

**MINUTES  
SAN MARINO CITY COUNCIL  
SPECIAL MEETING  
JULY 5, 2017 – 8:00 AM**

**CALL TO ORDER** Mayor Richard Sun called the meeting to order at 8:03 a.m. in the City Hall Council Chamber, 2200 Huntington Drive, San Marino, CA 91108.

**ROLL CALL:**       **PRESENT:** Council Member Huang, Council Member Yung, Vice Mayor Ward, and Mayor Sun

**NOT PRESENT:** Council Member Talt was excused.

**PLEDGE OF ALLEGIANCE** Mayor Sun led the Pledge of Allegiance.

**PUBLIC COMMENTS** There were no public comments at this time.

Mayor Sun advised the audience that the City has been working on the cell tower issue for several years. Staff has done extensive research on moving the cell tower from Huntington Middle School and has considered several locations in which to move the cell tower. Mayor Sun asked Interim City Manager Collins for a report.

**1. LEASE FOR THE INSTALLATION AND USE OF WIRELESS TELECOMMUNICATIONS ANTENNAS AND SUPPORT EQUIPMENT LOCATED AT 2200 HUNTINGTON DRIVE**

Interim City Manager Collins provided a brief history indicating that in 2013 the School District approached the City Council and City staff about the relocation of two cell towers located on the high school campus and the middle school campus. City staff began working with Verizon Wireless and T-Mobile to find viable alternative locations to meet the necessary coverage to avoid service gaps. After multiple evaluations of sites in the City, the City Hall site was determined to be the most suitable site to relocate the middle school tower. Discussions of the City Hall tower have been ongoing in public meetings, newspaper articles, and was added to the Making San Marino Better list to provide monthly status updates. Ms. Collins apologized to the residents on Roanoke for not communicating directly to them even though notice was not required by law.

Planning and Building Director Aldo Cervantes stated that Verizon submitted a request to approve a lease agreement for a new wireless cell site facility in the rear parking lot of City Hall. This matter was tabled from the June 30<sup>th</sup> hearing to allow for comments and further discussion.

He provided background that at the December 14, 2016 City Council meeting the Council authorized staff to negotiate a lease agreement with Verizon for a new facility with the intention of removing the existing cell site at the middle school. Prior to this, City staff and Verizon worked for almost two years to find alternative sites for the relocation of the middle school site. Although City Hall was discussed Verizon focused on other locations such as the Old Mill, a median, and commercial properties. He explained the alternative sites were unsuitable for Verizon for a variety of reasons, and several of the commercial sites were hesitant to lease to Verizon due to the loss of area.

Mr. Cervantes pointed out some of the locations both inside and outside of the City that Verizon looked at where there were existing sites and explained the reasons why each of those locations did not work for Verizon. He then described the monopole design that The City Council approved at the December 14<sup>th</sup> meeting. The cell tower would be 65 feet in height and would have no more than two carriers. The facility would be located south of the existing block wall and east of an existing above ground transformer. A temporary facility would also be included in the agreement for the purpose of expediting the removal of the middle school site. A temporary site would be located in the City Hall parking lot, the exact location had not yet been determined.

Mr. Cervantes discussed the FCC's regulation, and the City's requirement in the agreement, for Verizon to satisfy the standards for radio frequency emissions. The agreement would also require Verizon to perform testing and certified compliance of these standards and the City could require this testing at least once each year. The City could also perform testing on its own more than once a year at the City's expense.

Mr. Cervantes concluded his report indicating the initial term of the proposed agreement would be 5 years with an option for 5 additional 5-year extensions for a total of 25 years. However, Verizon could terminate as early as they wish.

Thereafter, Council Member Yung asked a series of questions about radio frequency emissions and health issues resulting therefrom in which the City Attorney confirmed that the FCC regulates the radio frequency emissions and Verizon is required to comply with those regulations.

Mayor Sun concurred with Council Member Yung's concerns noting that the FCC has a pre-emptive right. He discussed the safety concerns of the current school site facility due to design issues in the event of an earthquake. He discussed the fact that the school cell site facility was built ten to twelve years ago and was neither inspected nor permitted.

Council Member Huang asked Planning and Building Director Cervantes about the relocation of the high school cell tower. Director Cervantes advised that the tower is going to be removed and the equipment on the tower belonging to Verizon is to be removed and relocated to the County site. Further discussion regarding relocation sites and site distances from property lines and residences continued.

