiva; tonight's video should clear up the truth of the matter

- City Manager, Jim Thompson JThompson@ScottsdaleAZ.gov | 480-312-2811
- Assistant City Manager, Brent Stockwell BStockwell@ScottsdaleAZ.gov | 480-312-7288
- Assistant City Manager Bill Murphy BMurphy@ScottsdaleAZ.gov | 480-312-7954
- City Attorney Sherry Scott sscott@ScottsdaleAZ.gov | 480-312-7816
- City Clerk Carolyn Jagger cjagger@ScottsdaleAZ.gov | 480-312-2411

Staff Members will Attend the 9/22/2020 meeting by Zoom (already set up, folks)

1. Telecom Policy Coordinator Keith Niederer Niederer@ScottsdaleAZ.gov | 480-312-2953
2. Randy Grant, Planning and Development Services

Why must city employees lie to members of the pubic, their constituents, taxpayers and voters?

—
Regards,

Paul McGavin
Scientists For Wired Technology
work: 707-981-5522
text: 707-939-5549
skype: paulmcgavin

Jagger, Carolyn

From: Paul McGavin <paul.mcgavin@scientists4wiredtech.com>
Sent: Tuesday, September 22, 2020 4:16 PM
To: Scott, Sherry; Lane, Jim; Whitehead, Solange; Klapp, Suzanne; Korte, Virginia; Littlefield, Kathy; Milhaven, Linda; Phillips, Guy; Thompson, Jim; Stockwell, Brent; Murphy, Bill; Jagger, Carolyn; Niederer, Keith; Hartig, Brad
Cc: Lank, Kim
Subject: Arizona State Law Violations Prohibiting Members of the Public from Attending 4G/5G Council Study Session
Attachments: 20200922145628230.pdf

⚠ External Email: Please use caution if opening links or attachments!

September 22, 2020

Ms. Sherry Scott
City Attorney
City of Scottsdale, AZ
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251
480-312-2405

To: City of Scottsdale City Council Members:

Mayor, Jim Lane — jlane@ScottsdaleAZ.gov
Vice Mayor Solange Whitehead — SWhitehead@Scottsdaleaz.gov
Council Member, Suzanne Klapp — sklapp@scottsdaleaz.gov
Council Member, Virginia Korte — vkorte@scottsdaleaz.gov
Council Member, Kathy Littlefield — klittlefield@scottsdaleaz.gov
Council Member, Linda Milhaven — lmilhaven@scottsdaleaz.gov
Council Member, Guy Phillips — gphillips@scottsdaleaz.gov

To: City of Scottsdale Employees

City Manager, Jim Thompson JThompson@ScottsdaleAZ.gov | 480-312-2811
Assistant City Manager, Brent Stockwell BStockwell@ScottsdaleAZ.gov | 480-312-7288
Assistant City Manager Bill Murphy BMurphy@ScottsdaleAZ.gov | 480-312-7954
City Attorney Sherry Scott sscott@ScottsdaleAZ.gov | 480-312-7816
City Clerk Carolyn Jagger cjagger@ScottsdaleAZ.gov | 480-312-2411

Re: Arizona State Law Violations Prohibiting Members of the Public from Attending 4G/5G Council Study Session

Dear Ms. Scott,

[To City Clerk, Carolyn Jagger <cjagger@ScottsdaleAZ.gov> (480-312-2411). Will you please put this email and its attachments into the public record for the 9/22/2020 City Council Meeting, Work Study Item #3: 4G/5G Wireless — Presentation, discussion and possible direction to staff regarding the implementation, process and framework for locating small wireless facilities within the City. Thank you for doing so.]

Nice try Ms. Scott. I have attached your latest letter to this email.

