

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, JULY 27, 2004  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

ITEM-344: Wireless Communication Facility Policy Amendment and Associated Ordinance Revisions to the Land Development Code.

Matter of approving or denying draft City Council Policy 600-43 (Wireless Communication Antennas) and proposed revisions to the Land Development Code (Wireless Communication Facilities Section 141.0420-new section and various other sections relating to the subject).

**The City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on this will be with the California Coastal Commission. The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment. If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attn: Karen Lynch-Ashcraft, 1222 First Avenue, Mail Stop 501, San Diego, CA 92101, before the close of the City Council public hearing. (See City Manager Report CMR-04-114 Rev. All Community Plan Areas. Districts-Citywide.)**

**CITY MANAGER'S RECOMMENDATION:**

Introduce the ordinance in subitem A; and adopt the resolution in subitem B:

Subitem-A: (O-2004-123 Cor. Copy)                      INTRODUCED AS AMENDED, TO BE  
ADOPTED ON MONDAY, AUGUST 9,  
2004

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1, of the San Diego Municipal Code by amending Section 113.0103; Amending Chapter 12, Article 3, Division 4, by amending Sections 123.0402 and 123.0406; Article 6, Division 2, by amending Section 126.0203; Article 6, Division 3, by amending Section 126.0303; Amending Chapter 13, Division 2, by amending Section 131.0222; Division 3, by amending Section 131.0322; Division 4, by amending Section 131.0422; Division 5, by amending Section 131.0522; Division 6, by amending Section 131.0622; Amending Chapter 14, Article 1, Division 4, by amending Section 141.0405; And

by adding Section 141.0420 titled “Wireless Communication Facilities,” all pertaining to Wireless Communication Facilities Regulations.  
Subitem-B: (R-2004-1050 Cor. Copy) ADOPTED AS RESOLUTION R-299512  
Adoption of a Resolution of the Council of the City of San Diego amending Council Policy No. 600-43 pertaining to Telecommunication Antenna Policy.

**LAND USE AND HOUSING COMMITTEE RECOMMENDATION:**

On 10/09/02, LU&H voted 5 to 0 to adopt the City Manager’s recommendations with changes to the draft policy’s Guidelines for Placement of Wireless Communications Facilities.

Councilmembers Wear (nay on B), Peters, Stevens, Maienschein, Frye, voted yea.

**OTHER RECOMMENDATIONS:**

Planning Commission on January 16, 2003, voted unanimously (6-0, Commissioner Brown absent) to recommend to the City Council, approval of draft Council Policy 600-43 and the associated Land Development Code revisions. Additional considerations were included in the motion to approve; was opposition.

Ayes: Lettieri, Garcia, Anderson, Chase, Schultz, Steele  
Not present: Brown

The Community Planner’s Committee reviewed the draft policy on March 26, 2002 and voted 13-5-2 to: **1)** Support the concerns of the community members of the reconstituted Telecommunication Issues Committee (TIC2); **2)** Recommend that Land Use and Housing (LU&H) approve a revised “draft” that restricts the placement of wireless communication facilities in Agricultural and Open Space zones, Public Right-of-Way adjacent to residential, Multi-Family and Single-Family Residential zones, premises within the MHPA and Coastal Overlay zones unless the applicant has provided justification clearly indicating that recommended high and limited preference locations were explored in good faith and found unacceptable, that a denial would be a violation of the Telecommunication Act of 1996 (TCA) or other federal, state or local regulation and that the proposed wireless facility constitutes the “least intrusive method” of satisfying the applicant’s requirement; and **3)** Recommend that LU&H approve a site preference matrix that ensures appropriate accountability to elected representatives by providing for a process three with extraordinary appeal to City Council (a procedure permitted under the old code) in cases of applications for wireless communications facilities within Agricultural and Open Space zones, City Parks and Open Space, Public Right-Of-Way adjacent to residential, Multi-Family and Single-Family Residential zones, premises containing designated historical resources, premises within the MHPA and Coastal Overlay zones.

**CITY MANAGER SUPPORTING INFORMATION:**

## Background:

At the direction of LU&H in September 2001, staff, in coordination with a committee comprised of citizens and industry members (the Telecommunication Issues Committee [TIC]) set out to prepare a draft Wireless Communication Facility policy. The resulting document was intended to comprehensively address the many issues that surround wireless communication facility installations within the City of San Diego. Over the course of a year, TIC met twelve times and developed a draft policy based on a land use hierarchy. LU&H met four times on the issue and based on recommendations from TIC, directed staff to make several key changes to the draft policy including direction to revise the existing regulations. Recommended revisions included modifying the draft policy to include stricter preference levels for residential zones and city parks, adding definitions related to the Telecommunication Act of 1996, adding language on maintenance and abandonment, revising the LDC sections related to wireless communication facilities to comprehensively address land use and visual impacts and increasing the decision process levels for residential zones and city parks.

On January 16, 2003, the Planning Commission voted unanimously to approve the draft revisions to the Land Development Code, including the higher decision process levels and the amended version of Council Policy 600-43. The following considerations were included in the motion: 1) Elevate Open Space from a Process Three to a Process Four; 2) Include a stipulation requiring providers to assist in updating facility location maps and ensure they are made available to the public; 3) Revise language related to installations on light standards to include flexibility to place antennas above the light source; 4) Develop language to permit flexibility in the time limits for temporary wireless facilities. The resulting draft policy amends Council Policy 600-43, which outlines internal procedures, identifies preference categories (where commercial and industrial are a higher preference than residential and park sites) and provides comprehensive guidelines to reduce visual and land use impacts associated with wireless communication facilities.

