

Broadband Alliance of Mendocino County

Date: May 15, 2015

To: Mendocino County Planning Commissioners

Subject: Zoning Ordinance Revisions and Administrative Permit Process

From: Trish Steel, Chair of Broadband Alliance of Mendocino County

Dear Chairwoman Warner and Planning Commissioners,

I would like to read you a survey comment from a resident of Mendocino County during the fiber outage last year. It may seem like this is un-related to the topic at hand, but please bear with me:

“My Mother quit breathing and it took me awhile to get Skype up and running while continuing mouth to mouth (resuscitation) and trying to reach a friend to call 911 for me. It was hell. She is OK now.”

This person could not connect to the 9-1-1 system via phone, but he had the bright idea to use his computer and internet to Skype a friend, who did call 9-1-1 on their behalf.

Like it or not, the land line telephones are going away and the transition to “Internet Protocol” (IP) is well underway. The copper infrastructure is old, deteriorating and not being maintained because the telecoms don’t want to put money into such “legacy” services. We are seeing very prolonged repair times, which often don’t fix the problem. They are lobbying to get out of their universal service requirements and are transitioning customers onto their wireless (and more profitable) services.

Unfortunately for our rural county, the telecoms will not be putting enough resources into their infrastructure here to make sure that everyone has dependable wireless service, leaving many residents outside of the higher population areas or travel corridors without any type of communication. This pronounced rural “Digital Divide” is due to the low populations not meeting the telecoms’ business models for “Return on Investment” (ROI) They are not making their networks redundant and diverse, as evidenced by the fact that AT&T has still not implemented the necessary fix promised to prevent an outage such as the coast experienced last year. Even areas that the cellular companies are claiming as “served”, may not be. The new North Bay-North Coast Broadband Consortium identified “priority areas” for broadband deployment, many of which were already deemed “served” by carrier-provided data. Detailed testing and analysis (using CPUC-accepted methodology) based on 184 field tests across four priority areas showed that none of these priority areas should be designated as

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“served.” The NBNBCB has requested that the CPUC officially change the designations on the California Broadband Map.¹

However, there are solutions. Our small local Internet providers with strong community values are willing to work with lower ROIs. During the big storms in Dec, with 50 mph winds on the coast, and 4 inches of rain, coastal resident Phil Burdock posted on social media how impressed he was with his wireless De Novo service - “there was ZERO slowdown or interruption in service.”² BAMC’s Technology Chair recently provided an educational wireless tutorial, and his closing comment was:

“Wireless is our only solution for now for various areas. What we need is to get creative and work from the grassroots. We can’t make wireless work without our neighbors, which in this area is how people typically think. Meet with your neighbors, and solve this.”³

Meanwhile, our small local wireless providers (WISPs - Wireless Internet Service Providers) have an uphill battle - they are struggling to be innovative and find ways to provide service to residents, on very thin profit margins and few employees. They are often ineligible for state and federal money, which always goes to the “big guys” (the price-cap carriers like AT&T and Verizon). Even with recent state and federal changes to make WISPs eligible for funding, the application requirements are prohibitive. One local provider was successful in receiving a federal Broadband Experiment grant, but had to withdraw because he couldn’t provide 3 years of audited actuals, as he hadn’t been in business 3 years. The state CASF grant application has 27 pieces⁴, and a recent WISP applicant told me he spent almost 1,000 hours on his application (which has since been challenged and will require more time and effort).

How does all this relate to permitting and the issue before you? It tells the story of how crucial broadband provided by small local providers is *and will increasingly become for our county*, and also how our local providers face many challenges and barriers. Our county permitting is currently another obstacle for our small providers.

Public Safety is a large part of why permitting is even necessary. Yet, our current regulations are barriers to projects that would increase public safety. The beaches along our coast often receive no cell signal and if there is an emergency often there is

¹Phase 2 Results; <http://www.mendocinobroadband.org/wp-content/uploads/Phase-2-NBNBCB-GTT-Report-1-9-15.pdf>

² Reposted to BAMC’s Facebook page on May 12, 2015; <https://www.facebook.com/BroadbandAlliance>

³ Brian Churm, Fixed Wireless Tutorial; <http://www.mendocinobroadband.org/wp-content/uploads/05-03-15-Fixed-Wireless-Tutorial-Notes.pdf>

⁴ From CASF website; http://delaps1.cpuc.ca.gov/cpuc_notices/CASF_Home_Page.htm

no way to reach 911. In a recent accident on a state beach adjacent to State Highway 1, the ambulance wasted 20 minutes driving to get a cell connection because none was available on the state highway next to a state beach. If some of our local providers were working in these areas, they could provide Wi-Fi for some of these beaches.

The current regulations inhibit the economic development of our county, as businesses can't start or expand if they don't have adequate broadband. This in turn reduces county revenues. According to a recent FCC report, Internet access is a key economic driver and behind their move to up broadband speed standards to 25 Mbps download/3 Mbps upload, and yet rural Americans continue to be underserved at all levels. Using this new metric, more than 68% of rural households in Mendocino County are not being served according to CPUC data.⁵ Many residents and businesses in our county are still on dial-up, and thirsty for service or improved services. Ensuring that all Mendocino County residents have routine access to high-speed Internet must be an economic development top-priority for the County.