Please do not mischaracterize my efforts today, as you have. I am not "upset" in any way, as you allege. I am clearly stating the public's rights under Arizona State law and the public's intention to enforce their to **attend** public meetings in Arizona, starting at 5:00 pm on Sept 22, 2020. You and other City of Scottsdale employees have a duty and an obligation

to follow Arizona State law and allow members of the public to **attend** tonight's City of Scottsdale City Council meeting. Short of doing that, you and other City of Scottsdale employees are willfully breaking Arizona State law, the very State Open Meeting act that you are citing.

Inexplicably, you continue to confuse several plain words that are easy to define and understand. Attend is not the same as view or listen. as we all know.

Go here for an explanation: <https://youtu.be/o26Y7Tgm6wE?t=14m42s>

You also **falsely** state that when one views a live video stream -- with no opportunity to be called upon to offer public comment -- then one is **attending** a meeting. That is not true; one is only listening or viewing the meeting. The difference is that when doing the latter, one would not be able to provide public comment if invited to do so, by the Mayor. Clearly, as an active member of the Arizona bar, you are capable of understanding that no one should accept the thinly-veiled ruse in your letter, attached.

The additional mechanism of providing only written public comment is not sufficient, since there is no guarantee that the City Council members will read the written public comments. The public prefers to to exercise its **inalienable rights** to redress our grievances to our government **using our own voices**, face-to-face, employing all of the tools of persuasion open to residents of the State of Arizona -- the very same tools the City of Scottsdale is offering City of Scottsdale employee, Telecom Policy Coordinator Keith Niederer, when he presents [this presentation](#). via a Zoom link.

I have politely and repeatedly asked for any of the following that would enable the public to participate this evening:

1. A Zoom link to attend the 9/22/2020 public meeting -- a Zoom link similar to that that which the City has provided to Telecom Policy Coordinator Keith Niederer so he can make his presentation to the Council this evening from his desk
2. A Telephone number to which the public could call in to attend the public meeting (and potentially give public comment from)
3. A welcome to attend the meeting in person, following all recommended masking and social distancing recommendations.

The employees of City of Scottsdale, AZ have repeatedly and willfully chosen to break AZ law by not providing any of the three reasonable options for the public to attend the 9/22/2020 public meeting.

I am writing to put the following people **on notice** for not following their oaths and for not following the Arizona State Constitution and Arizona laws (see **Appendix A: Authorities**) (and, excepting Mr. Tim Curtis, refusing to returning calls - all day -- on 9/22/2020 -- an astronomical act of hiding)

1. Mayor, Jim Lane — jlane@ScottsdaleAZ.gov | 480-312-2433
2. City Manager, Jim Thompson JThompson@ScottsdaleAZ.gov | 480-312-2811
3. Assistant City Manager, Brent Stockwell BStockwell@ScottsdaleAZ.gov | 480-312-7288
4. Assistant City Manager Bill Murphy BMurphy@ScottsdaleAZ.gov | 480-312-7954
5. City Attorney Sherry Scott sscott@ScottsdaleAZ.gov | 480-312-7816
6. City Clerk Carolyn Jagger cjagger@ScottsdaleAZ.gov | 480-312-2411
7. Telecom Policy Coordinator Keith Niederer kniederer@ScottsdaleAZ.gov | 480-312-2953
8. IT Director Brad Hartig bhartig@ScottsdaleAZ.gov | 480-312-7615

--
Regards,

Paul McGavin

Appendix A: Authorities

<https://scientists4wiredtech.com/readinglaw/>

City of Scottsdale City Council Oath:

“I do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of City Council Member according to the best of my ability, so help me God.”

I. Arizona State Constitution

ARTICLE II. DECLARATION OF RIGHTS

- **Section 2.** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.
- **Section 3.** The Constitution of the United States is the supreme law of the land.
- **Section 4.** No person shall be deprived of life, liberty, or property without due process of law.
- **Section 5.** The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged.
- **Section 6.** Every person may freely speak, write, and publish on all subjects . . .
- **Section 8.** No person shall be disturbed in his private affairs, or his home invaded, without authority of law.
- **Section 17.** . . . No private property shall be taken or damaged for public or private use without just compensation having first been made, paid into court for the owner . . .

