

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

### ***Meeting Minutes***

April 24, 2014

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

Anthony-Paul (AP) Diaz (Chair), called to order the regular meeting of the C-TAC at 7:30 p.m. on April 24, 2014 at the San Marino Unified School District (Board Room) 1665 West Drive, San Marino, CA 91008.

#### **II. Roll call**

The following members were present:

AP Diaz, Strefan Fauble, Andrew Ko, Stacy Lewis, Peter Lichtman, Miriam Nakamura-Quan, Zillah Tobiano, Brinton Young, Doug Wilson and School Board Member Chris Norgaard.

Additional guests included: City Planner, Dave Saldana and District counsel, Dean Pappas of Goodwin Procter LLP.

#### **III. Minutes**

The meeting minutes from the last meeting on 3/18/2014 were approved with amended change(s).

#### **IV. Site Inspections**

C-TAC members conducted site inspections of the cell towers located at San Marino High School and the District's Maintenance Yard. The High School site had an eight foot tall fence around the tower, related equipment and generator. The site had clear warning signs on all sides of the enclosure. The maintenance yard site had a ten foot tall fence along two sides and a four foot tall fence along the other two. There was a single warning sign on the South fence. The enclosure would meet the requirements for a pool fence, but wouldn't stop a child from entering the enclosure. The exhaust manifold for the diesel generator is located six feet from two classroom air conditioner air intakes.

#### **V. Outside Counsel Updates By Dean Pappas, Esq.**

Mr. Pappas updated the committee on the status of the Verizon and Global Tower (Now American Towers) carriers' defaults. Both carriers are working to remedy the defaults. During Spring Break Verizon surveyed the maintenance yard to find a new location. American Tower

has hired legal counsel, Channel Law Group, from Long Beach (Robert Jystad and Jamie Hall) as they work to resolve compliance issues at the High School site.

American Tower plans to file for a conditional use permit (CUP) with the city in a few weeks. After they have a CUP they can seek approval from the Division of the State Architect (DSA) will only certify the cell tower after they have received the CUP. They will need to submit evidence that they have met all seismic safety requirements and have obtained clearance from the State Department of Mines. Mr. Pappas suggested they file a complete application for the CUP process. They still need to perform a feasibility and RF study, which they can do fairly quickly. Unlike Verizon, American Tower did go through the DSA for review. They have been in conversation with Verizon and indicated they might want to try some joint community outreach.

Miriam Nakamura-Quan noted that American Tower has inspection reports, but they were based on a falsified DSA Geologic Hazard Statement and they need to be reassessed because the tower was constructed on a seismic fault line. They will need to do a geological survey to take into account that they are in a fault zone and on an earthquake Fault line. They originally signed their DSA application stating they were not building in a fault zone.

Andrew Ko inquired about time limits with the CUP process. Mr. Pappas stated that Verizon applied for the CUP in June 2013. The city reviewed the application and noticed it was complete. The city was required to respond within 30 days, which they did. There isn't a time limit on Verizon because the CUP is required before building and operating the tower.

Committee members expressed their frustration with Verizon for moving slowly to resolve their default. They have taken ten months without resolving their default and are moving at a leisurely pace because no time limits or financial penalties have been issued.

Judge Litchman noted that the CUP process doesn't have any time restrictions on the applicant because nothing is to be built until they get the permit. The school board has a lease that isn't very favorable, however Verizon is in default on that lease. Since they have been in default for nearly a year the time to cure has expired. The city should request that Verizon stop operating the tower and remove it. That will provide the incentive for them to move quickly and find alternate locations. They shouldn't be allowed to piggyback the CUP requests, which will only extend this process and allow them to continue to operate the tower illegally. Verizon's CUP application is for a specific location and not for any location in the city.

If they file for a mandamus proceeding in the Los Angeles Superior Court the burden will be on them to prove wrong doing by the city. They don't have the documentation or other evidence to back their claim. Legal action may prove costly, but Verizon is unlikely to prevail in court.

The city needs to give them a deadline to force their hand. It's critical the city write a letter giving them a deadline. Notify them they will need to stop operating the tower within a set number of days if they don't complete the CUP process. They should be required to comply with state code.

Andrew Ko inquired if there were school board meeting minutes that would provide insight into what went into the decision to enter into the contract with Verizon. Other committee members noted that they had looked into this and no public discussion was recorded in the meeting minutes.

Other members noted issues with Verizon's generator which is located within ten feet of classrooms. They need Air Quality Management District (AQMD) approval to operate the generator. Even if they receive a CUP they will need DSA and AQMD approvals for the current site.

As part of the CUP process Verizon will submit a report showing alternate sites. If they decide to proceed with an alternate site the city will need to decide if it will close the application on CUP 1312 and require a new CUP application.

## **VI. Discussion of Next Steps**

The committee discussed various suggestions for what are the next steps in the process.

1. The district can diligently pressure Verizon to respond and cure their default advising them that Verizon is not responding quickly enough.
2. Motion to send letters to Verizon and American Tower reminding them they are in default.
3. Encourage the city to impose a reasonable timeline of possibly 60-days for the carriers to comply with the CUP process.
4. Request the city to rule on the current CUP and request a second CUP for an alternate location.

## **VII. Committee Recommendations**

a. The committee unanimously voted to request the board of education instruct council to send additional default letters to the carriers reminding them they have been in default for nearly a year.

b. The committee unanimously voted to recommend the board of education contact the city to encourage them to impose a reasonable timeline of possibly 60-days for completion of the CUP process.

## **VII. Adjournment**

The meeting was adjourned at approximately 9:00 p.m. The next meeting will be scheduled once there are new developments.

Minutes submitted by: Doug Wilson

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