

# **CELL TOWER ADVISORY COMMITTEE (C-TAC)**

## **Meeting Minutes**

July 9, 2013

### **I. Call to order**

Anthony-Paul (AP) Diaz (Chair), called to order the fifth regular meeting of the C-TAC at 7:00 p.m. on July 9, 2013 at the San Marino Unified School District Office located at 1665 West Drive San Marino, California 91108.

### **II. Roll call**

No formal roll call was conducted. However, the following members were present:

Richard Grimes, Andrew Ko, Stacy Lewis, Miriam Nakamura-Quan, Ada Katz, Strefan Fauble, Ming Jang, Hon. Peter Lichtman (ret.), Zillah Tobiano, Kevin Chan, and Doug Wilson.

Also in attendance were Superintendent Loren Kleinrock, Board Member Chris Norgaard, District counsel, Dean Pappas of Goodwin Proctor LLP.

### **III. Approval of Minutes**

The meeting minutes from the last meeting on 6/4/2013 were approved with noted change(s).

### **IV. District Update By Dean Pappas, Esq.**

Mr. Pappas updated the committee on the carriers' responses to his May 29<sup>th</sup> notices of default.

#### *Verizon Response*

Verizon responded to the district's notice of default on June 27, 2013, advising that it is in the process of curing the default by applying to the City of San Marino for a Conditional Use Permit (CUP) "under protest." The application was filed on June 20, 2013. Verizon has also retained an inspector for the Division of State Architect (DSA) application.

There was discussion generally regarding the CUP approval process and the timeline for this process including CEQA. According to Mr. Pappas, the CEQA process could take longer than 6 months. According to the lease language, the carrier is entitled to reasonable opportunity to cure the default and, under the circumstances, this could be a fairly long time frame. So long as they are taking diligent steps to obtain the CUP, the

district cannot declare a forfeiture. Moreover, according to Mr. Pappas, it would be a breach of the lease by lessor to do anything to stand in the way of the carrier securing a permit. Any CEQA challenges would have to be brought by third parties (i.e. members of the community).

Mr. Kleinrock indicated that he may ask for weekly updates from Verizon to ensure that they are making diligent progress – it is not clear that they have a contractual obligation to provide such updates however.

#### *Global Towers Response*

Global Towers operates the cell tower at San Marino High School. According to Mr. Pappas, Global Towers has responded several times to his notice of default. They indicated that they are working to un-void the current application with DSA and the California Geological Service. Mimi Nakamura-Quan indicated that the DSA needs CGS approval and that Global Towers must initiate the process.

#### **V. Discussion of Next Steps**

Various suggestions for next steps were discussed by members.

Judge Lichtman suggested that the district could seek to enjoin the carriers from transmitting from the towers pending their cure of the default. Mr. Pappas indicated that this approach would be costly and, in his opinion, not likely to be successful, especially since it was the city that told the carriers that they would not require a CUP.

Stacy Lewis, who works for AT & T suggested that the District ask to speak with someone in Verizon's external affairs department as they would be more responsive to public relations issues. Rich Grimes opined that now that the notices of default had been issued, legal was involved, and thus the opportunity to have an informal discussion in the spirit of problem solving has passed. Others suggested that the board should continue to pursue solutions with the carriers even during the CUP process/ cure period.

Andrew Ko reiterated his request to know exactly how many people are in the parent group and requested to see the petition that was signed last year. Both Mr. Ko and Mr. Kleinrock expressed that a cost-benefit analysis should be made to determine how much money the district is willing to spend on this issue.

Judge Lichtman and others discussed getting the public involved as well as eventually reaching out to government representatives.

However, the bottom line at the conclusion of the meeting was that the district now must wait and see what steps the carriers take to cure the defaults with the

understanding that the process could drag on for quite a long time particularly in the event of a CEQA challenge.

**VI. Adjournment**

The meeting was adjourned at approximately 8:30 p.m. The next meeting will take place on September 17, 2013, at 7:00 p.m.

Minutes submitted by: Ada Katz

Minutes approved by: C-TAC Committee on \_\_\_\_\_