ARTICLE IV. LEGISLATIVE DEPARTMENT

→ **PART 1. INITIATIVE AND REFERENDUM** → **1. Legislative authority; initiative and referendum** → **Section 1:**

To preserve the public peace, health, or safety . . .

(1) . . . The people reserve the powers to

- **propose laws**
- **enact or reject such laws at the polls**, independently of the legislature;
- **approve or reject at the polls** any act, or item, section, or part of any act, of the legislature.

ARTICLE XXVII. REGULATION OF PUBLIC HEALTH, SAFETY AND WELFARE

What is a meeting? A meeting is defined as a gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose, or take legal action. This includes any gathering, regardless of its label that falls within this definition. A.R.S. § 38-431(4).

II. Arizona Revised Statutes, Title 38 Open Meeting Law

- “All meetings of any public body shall be public meetings and **all persons so desiring shall be permitted to attend** and listen to the deliberations and proceedings.” A.R.S. § 38- 431.01(A).
- “It is the public policy of this state that meetings of public bodies be conducted openly” A.R.S. § 38-431.09

A.R.S. § 38-431.01. Meetings shall be open to the public

F. All or any part of a public meeting of a public body **may be recorded by any person in attendance** by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

H. A public body **may make an open call to the public during a public meeting**, subject to reasonable time, place and manner restrictions, **to allow individuals to address the public body on any issue within the jurisdiction of the public body.**

A.R.S. 38-431.04 Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

A.R.S. 38-431.09 Declaration of public policy

A. It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.

III. Arizona Open Meeting Law Booklet

<https://www.azoca.gov/wp-content/uploads/Open-Meeting-Law-Booklet-2020.pdf>

7.7.7 Calls to the Public

A public body may include a call to the public on a meeting agenda. A.R.S. § 38-431.01(H); see also Section 7.10.1 for more discussion on public participation.

The best practice is to include language similar to the following:

"Call to the Public: This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date."

A call to the public is not mandatory, but the public body may put a call to the public on their agenda. See A.R.S. § 38-431.01(H). The public does not have a right to disrupt the meeting; however, the public body may allow comment from the public via a call to the public. See A.R.S. § 38-431.01(H) and see question 10.

IV. OPEN MEETING LAW 101:

Arizona's Open Meeting Law in a Nutshell

<https://www.azoca.gov/wp-content/uploads/Open-Meeting-Law-101.pdf>

What constitutes a meeting?

A meeting is a gathering, in person or through technological devices of a quorum of a public body at which they discuss, propose or take legal action, including deliberations. A.R.S. § 38-431(4). **This includes telephone** and e-mail communications.

Who must comply with Open Meeting Law?

Public bodies. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of the state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by the state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. A.R.S. § 38-431(6).

The public has a right to:

- Attend (transitive verb) 1 : to be present at; to go to
- Speak, when called to do so
- Tape record
- Videotape

Calls to the Public

An open call to the public is an agenda item that allows the public to address the public body on topics of concern within the public body's jurisdiction, even though the topic is not specifically included on the agenda. Ariz. Att'y Gen. Op. 199-006; Op. No. 178-001.

V. Arizona Attorney General Opinions

"While the Arizona Open Meeting Law (OML) grants members of the public an **absolute right to attend public meetings**, the OML neither requires nor prohibits participation by the public in the discussions and deliberations of a public body. Ariz. Att'y Gen. Op. Nos. 178-001 and 183-049 . . . With an open call to the public, therefore, the governing body may be presented with comments, concerns, or questions regarding non-agenda items, as well as agendized items. The context, spirit, and purpose of the OML thus support an open call to the audience. The the language of the OML limits public body discussion, consideration, or decision making to matters listed on the agenda.