Dr. Hai-Sou Chen addressed the City Council regarding his concerns about the relocation of the cell tower. He suggested the City form a committee to study and provide a report regarding a location and the size of the tower be compatible with the neighborhood.

Gretchen Shepherd Romey asked the City Council to postpone taking action on this issue until more research and information can be provided to the public. She also expressed concerns about the seismic safety and size of the structure being located next to the Emergency Operations Center. She pointed out that there is precedent in the 9<sup>th</sup> Circuit for the City to take aesthetics of the single monopole towers into consideration citing Scott v. Palos Verdes Estates.

Council Member Yung stated the City does take aesthetics into consideration.

Resident Shan Chu referred to several health risks, including the possibility of brain cancer from the use of wireless phones. He presented the City Council with documents citing all of the possible health risks. Mr. Chu also provided the City Clerk with a petition signed by 141 residents opposing the installation of a cell tower at City Hall.

Crystal Dalstine, a teacher at Huntington Middle School, requested a continuance to the July 12<sup>th</sup> City Council meeting so that the residents could have an opportunity to review the materials and to have a collective voice to discuss the issue at the next City Council meeting.

Resident Alvin Kao spoke in support of relocating the cell tower facility from Huntington Middle School, but Council should study further to find a better location. He showed the Council and audience pictures of two types of cell tower facilities, suggesting the City continue discussions with Verizon to find a location for a facility on a light pole along Huntington Drive.

Resident Raymond Kim who lives on Roanoke behind City Hall was one of the residents who did not receive notice the first meeting. He addressed Resolution R-10-26 requiring the City to provide 10-days' notice to residents when there is consideration or an application for a cell tower. He mentioned the health concerns associated with cell towers, the aesthetics of a monopole at City Hall, the decline in property values, safety concerns, and the concentration of cell tower facilities in close proximity of each other.

Resident Miriam Nakamura Kwon read an email she had sent to Council requesting this item be continued before signing the lease. She advised her first choice for relocation of the SMUSD tower would be on a rooftop in the commercial zone. She stated the cell tower would be the first free-standing tower in the commercial zone and would set a precedent. Her email suggested several items be included in the lease with Verizon including an importance factor of 1.5 seismic safety standard adopted by the City of Los Angeles. The lease should have a termination clause allowing the City to break the lease at any time and give Verizon one year to vacate. She noted the difference in the lease rate of 2.5% to the City compared to 3% the school site receives. She elaborated on the weaknesses in the schools' lease agreements and cautioned the City to make the lease agreement as legally strong as possible. She suggested the City Council consider a committee to review the issues and the agreement and bring recommendations back to Council.

Resident Mrs. Kao stated the cell tower should be moved away from the fire station so that in case of an earthquake the fire department would be able to respond.

Dr. Charles Norton, a principal scientist at the Jet Propulsion Laboratory stated he has done a lot of work associated with earthquake fault analysis and modeling. The California Geological Survey did a reassessment and remapping of some aspects of the Raymond Fault which is the fault that runs along the north side of Huntington Drive. The

Raymond Fault is capable of generating up to a magnitude 7 earthquake comparing it to Northridge which was a 6.7. He discussed the radiation risks and new alternative capabilities being developed. He did not anticipate the large cell towers to be in use in the next 25 years. He said there were several issues regarding the cell tower that needed to be considered before making a decision.

Resident Miriam Nakamura Kwon advised the City Council that Senate Bill 649 was progressing through the Assembly and once approved would allow, to the wireless industries' benefit, deployment of small cells on the public right-of-ways. There is a prediction that in the future, one will be placed every 12 homes and suggested that might be another reason to continue this matter.

Resident John Hicks addressed the vast number of cell facilities already in place and the health effects of radiation emissions on the fire personnel who work 24 hour shifts.

Resident Scott Kwong addressed the lack of notification and encouraged the City Council not to make a decision today, but instead look at alternatives like the fixtures attached to light poles.

Clarissa Rue spoke on behalf of both herself and a business owner who was out of town regarding health concerns and negative effects relating to cell towers.

Planning and Building Director Cervantes responded to Mayor Sun's questions indicating the distance from the cell tower to the nearest home is 70 feet and about 10 to 15 feet from the property line. He stated the carrier said the small cell sites provide a small area of coverage compared to the coverage received from a tower.

City Attorney Flower stated that his understanding has always been that when the height is lowered the coverage area drops. He didn't know how many light pole sites would be needed to cover the same area but it increases the number of facilities needed. Also, each one would have its own power issues.

