

DATE ISSUED: November 9, 2001

REPORT NO. 01-247

ATTENTION: Land Use and Housing Committee
Agenda of November 14, 2001

SUBJECT: POLICIES PERTAINING TO SITING OF CELLULAR FACILITIES
AND REVIEW OF COUNCIL POLICY 700-06, CELLULAR
FACILITIES IN PARKS

REFERENCE: Land Use and Housing, September 17, 2001

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL. THIS REPORT CONTAINS RESPONSES TO THE ISSUES IDENTIFIED AT THE SEPTEMBER 17, 2001 COMMITTEE MEETING AND HAVE NOT YET BEEN DISCUSSED IN DETAIL WITH THE TELECOMMUNICATION ISSUES COMMITTEE. THEIR INPUT AND REVIEW WILL FOLLOW THE LAND USE AND HOUSING MEETING OF NOVEMBER 14, 2001.

BACKGROUND

The Land Use and Housing Committee (LU&H) held a wireless communication workshop on September 19, 2001, to discuss several fundamental issues associated with the placement of wireless communication facilities in the City of San Diego. Discussion centered primarily around three subject areas: legal issues, city parks and land use. The City Attorney's Office will be preparing a separate response to address the legal issues pertaining to bans and local authority on placement of wireless facilities. A review of park issues and policy options as they relate to Council Policy 700-06 will be discussed as well as an analysis of current land use issues and options. Resolution of these issues will ultimately be critical in assessing the state of future wireless facilities within the City.

PARK AND RECREATION

A. Council Policy 700-06

In May of 1999, the City Council approved revisions to two Council Policies that address the placement of telecommunication facilities on designated or dedicated parkland and open space. (Council Policy 700-06, ENCROACHMENTS ON CITY PROPERTY and Council Policy 600-43, CITY OF SAN DIEGO TELECOMMUNICATION POLICY- Attachments 1 and 2). These revisions included design and siting criteria to evaluate placement of telecommunication facilities within parks and open space. This criteria was needed to assure that any proposed facility would not violate City Charter Section 55 by interfering with the parkland or open space use or purpose. The design and sitting criteria added to Council policy 700-6 included:

1. The facility must not change or interfere with the use or purpose of the parkland or open space.
2. The facility must not detract from the recreational or natural character of the parkland or open space.
3. The facility must be integrated with existing park facilities and not disturb the environmental integrity of the parkland or open space.

B. Telecommunication Facilities Guidelines

During the initial processing and implementation of telecommunication projects, several issues were raised by advisory bodies, telecommunication representatives, staff and the Park and Recreation Board. In September of 2000 the Park and Recreation Board discussed these issues in a workshop setting. Following the Park and Recreation Board workshop, staff met with other City departments and the City Attorneys office to discuss the issues and possible solutions. It was determined that the criteria contained in City Council Policy 700-06 needed to be clarified to assure consistent application of the Policy. Following these discussions, draft guidelines were prepared. Staff then met with representatives from the telecommunication industry to discuss the proposed guidelines. The revised guidelines were then presented and approved by the Park and Recreation Board in January 2001(Attachment 3). They included the following:

1. Encourage the reduction in size of the equipment enclosures by creating a sliding scale for lease rates based, partly on, the size of the equipment enclosure.
2. Establish a consistent one time consideration payment of \$20,000 along with the lease revenue, to eliminate extensive negotiations at the advisory board level.
3. Prohibit equipment enclosures on all turf areas.
4. Prohibit placement of any "Major" telecommunication facility on parkland or open space.
5. Direct that equipment enclosures be constructed of concrete block, that all equipment must be inside the enclosure and that it match existing on site building(s). Black vinyl chain link fence equipment enclosures can only be used if they are not visible to park users.
6. Landscaping shall be used to screen the equipment enclosure which compliments the existing park landscaping.
7. Antennas located on buildings shall match and enhance the architecture.
8. Discourage the placement of Mono-structures in parkland and open space.
9. Ensure that community residents have an opportunity to give input on proposed facilities in parkland by publicly noticing residents within 300 feet.
10. The number of telecommunication facilities shall not be restricted based on the size or type of park or open space. Each site shall be reviewed on a case by case basis to determine if it can be incorporated into the parkland or open space without impacting existing or proposed park uses.