Examining the language of the OML within the legislative framework as a whole leads to the conclusion that "consider" means more than to individually and passively "listen" or "think about." Interpreting "consider" to mean "listen," "think about," or "hear" would result in an absurdity because it would mean that members of public bodies would violate the OML when they attend the same conferences or seminars, read the same correspondence from constituents, or watch the same television news programs. Such a result is obviously untenable. See *Robinson v. Lintz*, 101 Ariz. 448, 452, 420 P.2d 923, 927 (1966) (stating that a statute should be interpreted "to give it a fair and sensible meaning").

The Attorney General's Office has recognized that a "call to the public" may be used if the members of the public body properly limit their responses to any item raised. See *Romo v. Kirschner*, 181 Ariz. 239, 240, 889 P.2d 32, 33 (App. 1995) (an agency's interpretation of a statute that it implements is generally afforded great weight).

. . . A ruling of "we will not listen to yours or any views favoring rezoning at this rezoning hearing" **would not pass constitutional muster**. See *City of Madison, Joint Sch. Dist. No. 8 v. Wisconsin Employment Relations Comm'n*, 429 U.S. 167, 175-76 & n.8 (1976)."

VI. City of Scottsdale, City Council Study Session Precedent

Oct 22, 2019 — WORK STUDY SESSION NOTICE AND AGENDA

"To provide an opportunity for public input, yet continue to maximize the amount of time available for the Council to have focused discussions, **a total of fifteen minutes will be set aside at the beginning of each work study session for public comment on the agendized items.**

Appendix B: Rebuttal of Sherry Scott's 9/21/2020 Letter

Published at <https://scientists4wiredtech.com/arizona/>

September 21, 2020 | Original letter [here](#).

VIA EMAIL

Christine Cracchiolo
Forakis Law Firm
316 E Palm Lane
Phoenix, AZ

RE Meeting scheduled for 09/22/2020 Request to attend live meeting and to comment public

S4WT: See coments below.

Dr. Ms. Cracchiolo:

Scott:Please be advised that the City of is represented by the City Attorney's Office. As such , I am requesting that you direct any further communications to the City, which would include the Scottsdale City Clerk, that are related to your client's assertion of a legal right directly to me as the City's Attorney.

The City's Agenda for the upcoming electronic meeting, including how public comment will taken, has already been noticed and Under the Arizona Open Meeting Law, it is now late for the City to amend its agenda to public comment to any differently for the September 22, 2020.

S4WT: This is immaterial. You have a state Open Meetings law that gives you a right to attend tonight's meeting.

Scott:As I am sure you are the City Council meetings are held electronically (as a result of the City's Declaration of Emergency related to COVID-19 and the County's Covering However, the City's electronic meetings are streamed in real time as set forth in the Agenda language so that the public can virtually attend and listen to the public Council meetings.

S4WT: I had a conversation with Assistant City Manager Brent Stockwell at around 5:15 pm on Mon Sept 21, 2020. He told me that all of the Council members would be attending the meeting in the chambers. Either way . . . whatever way the City Council members attend this meeting, the public has the same right to **attend** this meeting.

You have a state Open Meetings law that gives you a right to attend tonight's meeting.

Scott:There is absolutely no legal right for your client to verbally address the Council prior to the Council Work Study Session item currently placed on the 22, 2020 Agenda.

S4WT: That's right. There is a legal right to attend the meeting. We are enforcing that right. The ability to speak, apparently is governed by the Mayor's decision to allow public comment . . . and there is precedence for doing that from Oct 19, 2019 Study session when the Mayor allowed 5 speakers x 3 minutes each for 15 minutes of public comment. This is all explained here ->

- <https://scientists4wiredtech.com/arizona/>
 - <https://youtu.be/o26Y7Tgm6wE?t=14m42s>
-

Scott:As your letter itself notes, the Arizona Open Meeting law provides citizens with the right to **attend and listen to the meeting**. Again, that right is being met because your client will be able to virtually **attend**

- Attend : 1 : **to be present at : to go to** — which is NOT watching on television
 - Explained with an example here: <https://youtu.be/o26Y7Tgm6wE?t=15m37s>
-

Scott:Again, that right is being met because your client will be able to virtually attend

S4WT: Nice try, but no. Attending is not just listening. Check the plain definitions of these words.