Current regulations that require a Major Use Permit for small isolated projects are often ignored because this requirement is unreasonable given the size and scope of the project (and from my understanding, no such applications have been submitted). So again, the county loses out on potential revenue that could be obtained from a more reasonable permitting process. It also fosters a culture where most people ignore the requirements, or the projects are not deemed feasible and are not built.

The Pew Research Foundation last week reported on the "homework gap" which found that kids *without* access to broadband are not doing as well on homework compared to those students *with* broadband, and that access to broadband at home is correlated to overall educational level.⁶ Our state Superintendent of Public Instruction set a goal years ago for students to learn from "any time, any place, any pace"⁷ ...but that is not a reality for our kids. Our schools may have finally received adequate broadband, but when kids go home they can't do their homework. We are doing our kids a dis-service. A report by the Public Policy Institute of California (PPIC) which conducted a large study on the gap between rural and urban California, concluded that broadband policy in California should focus on increasing availability in rural areas and helping raise

⁵ Broadband Availability by County, CPUC June 2014 Data; <http://www.mendocinobroadband.org/data-and-reports/6>

⁶ Pew Research April 2015; <http://www.pewresearch.org/fact-tank/2015/04/20/the-numbers-behind-the-broadband-homework-gap/>

⁷ Tom Torlakson, California State Superintendent of Public Instruction Education Technology Task Force Recommendations from August 2012; <https://www.mydigitalchalkboard.org/cognoti/content/file/resources/documents/68/6888f59f/6888f59f10eb3403fb69e00110c12515bb735e3a/FinalETTFMemo.pdf>

adoption rates among disadvantaged groups in urban areas.⁸ Anchor institutions and non-profits that often serve disadvantaged groups are frequently themselves underserved, which compromises their ability to perform their missions.

Broadband access is believed to offer social and economic benefits that are in the public interest. Individuals, businesses, non-profit organizations, and the government all critically depend upon reliable high speed Internet for all aspects of their operations including finance, administration, regulatory compliance, information acquisition and emergency and localized services. High-speed Internet access saves time, money, petroleum, and road maintenance.

For all these reasons and more, the BAMC is not only in complete support of the zoning revisions and development standards for an Administrative Permit Process (with some specific comments), but also consider it crucial that these changes are approved without delay.

It has been frustrating that this process has taken as long as it has, given the severity of consequences it has on our county. We first met with Planning Department staff in May of 2012 and began to discuss revisions of the ordinance, over three years ago.⁹ We ask the Planning Commissioners to recommend approval of these revisions in the zoning ordinance to the Board of Supervisors today. In addition, we ask that you recommend to the Board of Supervisors that they make it a priority to find a way to fast-track the coastal permitting revisions. Our coastal communities are where most of our unserved and underserved populations reside. Opportunities for service are on the verge of being lost due to this permitting situation.

In conclusion:

Current county regulations are a barrier to broadband deployment. We recognize that the county must balance priorities in setting policies and regulations, including the subjective quality of aesthetics. The permitting process must be flexible to take into account the nature of these much smaller, lower-powered, solar-powered, less intrusive, community-based networks that may also be line-of-sight. But this **is** an urgent need for the reasons articulated above - for public safety, education, and economic development. We ask that the Planning Commission recommend approval of these revisions to the inland zoning ordinance to the Board of Supervisors without further delay, and further, to recommend to the Board of Supervisors to also make it a **top priority** to get coastal permitting regulations updated for the same reasons, using all means of influence possible to hasten the process. This update in regulations will only bring big benefit to our county and residents at little cost.

⁸ http://www.ppic.org/content/pubs/cep/EP_707JKEP.pdf

⁹ Notes from this meeting are available on our website; <http://www.mendocinobroadband.org/topics/steering-committee/page/4/>

Specific comments regarding the ordinance:

The Alliance has been told that existing projects can come into compliance retroactively and without penalty (excluding the building permit fine). We would like to see this clearly stated somewhere on the record (maybe not in the ordinance itself).

If there are existing projects with towers that may not meet the specific standards (which were not yet developed when these projects were put in), then we would like to see a way for these projects to be grandfathered in on a case-by-case basis.

In Section 7, Item D of the Draft Wireless Ordinance document, there are two descriptive phrases, “visually unobtrusive” and also “effectively unnoticeable”. Including both of these phrases is un-necessary could be problematic. We suggest deleting the “effectively unnoticeable” part, as it is very subjective. The first phrase, “visually unobtrusive”, is adequate by itself to describe a proposed facility.

At the bottom of page 8 of Wireless Ordinance Attachment F it states: “The Commission agreed to exempt mesh networks.” Yet, under exemptions there is no mention of mesh networks. 4b mentions “short range” but this is subject to interpretation as there is no definition of “short range” given. Because of changes in technology, we would ask that mesh networks be specifically named as “exempt” in the revised ordinance.

Thank you for this opportunity to comment.

Trish Steel

Chair, Broadband Alliance of Mendocino County