These guidelines have been applied to projects submitted since January 2001, and have been useful in the review of proposed projects. While these guidelines have been in place since February of this year no projects which have been reviewed under these guidelines have been constructed to date.

C. Discussion

The goal of the criteria established in Council Policy 700-06 as well as the guidelines approved by the Park and Recreation Board was to ensure a balance of providing access to parkland and open space per the Telecommunications Act of 1996, without having the parkland or open space impacted by the placement of telecommunication facilities. This criteria must also be flexible in order to adapt to the various types, sizes and locations of City parks and open space areas.

Based upon the issues identified at the September 19 Workshop, one possible solution is to develop a new Council Policy that comprehensively addresses the siting of telecommunications facilities on City owned land. This policy would address the following issues as well as any other issues raised during the November 14 Workshop:

1. Developing a standardized review process and centralized control and coordination of applications;
2. Enhancing public review process including early notification of the Council Office and official community planning group;
3. Establishing design criteria which encourage potential co-location and minimize visual impacts;
4. Establishing minimum rents, one time payments and/or in kind enhancements and site analysis criteria based upon strategic market value;
5. Identifying alternatives for allocation of lease revenues.

The Real Estate Assets Department in conjunction with Park and Recreation and Development Services could develop a comprehensive draft Council Policy for review and discussion with the Telecommunication Issues Committee (TIC). This proposal has not yet been shared with TIC, however, staff will present the concept to the Committee for their consideration.

LAND USE

A. Long Range Map

The issue of providing a long range map for purposes of demonstrating future coverage by wireless providers is currently infeasible. Future sites generally are selected based on consumer's complaints of interference and dropped calls. Accordingly, providers typically cannot forecast network needs beyond twelve to eighteen months in advance and the locations are general not site specific. Additionally, the industry asserts that this information is proprietary in nature and therefore cannot be disclosed citywide.

The City has processed approximately 1,150 applications for wireless sites over the past seventeen years. In order to understand where the existing wireless facilities are located, a map illustrating all of the project sites is being prepared and is anticipated to be available for the November 14 meeting.

B. Telecommunication Issues Committee

A Telecommunications Issues Committee was formed in February, 2000. That committee met over a period of eight months between March and October of 2000 and was made up of appointees from Council Districts 2 and 7, a representative from the Community Planning Group Chairs and three members from the wireless industry. This group was responsible for reviewing issues associated with the encroachment of telecommunication facilities into residential areas and making recommendations accordingly to modify the Communication Antenna regulations. A second Telecommunication Issues Committee was reconvened on October 29, 2001. To the original committee, a representative from the Park and Recreation Department, a park activist, and staff members from Community Planning and Information Technology & Communications Departments were added. The reconstituted Committee will have met twice prior to the November 14th Land Use and Housing Committee meeting and will have established the outline for a work program based on Council direction. Specifically, the Committee will be focusing on Council Policy 700-06, the September 11, 2001 PAWSE (Public Awareness of Wireless Siting and Education- Attachment 4) letter and any other issues resulting from Council direction.