Scott:he electronically held City Council meeting

S4WT: Please confirm in writing how each City Council member intends to attend tonight's meeting:

- Which ones will attend in person in the City Council chambers?
 - Which ones will attend virtually, and which technology will they use: Zoom video conference software? Go To Meeting Video Conference software? Microsoft Teams Video Conference software? Telephone?
 - What is good for the Council member is good enough for the public which HAS THE RIGHT to attend tonight's meeting.
-

Scott:and listen to everything that is said during this Council meeting in real time.

S4WT: Once again, that is viewing/listening (on TV), not attending.

Scott:Not only is this right being met,

S4WT: Nice try, but no. The right to ATTEND the meeting is NOT being met.

Scott: . . . but the City is also providing your client with an additional public comment opportunity in written form.

S4WT: The offer to send in written comment, that might or might not be read by the council (NOTHING requires Council members to read the comments) is orthogonal to ATTENDING the meeting.

Scott:The City is accepting written public comments for items listed on the agenda prior to the meeting as explained in the Agenda itself. The written public comments could also contain a link to a video, if that is your client's desire, so that her voice can be heard and her image can be seen as part of her written public comment.

S4WT: The City has a legal duty to allow the public to ATTEND the meeting. Full stop. One again, the offer to send in link to a video, one that might or might not be viewed by the council (NOTHING requires Council members to read the comments) is orthogonal to ATTENDING the meeting.

Scott:Please also be advised that this item is not agendized for formal Council action.

S4WT: That is immaterial. The public has a legal right to ATTEND the meeting.

Scott:Although the Council is going to review the public comments and listen to a City Staff presentation; discuss the item; and potentially direct staff regarding any follow-up or additional staff action they would like to see, no formal City Council action will be taken on the 5G wireless Work Study Session item on September 22, 2020.

S4WT: "potentially direct staff regarding any follow-up or additional staff action" is what we are requesting the Council to hear 15 minutes of testimony about.

Scott:I appreciate your client's interest and passion related to this matter and look forward to reading (or listening to) her public comment.

S4WT: You will have every opportunity to listening to public comment in real-time from the public, once the City grants the public the right to ATTEND the meeting.

Thank you,

Sherry R. Scott
City Attorney, Scottsdale, AZ


Lank, Kim

Tuesday, September 22, 2020 2:59 PM

Please see the attached letter from City Attorney, Sherry Scott.

Kim Lank | Executive Assistant | Office of the City Attorney | direct 480.312.7308 | fax 480.312.2548



 Please consider the environment before printing this email.



Sherry R. Scott
City Attorney

3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251

PHONE 480-312-2405
FAX 480-312-2548
WEB www.ScottsdaleAZ.gov

September 22, 2020

VIA EMAIL: paul@mystreetmychoice.com

Paul McGavin

RE: 5G Council Study Session

Dear Mr. McGavin:

I understand you disagree with the contents of my attached letter responding to the lawyer that was retained regarding the upcoming 5G Council Study Session. I regret that you are so upset. Unfortunately, there is nothing I can do to change my answer.

You have been provided with a link to attend the meeting via live stream where you will be able to virtually attend and listen to the meeting (see email attached). You have also been provided with an additional mechanism to submit public comment prior to the meeting as explained in the attached letter and in the Agenda. In addition, I am attaching an Arizona Attorney General Opinion related to Public Meetings conducted online.

The City has met and exceeded all requirements of the Arizona Open Meeting Law. My position, as previously stated in the attached letter, remains unchanged.

I have a Council Meeting to prepare for and respectfully decline to debate this matter with you any further.

