APPROVED
MAY 04 2011
BOARD OF RECREATION and PARK COMMISSIONERS

REPORT OF GENERAL MANAGER — NO. 11-119

DATE May 4, 2011 — C.D. All

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PARK PROPERTY – INSTALLATION OF CELLULAR TELECOMMUNICATION EQUIPMENT

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| R. Adams | | K. Regan | |
| H. Fujita | | *M. Shull | |
| V. Israel | | N. Williams | |

General Manager

Approved amended attached — Disapproved ______ — Withdrawn ______

RECOMMENDATIONS:

That the Board:

1. Select an option for the pricing of cellular installations on park property;

2. Select an option for increased flexibility in regards to cellular installations on park property; and,

3. Instruct staff to return to the Board with a Master Lease Agreement, Site Lease Agreement, policies and guidelines which reflect the Board's selections for pricing and flexibility options.

SUMMARY:

The Board of Recreation and Park Commissioners (Board) has long recognized the need for policies and guidelines to consistently direct the installation of cellular telecommunication equipment on park property. As evidenced by the 2007 fire in Griffith Park, a lack of cellular facilities can disrupt rescue and fire-fighting efforts, becoming a public safety issue. Hikers and general park users within larger City parks may be unable to communicate in the case of an emergency. Attempts made to develop citywide regulations regarding these installations, (Mayoral Executive Directive No. 2001-38, issued on May 10, 2001) have not been successful. At least two Departments, the Department of Public Works, Bureau of Engineering (BOE) and the Department of Water and Power (DWP), have developed policies of their own on the granting of permits in various right-of-ways.

As well as BOE and DWP, Department of Recreation and Parks (RAP) receives many requests for telecommunication placements. In spite of a previous call for a coordinated, uniform City policy that would protect the interests of all City entities, it may be prudent for the Board to approve procedures and guidelines for telecommunication placements as well as a Master Lease Agreement and Site Lease Agreement tailored to meet RAP's needs. However, RAP will continue to work closely with other City Departments towards the goal of an uniform policy.

The Board has recognized the need for comprehensive guidelines since at least 1998. In that year the Board approved a set of guidelines or regulations applicable to telecommunication service providers but acknowledged that further action would be needed to implement a fully-developed policy (Report No. 410-98). The approved Report raised several issues including the desirability of incorporating antennas into a building's façade or on a utility pole or water tank as opposed to a free-standing installation. The design plans of firms were to be reviewed and input obtained from the affected Council Office and nearby community. As for fees, it was recommended that both rent and staff administrative time be charged and that the agreement contain renewal options which, when exercised, would allow for rate increases.

In approving the 1998 Report, the Board directed that the guidelines be amended to take into account comments made during the meeting by both the public and the Commissioners. In response to this directive and the realization that RAP needed to clarify certain wording, the guidelines were revised in May 2001. This version was not presented to the Board because the Mayor's Executive Directive, which called for a Citywide policy, had just been issued. Staff later revised those guidelines in October 2002 and presented them to the Board in November 2002 (Board Report No. 02-401). Neither the May 2001 nor the October 2002 guidelines included specifics on a fee structure for applications or rents, nor a clear process for the approval of telecommunication installation requests.

On October 2, 2010, RAP staff recommended the adoption of policies, guidelines, Master and Site Lease Agreements for the installation of cellular equipment on park property. Unbeknownst to staff at that time the Department of General Services (GSD) had commissioned a study on the market rates for the installation of cellular equipment. Upon learning of this study, the Board Report was withdrawn from consideration so that RAP staff could revise the proposed fee structure to accurately reflect the information contained in that market rate study. On February 2, 2011, RAP staff presented again the policies, guidelines, Master Lease Agreement, and Site Lease Agreement to the Board for consideration, including the revised rates reflecting the market rate study. However the Board requested additional information in regards to pricing options and increased flexibility in revising prices as needed.

Staff has contacted numerous surrounding municipalities to determine both what other civic entities charge for the installation of cellular equipment on publicly owned lands and what types of flexibility is included in their leases. In general it appears that older leases contain lower lease amounts and less flexibility in the leases. More recent installations have terms more favorable to the municipality. Exhibit A is a summary of those findings. It should be noted that the size, scale, and scope of our RAP facilities far outweigh those of surrounding cities.