Mayor Sun asked the distance between the light fixtures to a home and Mr. Cervantes stated without measuring and depending on the right-of-way, it would be about five to ten feet from the property line and 30 to 100 feet to a home, depending on the zone.

City Attorney Flower explained the restricted effects Senate Bill 649 would have on the City's authority to regulate cell sites. Under a lease the City has maximum authority under federal and state law. If Verizon looks elsewhere they would come in for regulatory approval. If they are on private property the City would be constrained by elements of the Federal Communications Act and there would be less time for deliberations because the City would be subject to the FCC's shock clock rule which mandates a decision be made quickly.

Mayor Sun stated the City has more control under a lease. He also indicated the compensation was not his first priority. The welfare of the community is the number one

priority. The City has researched this issue for the past five years and is currently running out of options.

Council Member Huang asked Planning Director Cervantes if the City inspected the process when the cell tower was erected at the school. Mr. Cervantes responded that the City did not. He then asked what the City would do if the City knew it was illegally erected at private homes.

Planning and Building Director Cervantes explained the City would conduct code enforcement to abate the violation; however, with respect to this situation and all of the rules and regulations, the City is limited.

In response to Council Member Huang's question on whether the contract could be voided, City Attorney Flower explained the City doesn't have any relationship with the private contracting parties. The City is a land use regulator and the District has been advised that the structure was erected without the required CUP and without the required building permits. Beyond that the City has not conducted any further code enforcement and the Attorney's office has not been given direction to do so. However, the School District is aware that it was built in violation of the Code.

Council Member Yung said safety was the concern reiterating the alternatives the City Council has considered, all of which raises issues, coupled with federal rules and regulations that have to be followed. He appreciated everyone's input noting the middle school situation will have to be remedied. An August 15<sup>th</sup> deadline has been set for removal of the school site tower and a temporary site has to replace the service.

Vice Mayor Ward stated this is an issue that has bothered the City for five years. The Council has struggled multiple times to come up with a location and a solution for this problem. He appreciated everyone's concerns over the problem but was skeptical about radiation, stating enough studies have been done and enough research has been recorded that he felt it was a negligible problem. He was concerned about the 1.5 seismic standard for the City of Los Angeles stating it was an important factor and needed to be built into the City's lease agreement. He then discussed Senate Bill 649 giving telecommunications companies free reign to come into the City's right of ways whenever they please. He felt SB 649 should be vigorously opposed and our legislators contacted to do so.

Council Member Huang stated he has been trying to remove that cell tower from the middle school for the past 18 months. However, he did not feel it should be done at the expense of the City Hall neighbors. He would rather the City continue this matter until the deadline has to be met.

Council Member Huang moved to continue this item.

Thereafter a discussion with staff ensued regarding the length of time it would take to come to agreement and move the cell tower. Planning and Building Director Cervantes explained the intent was to decommission the existing site, bring in the temporary site

and begin working toward finding a permanent site. If this is continued to July 12<sup>th</sup>, there was still the possibility of meeting the timeline.

City Attorney Flower said he would ask, but suspected Verizon would not agree to decommission the existing school site and go with a temporary site with the hope they will eventually get a permanent location somewhere else.

Thereafter, individuals in the audience made various suggestions for a temporary site, and staff discussed the positives and negatives of the various suggestions.

Mayor Sun re-opened for public comment.

Resident Gretchen Shepherd Romey suggested moving the temporary site to the bus stop in the commercial area where there was power and would be the least invasive to residents.

Charles Norton requested the City consider a variety of locations based on the propagation analysis.

Dr. Chu reiterated his previous concerns.

Raymond Kim agreed the site suggested by Ms. Shepherd Romey was the best solution because the utilities were already in place.

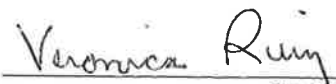
Miriam Nakamura Kwon mentioned the coverage maps were not always accurate and suggested looking at Lacy Park.

Mayor Sun directed staff to make sure the seismic issues were addressed; to look for a temporary facility before the next meeting; and to find out if the bus stop was possible. Interim City Manager Collins added that the continuance would allow the City Attorney to discuss a temporary arrangement for six months while the City looks for a more permanent agreement; and, if not, what alternatives were available.

Council Member Huang reiterated his motion to continue the matter until the July 12<sup>th</sup> meeting; seconded by Council Member Yung. The motion carried four to zero. Council Member Talt was absent.

### **ADJOURNMENT**

There being no further business to come before the City Council, Mayor Sun adjourned the meeting at 10:23 a.m.

  
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VERONICA RUIZ, CMO  
CITY CLERK