C. Land Use Prioritization

One of the directions given to staff was to evaluate a land use prioritization by establishing a hierarchy of preferred locations. At the recommendation of LU&H, staff evaluated policies and ordinances from San Francisco, Carlsbad and Encinitas, all three of which have locational based criteria. Appropriate excerpts from these jurisdiction's policies and/or ordinances are attached for review (Attachment 5, 6 and 7). Staff's analysis of the three cities determined that the City's current process-based hierarchy is similar to the locational based policies and ordinances used by these three cities. Staff believes that the City's existing process can be clarified by the addition of a similarly defined locational hierarchy. Current process levels are listed below:

- I. Preferred Locations (Process One) - Industrial and commercial zones, Collocations sites.
- II. Potential Locations (Process Two) - Non-residential uses in residential zones, such as churches, public utilities and publicly used structures.
Potential Locations(Process varies depending on zoning and site characteristics, but can be either Process One or Two) - Right-of-way installations.
- III. Conditioned Locations (Process Two) Park sites
Conditioned Locations (Process Three) Residential zones.

In addition to this process hierarchy, staff has discussed the idea of a hierarchy of site location preferences that could be added to the City's regulations and could be used to evaluate and process proposals for telecommunication facilities as follows:

- 1. The first order of preference would include industrial and commercial zoned land.
- 2. The second order of preference would include non-residential uses in residential zones, such as churches, public utilities and publicly used structures.
- 3. The third order of preference would include park sites.
- 4. The last and least preferred site is any land that is zoned for residential use.
- 5. Public-right-of-way will be evaluated on a case by case basis and will take into

consideration the zones of the land adjacent to the right-of-way. Specifically, right-of-way adjacent to industrial and commercial zoned land will be considered a preferred site over right-of-way adjacent to residential zoned land. Staff may require that associated telecommunication equipment buildings be located out of the right-of-way and on adjacent privately or publicly owned land.

This hierarchy would be utilized by applicants, staff and decision makers to locate the facility on the most suitable and available site. The applicant would be required to provide an analysis demonstrating that other sites located in a higher preference type zone are either unavailable or are technically infeasible before a site in the lower preference zone would be approved. The relative cost of leasing one site over another would not be a decision making factor. This hierarchy has not been discussed by TIC, but it is definitely an issue that is on a future agenda to obtain their input and review.

By utilizing a hierarchy approach and requiring justification for utilizing a lower preference site over a higher preference site staff believes this would require the addition of technical expertise that is currently not available. Staff will be investigating the related costs associated with additional technical analysis of alternative sites.

D. Right-of-Way Installations

The City currently has two right-of-way installations, both located on North Torrey Pines Road in the La Jolla Shores Community Plan. Both sites are unique in that they are corners with deeper right-of-way than a typical mid-street location and they are both heavily vegetated with mature eucalyptus trees. The surrounding land uses are scientific research. The projects are antennas mounted on existing street lights with an equipment enclosure the size of a large screen tv. Although the antennas virtually blend in to the existing vertical elements along the street, the location and appearance of the equipment are a major concern to staff. The first Telecommunication Issues Committee discussed wireless facilities in the right-of-way and determined that the issue needed to be addressed. An addition to the Communication Antenna regulations was included to require all equipment proposed in the public right-of-way, except for small service connection boxes (power and telco) to be under-grounded. Above ground equipment may be permitted with a Process Three Conditional Use Permit (CUP) as long as it is integrated into the setting and siting solutions are utilized to minimize visual and pedestrian impacts. These changes took effect in August of this year.

Because of the current visual obtrusions already existing on major transportation corridors, antenna installations in the public right-of-way seem to be a notable solution for residential areas. However, the equipment, if under-grounded would still require the small service connection boxes above ground and a vent hood to provide for air circulation for the radio equipment. It may work in certain situations with a deep enough right-of-way and appropriate landscaping, but generally, this type of solution would still have to be reviewed on a case by case basis.

E. Application and Justification Requirements

The City of San Diego has required site justification letters for all wireless facility CUP's for the past several years, however, the information provided with the applications has been lacking solid justification. In an effort to improve application requirements and assist decision makers in making determinations on projects, staff has created and is now utilizing a new Submittal Requirements and Procedure Bulletin for Telecommunication Facilities - Bulletin 536 (Attachment 8). Along the lines of San Francisco, Carlsbad and Encinitas, the City is requiring more detailed and extensive justifications from the providers for all project applications.