Staff is requesting that the Board select from the following options in regards to pricing and flexibility and then instruct staff to revise the proposed policies, guidelines, Master and Site Lease Agreements to reflect those selections.

PRICING:

Option 1:

That the Board adopt the rates as proposed on February 2, 2011, and which reflect the proposed pricing as presented in the market rate analysis commissioned by the GSD. Those rates range from $2,200 to $3,100 per month, depending on which zone they are located within, and include a three percent (3%) increase in rents per year.

Option 1 Discussion:

Pros: These proposed rates are an average of the recommended rates, by zone, and are reflective of single market rate installations. This structure recognizes that certain areas of the City are more desirable to applicants than others and reflects that fact by assigning different rates to different parts of the City.

Cons: These rates may be prohibitive to a large number of installations per applicant. RAP may receive maximum dollars for a few installations but may receive less money overall as applicants may seek less expensive alternatives for some sites.

Option 2:

That the Board adopt the rate of $2,000 per month as proposed on October 2, 2010.

Option 2 Discussion:

Pros: This is the same rate as is currently charged by the DWP and would lend consistency across City Departments. Utilizing these fees may also make RAP more competitive versus other City Departments who choose to utilize the market rate study.

Cons: This fee structure does not reflect the fact that certain areas of the City are more desirable to applicants than others. This structure does not reflect the information contained within the market rate study commissioned by the GSD. Additionally, the DWP has indicated that in the future they will be putting available sites out to bid in a competitive process, indicating that their current pricing structure is considered outdated.

Option 3:

That the Board adopt a tier-based fee structure whereby applicants would receive a lower rate for installations beyond a certain amount. For example, an applicant may pay a certain rate for the first 10 applications, a reduced rate for the next 10 applications, and a further reduced rate for any subsequent applications.

Option 3 Discussion:

Pros: This option may maximize the number of applications.

Cons: This option may require additional staff time and resources. This option does not provide certainty as to the amount of revenue that may be generated by individual applications. This option also incentivizes applicants to target initial applications to lower valued areas of the City in order to discount rates in other areas. This option may lead to an unintended environmental justice consequence.

Option 4:

That the Board require each applicant to negotiate with the RAP to determine an appropriate market rate for each individual proposed installation, including a consultation with a professional appraiser.

Option 4 Discussion:

Pros: This option will provide the RAP with the highest rate for each individual installation.

Cons: This option does not provide certainty to applicants. This option will extend the length of time that each application will require as well as make the application process more expensive. This option may require that the RAP go through an RFP process in order to select the appraiser who will evaluate each application which would extend the time before which cellular applications can begin to be received.

Pricing Discussion:

Staff is in favor of option 1. This option will provide certainty to applicants and the Board as to the amount of money to be charged per application while recognizing that there are certain areas of the City which are more desirable to applicants than others, thus leaving less money on the table. The large number of potential sites makes RAP a very desirable Department for applicants to work with while trying to build their 4G networks. Regardless of pricing option staff recommends a 3% per annum increase in rental amount for the life of the lease.

FLEXIBILITY:

Option 1:

That the Board approve the terms included in the Master Lease Agreement and Site Lease Agreement as presented on both October 2, 2010 and February 2, 2011. The terms for individual applications are for a five (5) year lease with the option for an automatic renewal for three (3) additional five (5) year terms.

Option 1 Discussion:

Pros: The potential length of time that any one individual installation would be under a Site Lease Agreement is 20 years. That length of time was requested by cellular providers as a way to provide certainty that any capital infrastructure investment has sufficient time to recoup those capital costs. Each year would have an automatic increase in rents (staff recommends 3% per annum), thus reducing the amount of staff time and resources devoted to ongoing leases.

Cons: The length of time that an installation would be under a single lease would limit the ability to bring the rents in-line with market rents should there be a severe market correction.

Option 2:

That the Board eliminate the automatic renewal for the Site Lease Agreements, thus allowing rent pricing to be revisited every five (5) years.

Option 2 Discussion:

Pros: This option would allow the RAP to revisit individual installation pricing agreements every five (5) years.

Cons: This option does not provide the long-term certainty to applicants that their capital investment generally requires. Should the market prices drop over the five (5) year term the RAP could end up losing potential revenue. Additionally this option would require greater staff time and resources to implement.

