

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	August 25, 2014
	Agenda Item No. Roll Call No. Communication No. Submitted by:	24 <u>14-1301</u> <u>14-422</u> Pamela S. Cooksey, P.E., Interim City Engineer and Phillip Delafield, Community Development Director

AGENDA HEADING:

Approving amended lease guidelines for telecommunication towers and equipment located on City-owned property.

SYNOPSIS:

Recommend approval of amended lease guidelines for telecommunication towers and equipment located on City-owned property. This action is required to update the lease guidelines for telecommunication towers and equipment on City-owned property, which no longer represents current market conditions. The City staff review process for these types of leases is being amended to reflect current practices and issues that need to be considered.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

In response to recent requests from Verizon Wireless and AT&T to lease City-owned property at Grandview Park and Fire Station No. 9 for telecommunication tower sites, City staff has determined that the current lease guidelines governing such leases is outdated and does not reflect the current staff review process or fair market rent for such requests. The current lease policy creates a financial barrier to prospective companies who have a need to expand operations in locations where City-owned property may be the most suitable site for all parties for the placement of such improvements.

The amended policy updates the process to determine the fair market rent for such leases, which is not based on call volumes or any other formula or set schedule as the current policy requires. The amended policy also updates the staff review process by eliminating the Communication Antenna Lease (CAL) Committee, and replacing it with the Community Development Department’s Pre-Application review process, which includes various staff from other City departments to allow for a comprehensive review and recommendation for each request.

Below are the most significant changes to the amended policy to reflect current application review practices and the determination of fair market value lease rates:

Application Process:

1. All requests to lease City-owned property for the placement of telecommunication towers or equipment shall require a Pre-Application review with the City's Community Development Department. The Pre-Application review shall include all affected City departments to allow for comments and recommendations for each request.
2. Issues to be reviewed at the Pre-Application meeting include, but are not limited to the following: security, interference with current or future City requirements for communications and infrastructure, compliance with zoning regulations, determine applicable neighborhood notification and review, opportunity for placement of City-owned equipment on monopole sites, and operational and aesthetic compatibility with the surrounding City-owned and private properties.
3. Following the Pre-Application meeting, the City's Community Development Department and Real Estate Division shall make a recommendation to the City Manager for approval to proceed with preliminary lease negotiations or to deny such request.

Compensation/General Lease Terms:

1. The initial and renewal lease rates for the telecommunications tower/equipment owner will be based on current fair market value lease rates for comparable leases in the Des Moines metropolitan area, or other locations, as applicable. Market conditions change over time based on supply and demand for sites and changes in technology. In the current market, the total lease compensation is commonly structured as follows:
 - a. Monthly or annual base rent payment from the tower/equipment owner for the initial antenna equipment installed, plus an additional monthly or annual rent payment from any communications provider who subsequently co-locates antenna equipment at the leased location.
 - b. A one-time lump sum payment due at the commencement of the lease from the tower/equipment owner, plus an additional one-time lump sum payment for any communications provider who installs a subsequent antenna at the leased location.
2. Provision to allow the placement of City-owned equipment on monopole sites will be included in the lease terms. Consideration for such provision shall be negotiated as part of the overall fair market rent for the site.
3. The lease duration for a telecommunications tower/equipment lease is typically between 5-10 years, with options to extend the lease for additional periods. Lease compensation for the renewal options is typically negotiated at time of renewal to reflect future market conditions.
4. Provision requiring Lessee, at its sole cost, to maintain security for the improvements and to maintain, repair or replace Lessee's and Sublessee's improvements, as required by the terms of the lease; and to remove all of Lessee's and Sublessee's improvements and appurtenances thereto, upon termination of the lease.

PREVIOUS COUNCIL ACTION(S):

Date: January 6, 2003

Roll Call Number: 03-0386

Action: Revised lease guidelines governing placement of telecommunications equipment on City-owned property. ([Council Communication No. 03-018](#)). Moved by Vlassis to adopt. Motion Carried 7-0.

Date: April 8, 2002

Roll Call Number: 02-846

Action: Communication from Plan and Zoning Commission Chair, regarding Council's interest in recommended changes to the zoning regulations regarding placement of communication towers and antennas on City property. Moved by Hensley to receive, file and adopt. City staff to report back on City-owned towers, regulations versus restrictions, and co-location on towers. Motion Carried 7-0.

Date: January 28, 2002

Roll Call Number: 02-268

Action: From Zoning Board of Adjustment, requesting that Council impose an immediate moratorium on additional communication towers until appropriate changes can be made to existing regulations. Moved by Vlassis to receive and file; refer to City Manager, Legal and Plan Commission, for review and recommendation. Motion Carried 6-1.

Date: October 21, 1996

Roll Call Number: 96-3615

Action: Regarding form of lease for monopoles on Public Property. (Council Communication No. 96-458). Moved by Vlassis to approve. Motion Carried 5-2. Absent: Flagg and Hensley.

Date: September 16, 1996

Roll Call Number: 96-3201

Action: Amendment to Chapter 2A-Zoning Ordinance, regarding permitted location of communication towers and antennas, as amended. Motion Carried 7-0. Moved by Hensley that this ordinance do now pass, #13,377. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: March 21, 2002

Resolution Number: 2002-39

Action: Authorizing the Plan and Zoning Commission Chairman to write a letter to the City Council requesting confirmation of the Council's interest in recommended changes to the zoning regulations regarding the placement of communication towers and antennas, including the Commission's proposal to encourage placement of towers on City property such as parks.

Board: Zoning Board of Adjustment

Date: November 14, 2001

Action: Recommendation requesting that the City Council impose an immediate moratorium on the approval of additional communication towers until appropriate changes can be made to the existing regulations.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.