Sincerely,

A handwritten signature in black ink that reads "Sherry R. Scott".

Sherry R. Scott
City Attorney

SRS:kl

Attachments



Sherry R. Scott
City Attorney

3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251

PHONE 480-312-2405
FAX 480-312-2548
WEB www.ScottsdaleAZ.gov

September 21, 2020

VIA EMAIL: christinef@forakislaw.com

Christine Cracchiolo
Forakis Law Firm
346 E. Palm Lane
Phoenix, AZ 5004

RE: 5G Meeting scheduled for 09/22/2020
Request to attend live meeting and to comment publicly

Dear Ms. Cracchiolo:

Please be advised that the City of Scottsdale is represented by the City Attorney's Office. As such, I am requesting that you direct any further communications to the City, which would include the Scottsdale City Clerk, that are related to your client's assertion of a legal right directly to me as the City's Attorney.

The City's Agenda for the upcoming electronic meeting, including how public comment will be taken, has already been noticed and posted. Under the Arizona Open Meeting Law, it is now too late for the City to amend its agenda to allow public comment to be handled any differently for the September 22, 2020 meeting.


As I am sure you are aware, the City Council meetings are being held electronically (as a result of the City's Declaration of Emergency related to COVID-19 and the County's Face Covering Regulations). However, the City's electronic meetings are being streamed in real time as set forth in the Agenda language so that the public can virtually attend and listen to the public Council meetings.

There is absolutely no legal right for your client to verbally address the Council prior to the Council Work Study Session item currently placed on the September 22, 2020 Agenda. As your letter itself notes, the Arizona Open Meeting law provides citizens with the right to attend and *listen* to the meeting. Again, that right is being met because your client will be able to virtually attend the electronically held City Council meeting and listen to everything that is said during this Council meeting in real time. Not only is this right being met, but the City is also providing your client with an additional public comment opportunity in written form. The City is accepting written public comments for items listed on the agenda prior to the meeting as explained in the Agenda itself. The written public comments could also contain a link to a video, if that is your client's desire, so that her voice can be heard and her image can be seen as part of her written public comment.

Please also be advised that this item is not agendized for formal Council action. Although the Council is going to review the public comments and listen to a City Staff presentation; discuss the item; and potentially direct staff regarding any follow-up or additional staff action they would like to see, no formal City Council action will be taken on the 5G wireless Work Study Session Item on September 22, 2020.

I appreciate your client's interest and passion related to this matter and look forward to reading (or listening to) her public comment.

Thank you,


Sherry R. Scott
City Attorney

Scott, Sherry

Subject: FW: Executive Orders and Emergency Declarations

From: Butteweg, Cathleen <CButteweg@Scottsdaleaz.gov>
Sent: Tuesday, September 22, 2020 12:15 PM
To: paul@mystreetmychoice.com
Subject: Executive Orders and Emergency Declarations

Mr. McGavin,

Links to Emergency Declarations issued by Mayor W.J. "Jim" Lane, City of Scottsdale:

<https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/News/News+Images/News+documents/Scottsdale+emergency+declaration+-+March+18+2020.pdf>

<https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Public+Notices/Emergency-Amendment-05152020.pdf>

<https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/News/News+Images/News+documents/may-31-emergency-declaration.PDF>

<https://www.scottsdaleaz.gov/news/coronavirus-update>

State of Arizona Executive Orders issued by Doug Ducey:

<https://azgovernor.gov/executive-orders>

Link to the September 22, 2020 City Council Meeting

agenda: <https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Council/current-agendas-minutes/2020-agendas/09-22-20-regular-and-work-study-agenda.pdf>

To view meeting in progress, link to September 22, 2020 Council

Meeting: <https://www.scottsdaleaz.gov/scottsdale-video-network/live-stream>

Cathie

Cathleen Butteweg, MMC | Deputy City Clerk/Records Manager | City Clerk's Office
City of Scottsdale
3939 N. Drinkwater Blvd. | Scottsdale | AZ | 85251
480.312.7846 | www.scottsdaleaz.gov

Ariz. Op. Atty. Gen. No. 108-008 (Ariz.A.G.), 2008 WL 4509818

Office of the Attorney General

State of Arizona

No. 108-008 (R08-036)

September 29, 2008

Re: Application of Open Meeting Law to Meetings of Public Bodies Conducted Online

*1 A. Dean Pickett, Esq.
Mangum, Wall, Stoops & Warden, P.L.L.C.