Flexibility Discussion:

Staff is in favor of option 1. Staff recommends that the pricing terms be removed from the Master Lease Agreement and be incorporated solely into the Site Lease Agreement. This would allow the Board to revisit and readjust pricing for new installations at an on-needed basis, adjusting the prices either up or down as the market requires. However, this option would still provide certainty to applicants that their capital costs would be recovered and require less staff time and resources to renegotiate all installations every five (5) years.

Staff has determined that the CEQA review process will be completed through the Conditional Use Permit application process once guidelines, procedures, Master and Site Lease Agreements have been approved by the Board at a later date.

FISCAL IMPACT STATEMENT:

There shall be no fiscal impact to the Department's General Fund as the application fees for individual Site Lease Agreements shall be sufficient to cover staff costs for review. Approved telecommunication installations shall be a revenue generating use through the collection of rents as included in each approved Site Lease Agreement.

This Report was prepared by Melinda Gejer, City Planning Associate, Planning and Construction.

## Exhibit A

### Cellular installations on Publicly Owned Properties in Cities in the Los Angeles Area

**Beverly Hills:** There are many installations in Beverly Hills on public property such as City Hall, fire-stations, libraries, and the public rights-of-way. For those not located within the public rights-of-way (approximately 20-30) leases are individually negotiated and range from approximately $2,000 to $3,300 per month. Some of these leases have set percentage increases and some are indexed to the Consumer Price Index (CPI). Typical leases are for five (5) years with four (4) five (5) year options to renew for a total of 25 years.

**Burbank:** The City of Burbank Water and Power (BWP) has one lease. The lease is for $1,800/month for a ten (10) year base lease with two (2) ten (10) year options to renew. At each renewal term the rate will increase by either 25% or an increase tied to the Consumer Price Index (CPI) whichever is higher. Should the increase be 25%, compounded, at each ten (10) year interval the cellular company will be paying $2,812.50 per year for the final ten (10) years of their lease.

**Carson:** One City-owned property has one cellular installation, however, that is a sub-lease to another lessee of the City's property. The City purchased the property and then leased it back to the original owner as part of a redevelopment arrangement. No financial or lease information was available.

**El Monte:** Either has no leases on publically owned lands or no information is available.

**Glendale:** The Glendale Parks and Recreation Department has several cellular installation leases. Originally they were charging approximately $1,800/month, however at the end of the first lease option the rate was increased to $3,000/month with a four percent (4%) annual increase. Their leases are for a ten (10) year base with two (2) five (5) year options to renew, for a total of 20 years.

**Inglewood:** Either has no leases on publically owned lands or no information is available.

**Long Beach:** Either has no leases on publically owned lands or no information is available.

**Pasadena:** Either has no leases on publically owned lands or no information is available.

**Santa Clarita:** No current leases on public land although one negotiation is underway at a park site. That negotiation has been ongoing for approximately two years.

**Santa Monica:** Either has no leases on publically owned lands or no information is available.

**South Gate:** The City of South Gate has two (2) leases on publically owned land. The first is for $1,650/month to start with increases tied to the Consumer Price Index (CPI). The lease term is for 20 years. The second also starts at $1,650/month but has a 4% per year escalator and the lease term is for 20 years. The second lease also requires that the lessee allows the City to co-locate on the lessee's equipment at no cost so long as there is no signal interference.

**Thousand Oaks:** Either has no leases on publically owned lands or no information is available.

EXCERPT FROM THE MINUTES OF THE REGULAR MEETING
BOARD OF RECREATION AND PARK COMMISSIONERS
MAY 4, 2011

GENERAL MANAGER'S REPORT:
11-119
Park Property – Installation of Cellular Telecommunication
Equipment

The above item was described and presented to the Board by Department staff. Public comments were invited. Such comments were presented by five members of the public. No members of the public were denied the opportunity to comment. A detailed discussion by the Commission ensued.

President Sanders moved that the report be adopted based on Option 1 of the report and authorized staff to negotiate within the parameter of Option 1, with an understanding that staff consider the increase in rent per year to be 3% or the current Consumer Price Index (CPI) for Los Angeles, whichever is higher. Staff may also consider establishing a ceiling to the percentage of increase per year. On motion duly made, seconded, and unanimously adopted, the motion to adopt General Manager's Report 11-119 as amended, was approved.

Motion

It was moved by President Sanders, seconded by Commissioner Stanley, that General Manager's Report No. 11-119 be approved as amended. The motion carried unanimously.