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Date: May 24, 2011

To: Mayor & City Council

**From: Patrick H. West
City Manager**

**Subject: Wireless
Telecommunications Facilities
Ordinance Amendment**

**Comments: Supplemental
Information for Continued
Hearing #19 on the May 24,
2011 Council Meeting Agenda**

Clerk



Date: May 23, 2011

To: Patrick H. West, City Manager

From: Amy J. Bodek, Director of Development Services

For: Honorable Mayor and Members of the City Council

Subject: Response to Proposed Changes to Wireless Telecommunications Facilities Ordinance Amendment

On May 17, 2011, the City Council reviewed a proposed ordinance for adoption of new wireless telecommunications regulations. Several significant issues were raised by AT & T representatives, including the request to delete a number of major points in the proposed ordinance. The hearing was continued for one week, to May 24, 2011 in order to provide staff the opportunity to address these issues. Listed below are the specific points raised at the May 17, 2011 City Council meeting, and staff's response to the issues. In addition, staff met with representatives from the wireless industry (specifically AT & T representatives) on May 23, 2011, and offers the following update for the City Council's consideration:

1) Proposed deletion of Section 21.56.050.C (Five-year build-out plan):

Deletion of this section would relieve applicants of the requirement to submit a five-year build-out plan for each wireless site or co-location site. It should be clarified that the five-year build-out plan would apply only to a single wireless site, not to a carrier's strategic plan for sites Citywide, as was suggested by the wireless carriers on May 17.

While deletion of this requirement initially may seem advantageous to the carriers, it actually would be to their detriment, as it strikes at the heart of the concept of the "Master Conditional Use Permit" (CUP) that is the core of this ordinance. With a Master CUP and five-year plan in place at a site, any subsequent changes to the site that are in conformity with the approved five-year plan could subsequently be approved administratively, at a greatly reduced cost to the carrier in fees, time and effort. Additionally, the upfront disclosure of project and site scope that would be provided by a five-year plan would obviate the need for a CUP hearing for each project at a given site. While certain carriers may object that it is impossible to predict their needs for a particular site over five years, the goal is for the carriers to provide a *general* scope and scale for the configuration of a wireless site over five years; the five-year plan need not be precisely accurate to the last detail. Staff does not recommend deletion of this section. ***Based on our meeting with AT & T representatives on May 23, 2011, they are no longer pursuing deletion of this requirement.***

2) **Proposed deletion of Section 21.56.100.D.1.a (Ban on façade-mounted antennas):**

Deletion of this section would remove the prohibition on the placement of façade-mounted antennas. Staff strongly believes that antennas belong on the roof of a building with the other equipment, and not on the façade of the building with the architecture. Some of the most aesthetically offensive wireless sites in the City utilize façade-mounted antennas. ***Based on our meeting of May 23, 2011, staff will propose to modify the ordinance to "strongly discourage" rather than prohibit façade-mounted antennas, and require that façade mounted antennas be integrated into the architecture of the building as much as possible.***

3) **Proposed deletion of Section 21.56.060.A (Ten-year term for permits):**

Deletion of this section would eliminate the requirement for a ten-year term for permits. This provision exists in current code as well as the proposed ordinance. Elimination of a limited-term permit for wireless sites would make Long Beach highly unusual among planning agencies. In California and nationally, a ten-year permit for wireless sites is very common and widely accepted as appropriate. Staff feels that such a term is necessary to give the City the ability to require cleanup and redesign of aesthetically inappropriate sites built before it was clear how widespread and permanent wireless technology would become. Additionally, for aesthetically compliant sites, the ten-year term would amount to more of a cursory review for continuing compliance, but staff feels it also is important for that very reason. Given the uniqueness of wireless sites as a land use, as well as the past and continuing proliferation of these sites, staff does not recommend deletion of this section. ***Based on our meeting of May 23, 2011, AT & T is no longer pursuing deletion of this requirement.***

4) **Proposed deletion of Section 21.56.100.G (Height restrictions):**

Deletion of this section would eliminate the height allowances and restrictions specified by the proposed ordinance, and would require that wireless sites comply with the height limits specified for buildings in each zoning district. This may appear advantageous to the carriers; instead, it would effectively be disastrous for both the carriers and the City in that needed heights for antenna installation would not be achieved. Most of the City is in the R-1-N zoning district, which specifies a height limit of 25 feet. Most other zoning districts in the City, whether commercial, institutional, or residential, have height limits varying between 24 and 38 feet. Only in the planned development districts for Downtown and Long Beach Boulevard are height limits more lenient, from 38 feet up to 150 feet.