Pursuant to Arizona Revised Statutes ("A.R.S.") § 15-253(B), you submitted for review your opinion to the Superintendent of the Camp Verde Unified School District Governing Board (the "Board") regarding the Board's ability to conduct a meeting through the Internet during which the Board would engage in deliberations and discussion. This Office concurs with your conclusion that, after providing proper notice and an agenda in accordance with the Open Meeting Law and implementing procedures designed to safeguard the public's access to the meeting, a public body can conduct an online meeting to allow deliberation and discussion about matters within the public body's jurisdiction. We issue this Opinion to provide guidance concerning this matter to all public bodies subject to the Open Meeting Law. *See* Ariz. Att'y Gen. Op. 106-003.

Question Presented

Does the Open Meeting Law, A.R.S. §§ 38-431 to 38-431.09, allow the governing board of a school district to conduct deliberations and discussion in an online meeting when the Board provides proper notice under the law and facilitates public access to the online meeting through the Internet?

Summary Answer

Yes. The definition of "meeting" under A.R.S. § 38-431 includes the gathering of a quorum of a public body through technological devices and would encompass serial communications of a quorum of the public body through the Internet or other online medium. Measures must be taken, however, to provide clear notice to the public about when the Board will be deliberating in its online meeting and to facilitate the public's access to the meeting.

Analysis

You have asked this Office to evaluate your opinion regarding a proposal by the Board to conduct online meetings to discuss and edit documents. The Board does not propose to take any legal action during the online meeting. The Board meeting would be conducted online for a defined time period with members accessing the document over the Internet to comment and propose changes. Board members would not necessarily be editing or commenting on the document simultaneously. The public could also access the document over the Internet, but could only review changes and comments made by the Board members.¹ The public would be able to see which Board member proposed each change or submitted a comment. The Board proposes to offer free computer access at or near its offices during the online meeting. After the online meeting for comment and revision ends, the Board would conduct a traditional meeting at its office to take legal action to adopt the final version of the document. At this meeting, the Board would include a call to the public so that members of the public could address comments about the document to the Board. Under these circumstances, is a "virtual meeting" in which Board members participate through serial communications over the Internet in compliance with the requirements of the Open Meeting Law?

*2 Construed in a fashion most favorable to open and public meetings, as directed by the Legislature in A.R.S. § 38-431.09, the Open Meeting Law allows the Board to hold a virtual meeting through technological devices if it otherwise complies with the requirements of the statute. Under the Open Meeting Law, “all meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.” A.R.S. § 38-431.01. A “meeting” consists of “the gathering, in person *or through technological devices*, of a quorum of members of a public body at which they discuss, propose, or take legal action, including any deliberations by a quorum with respect to such action.” A.R.S. § 38-431(4) (emphasis added). The Open Meeting Law clearly contemplates the ability of the Board to hold meetings through the use of technological devices, such as telephones, video-cameras, or even web-cameras, in which all members of the body are present simultaneously to discuss the Board's business.