TECHNICAL ISSUE RELATED TO RADIO-FREQUENCY MEASUREMENTS

In the letter dated September 11, 2001 from PAWSE, item 8 requests that: "As part of the public disclosure process, residents in neighborhoods where a proposed facility is to be sited should be provided with a "Radiation Footprint" that includes information about maximum power output levels authorized by the Federal Communications Commission (FCC) vis a vis the maximum power capability of the proposed facility. In order to make informed decisions and assess options, citizens must know all the technical attributes of that which is being proposed. Cumulative radiation from all sources within a three mile radius of a proposed WCF site should be included as a consideration in any siting decision."

The cost for an independent RF Radiation analysis would vary greatly depending upon the proposed site and other RF facilities that might be located at that site. The anticipated range for each analysis is between \$1,000 and \$5,000.

However, the issue of measuring RF Radiation and the effects of the amount of radiation falls under the jurisdiction of the Federal Communications Commission (FCC) as described in the Telecommunications Act of 1996. All carriers/licensees are required to provide an analysis to the FCC prior to obtaining permission to license frequencies that will be used at a proposed site. The license granted by the FCC provides information about maximum power output levels authorized by the FCC for the proposed facility. Any changes or additions to a site must also have prior approval by the FCC. Any concerns the public has that a site exceeds the standard as authorized by the FCC are to be reported to and investigated by the FCC.

The Telecommunications Act of 1996 specifically addresses the issue of safety as a criteria for state and local governments to use in their evaluation if siting cellular/PCS facilities as follows:

"No State or local government or instrumentality thereof may regulate the placement, construction, or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

As to the subject of a "Radiation Footprint" or "cumulative radiation from all sources within a three-mile radius of a proposed WCF site included as a consideration in any siting decision," this issue again encroaches on the jurisdiction of the FCC as stated above in the policy in terms of evaluating the application for siting based upon environmental effects of RF emissions.

The FCC has determined through calculations and technical analysis that due to their low power

or height above ground, many wireless facilities are highly unlikely to cause human exposure near or in excess of the established guidelines. Many wireless facilities are exempt from routinely having to determine whether they are in compliance with the guidelines. This is true in the case of many of the typical cellular/PCS sites being located in our communities. These facilities are “categorically excluded” from the routine environmental processing for RF Radiation exposure. A cellular/PCS facility is categorically excluded if the total effective radiated power (ERP) of all channels operated by the licensee at a site is 1,000 watts or less. In addition, a cellular facility is categorically excluded, regardless of its power, if it is not mounted on a building and the lowest point of the antenna is at least 10 meters (33 feet) above ground level.

In conclusion, there may be times when the FCC determines that a RF Radiation Survey is appropriate and warranted for a site. These situations are addressed on a case-by-case basis by the FCC, and the survey data is evaluated for its compliance with FCC standards and the Telecommunications Act of 1996.

CONCLUSION

FCC licensing requirements and consumer demand for more extensive wireless telephone coverage as well as for additional features and multimedia applications is increasing with the rapidly advancing technology in wireless communications. It is anticipated that the demand for wireless coverage outside of higher concentrated areas of transportation corridors and commercial and industrial areas will continue to expand into the future. The City of San Diego’s Communication Antenna ordinance should provide for future industry growth while protecting the aesthetic qualities of our neighborhoods. Staff foresees our current regulations evolving over time to address new technologies and public concern. City staff in concert with TIC will be working on these issues and the PAWSE letter as directed by the City Council.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
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LYNCH-ASHCRAFT/KLA

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments: 1. Council Policy 700-06

2. Council Policy 600-43
3. Telecommunication Guidelines for Park and Recreation
4. PAWSE Letter
5. City of Encinitas Wireless Communication Facilities Regulations
6. City and County of San Francisco Wireless Facilities Siting Guidelines
7. City of Carlsbad Wireless Communication Facilities Policy
8. Bulletin 536