Virtually all applications for monopoles request an exception to the current height limit of 45 feet. In the proposed ordinance, this height limit actually is raised up to 55 feet in residential and institutional districts. Staff has found 55 feet is the most commonly requested height for monopoles, and

also effectively allows co-location. Additionally, in commercial or industrial districts, a pole height of up to 120 feet would be allowed if adequate justification was provided and the site was located far from residential districts, such as in the port area.

For roof/building-mounted sites in the R-1, R-2, and R-3 zoning districts, the proposed ordinance specifies that the facility height cannot exceed the height limit for structures. This requirement is taken from current code, and does not represent a change. Deletion of this section would be extremely disadvantageous to the wireless carriers. Staff does not recommend deletion of this section. ***Based on our meeting of May 23, 2011, staff proposes to modify the ordinance to allow a monopole in residential or institutional zones higher than 55' feet (but in no instance to exceed 65' in height) if it can be demonstrated that additional height is needed to accommodate more than one antenna.***

- 5) **Proposed modification of Section 21.56.130.F.3 (Graffiti Removal):** The proposed modification would change the existing requirement to remove graffiti within 24 hours of its appearance to 72 hours, for wireless sites in the public right-of-way. The requirement to remove graffiti within 24 hours is a standard condition imposed on every type of planning permit the City issues, including CUPs, AUPs, Site Plan Review, and Standards Variances. It would be inappropriate to create a different standard specifically for wireless sites in the public right-of-way. Staff prefers to work constructively with all permittees on graffiti removal, and recommends consistency in the application of this standard. Staff does not recommend adoption of this modification. ***Based on our meeting of May 23, 2011, AT & T is no longer pursuing deletion of this requirement.***

- 6) **Proposed addition to Section 21.56.060:** The proposed addition would effectively "grandfather" every one of the 209 existing wireless sites Citywide so that they would not be subject to the entire proposed ordinance. This would negate the purpose of adoption of this ordinance. More than two-thirds of the projects staff receives are for modification to existing sites. The ordinance was written not only with the intent of improving regulation of new sites, but even more so with the intent of requiring aesthetic cleanup of existing sites *when their ten-year permit is up, or the carrier requests a modification or co-location of an existing site.* Existing sites, where no changes are proposed, would be allowed to remain as is under the proposed ordinance, until their ten-year term expires. Furthermore, the proposed addition to the ordinance would allow modification and expansion of existing sites without any discretionary review by the City. Staff does not recommend adoption of this addition to the proposed ordinance. ***Based on our meeting of May 23, 2011, AT & T understands staff's position on this issue. They remain concerned about the potential scenario where an existing facility may not be able to be upgraded and, therefore, would be required to be***

Honorable Mayor and Members of the City Council

May 23, 2011

Page 4 of 4

removed. Their concerns appear to be unfounded; however, staff has committed to working with them in the future to mitigate this scenario if there are unintended negative consequences to their operations as a result of this ordinance. Staff still recommends that this section not be added to the ordinance.

A significant amount of time was spent developing this ordinance, which reflects a multitude of suggestions from the community and the wireless industry that were provided over the course of several study sessions, two Planning Commission public hearings, and community meetings. Additionally, staff has met over ten times with representatives of the wireless industry to ensure that all major carrier concerns had been satisfied.

For further information regarding this ordinance amendment, please contact Amy Bodek, Director of Development Services, at ext. 8-6428.

AJB:DB:sk

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cc: Suzanne Frick, Assistant City Manager
Reginald I. Harrison, Deputy City Manager
Derek Burnham, Planning Administrator

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