Additionally, the statute allows the Board to meet through serial communications to discuss and deliberate about Board business if accomplished in compliance with the terms of the Open Meeting Law. This Office previously opined that serial e-mail communications without notice or public access between a quorum of a public body's members about public business constituted a meeting through technological devices that violated the Open Meeting Law. Ariz. Att'y Gen. Op. I05-004. In that opinion, the Attorney General noted that “even if communications on a particular subject between members of a public body do not take place at the same time or place, the communications can nonetheless constitute a ‘meeting.’” *Id.* at 4. Thus, the Board can conduct a virtual meeting in which a quorum of Board members contribute comments and edits to a document posted on the Internet through serial communications if the Board complies with the notice requirements, minute-keeping requirements, and other provisions of the Open Meeting Law.² To comply with the statute, the public must be able to access the entire course of discussion or deliberation between the Board members and be able to identify which Board members contributed which edits or comments. In addition, the Board must ensure that it creates a document retention policy under the public records statute to govern the maintenance and preservation of electronic documents created in this process.

Although using technology may provide broader access to the public than would otherwise be possible, virtual meetings such as those proposed by the Board also provide potential obstacles for public access based on uncertainty about the timing of the meeting, lack of equipment necessary to access the meeting, or unfamiliarity with operating such equipment. To offset these risks, this Office encourages the Board to strictly comply with the notice and minute-keeping requirements of the Open Meeting Law and to facilitate the public's access to the virtual meeting. Because not all citizens own a computer or have Internet access, the Board should take measures at its facility to allow public access to the on-line meeting. Your suggestions that the Board provide free Internet access at or near the Board office and maintain regular print-outs of the results of the on-line meeting for public review provide valid solutions to address these concerns. Regarding the notice for the on-line meeting, the Board should provide clear notice of when the meeting will begin and end, as well as clear instructions on how to access the meeting or to operate any software used by the Board to host the on-line meeting. The notice should also indicate to the public how the Board intends to facilitate public access, including the location of any free Internet access offered by the Board or printouts of the results of the on-line meeting. In addition, the notice should also include the proposed date and time of the meeting at which the Board intends to take final action adopting the proposed document. The Board must also offer reasonable accommodations to any member of the public with a disability that requests accommodation, as required by federal law.³

Conclusion

*3 The Board can lawfully hold a virtual meeting, including one comprised of serial communications through the Internet, under the Open Meeting Law. Continuing developments in telecommunications technology offer the promise of widening the public's access to meetings held by public bodies, whether by web-casting meetings or allowing other forms of virtual meetings. This promise, however, is counterbalanced by the potential for abuse or technological obstacles for some citizens to access the meeting. Thus, any public body choosing to use technological means to conduct its meetings must scrupulously comply with the notice and minute-keeping requirements imposed by the Open Meeting Law and must further make all reasonable efforts to facilitate public access to the meeting, whether through explicit instructions on using the technology or by providing access to the meeting at the public body's own facilities.

Terry Goddard
Attorney General

Footnotes

- 1 Under the Open Meeting Law, the Board is not required to offer editing or commenting rights to the public. The public has the right to attend and observe the Board's proceedings, but no right to participate in the proceedings unless the Board allows it. A.R.S. § 38-431.01.
- 2 We note that under A.R.S. § 38-431.01(A), any member of the public who so desires must be permitted to "attend *and listen* to the deliberations and proceedings" in an open meeting. (Emphasis added.) It is unlikely that this provision restricts the requirements of the Open Meeting Law to only allow meetings in which every person can hear the proceedings. In the case of an agency like the Arizona Commission for the Deaf and Hard of Hearing, some members of the public "listen" to proceeding by observing sign language interpreters. It would be inconsistent with the purpose of the Open Meeting Law to find a violation of the statute because not every member of the public can listen to an audible meeting. See A.R.S. § 38-431.09. We conclude that the mandate to interpret the Open Meeting Law in favor of open and public meetings requires an interpretation of "listen" that includes other methods of observing deliberations and proceedings of a board, including non-audible methods.
- 3 The Civil Rights Division of the Department of Justice offers a helpful guide to state and local government entities seeking to create a website that complies with the Americans with Disabilities Act. The document can be found at www.ada.gov/websites2.htm.

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