Additionally, throughout the process of updating the Council Policy, staff has received substantial input from stakeholder groups which has led to the language contained in "Processing of Applications for Wireless Facilities on City Property," in the draft policy. In addition to the processing and siting issues, leasing issues including the allocation of revenues generated from telecommunication sites have been addressed. Revenues consist of market rate rent for use of the property and a one-time site access fee. The proposed fee is \$40,000 for all new leases and will be adjusted upward on an annual basis by the Consumer Price Index. Existing leases where a site access fee has not already been paid will be subject to a \$20,000 fee upon lease renewal. It is proposed that

the site access fee be paid either as a one-time lump sum payment or prorated over a period not to exceed thirty-six months. Telecommunication installations within an existing right-of-way are exempt from the site access fee. To facilitate the anticipated volume of lease activity, staff requests that the City Manager be given the authority to enter into leases for telecommunication sites for a term of up to ten years before Council approval is required. For general fund sites, staff is proposing that all of the site access fees and one-half of the rental revenue be deposited into a special fund used primarily to benefit the property or neighboring community where the site is located. For Telecommunication related sublease of City-owned property the City's lessee will be required to pay all of the site access fee and fifty percent of the revenue to the City as a condition of the consent to sublease. Processing fees will also be required to cover the administrative costs associated with the application. The revised draft regulations provide comprehensive design requirements, higher process levels for sensitive land uses and locational criteria for all wireless facilities. The draft regulations utilize a process-based hierarchy, which encourages providers to go to commercial and industrial zones and right-of-way. The regulations also increase the decision process levels from Hearing Officer to Planning Commission for residential zones, park sites and open space and increases the decision process level from staff decision to Hearing Officer for projects located on nonresidential uses within residential zones. Attachment 8 illustrates the comparison between the current regulations (Section 141.0405) and the proposed regulations (Section 141.0420).

#### **FISCAL IMPACT:**

Project review for compliance with the Wireless Communication Facility Policy and associated regulations is fully cost recoverable through deposit accounts provided by wireless communication facility applicants. With the increase in process levels for wireless communication facilities in residential areas, as recommended in this report, there will be an increased number of discretionary projects requiring staff processing and review. Currently, the majority of projects are processed ministerially, but with the proposed revisions to the decision process levels, many of the projects will be processed at higher decision levels requiring Planning Commission decisions with potential appeals to the City Council. The Park and Recreation Department has no budgeted positions available to manage the proposed new wireless communication facilities projects and cannot absorb the additional workload with present staff. It is requested that 1.00 cost recoverable Park Designer position and associated non-personnel expense at a cost of \$102,444 be added to the Park and Recreation Department/Park Planning Division's Fiscal Year 2004 2005 Operating Budget in Fund no. 100, Department no. 446, Organization no. 2001 (General Fund) for this purpose. The position would be fully cost recoverable through deposit accounts provided by wireless communication facility applicants.  
Loveland/Christiansen/KLA

**NOTE:** This activity is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061(b)(1) (the activity is not a project as defined in Section 15378).

FILE LOCATION: SUBITEM A: NONE

SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 6:12 p.m. – 7:58 p.m.)

Testimony in opposition by Cynthia Conger, Mac Strobl, Debbie Collins, Nathan Hamler, Ted Marioncelli, William Schwartz, Doug Sain, Jennie Starr, and Angelika Villagrana.

Testimony in favor by Mindy Pellissier and Mary Coakley.

Motion by Inzunza to continue this item to November 9, 2004, to allow the parties time to address the concerns. Second by Lewis. Failed by the following vote: Peters-yea, Zucchet-nay, Atkins-not present, Lewis-yea, Maienschein-nay; Frye-nay; Madaffer-yea, Inzunza-yea, Mayor Murphy-nay.

**MOTION BY FRYE TO INTRODUCE THE ORDINANCE IN SUBITEM A AS AMENDED TO: 1) INCLUDE A PROVISION STATING “APPLICATIONS ARE DEEMED COMPLETE AT THE TIME THE ORDINANCE TAKES EFFECT”; 2) DIRECT STAFF TO ADDRESS THE CONCERNS RAISED BY THE DURING PUBLIC TESTIMONY WITHIN 60 DAYS WHICH ARE THE FOLLOWING: PREFER TRAFFIC SIGNALS FOR USE AS CELL SITE INSTALLATIONS OVER STREET LIGHTS AND RIGHT-OF-WAY; EVALUATE A 200 FOOT SET-BACK REQUIREMENT FROM RESIDENTIAL NEIGHBORHOOD PROPERTY LINES; ENCOURAGE CARRIERS TO SUBMIT A COMPREHENSIVE COMMUNITY PLAN FOR CELL SITE PLACEMENT THROUGHOUT A COMMUNITY; EVALUATE ENCOURAGING WIRELESS COMMUNITY FACILITY INSTALLATIONS IN CITY PARKS THROUGH ADJUSTED REVIEW PROCESS TO A PROCESS TWO. 3) COME BACK TO COUNCIL FOR REVIEW WITHIN 120 DAYS; AND 4) ADOPT THE RESOLUTION IN SUBITEM B.**

Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-nay, Mayor Murphy-yea.