

MINUTES OF TTF CG MEETING
AS AMENDED

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications

A meeting of the Telecommunications Transmission Facility Coordinating Group (TTF CG) was held on July 13, 2005. The following people were in attendance:

MEMBERS

Jane Lawton DTS (240) 777-3724

Pat Hanehan MCPS (301) 279-3609

Steve Batterden DPWT (240) 777-6063

Carlton Gilbert M-NCPPC (301) 495-4576

Jennifer Bryant OMB (240) 777-2761

Martin Rookard WSSC (301) 206-8979

STAFF

Margie Williams DTS (240) 777-3762

Robert Hunnicutt CTC (410) 964-5700

Matt Wolff CTC (410) 964-5700

David Randolph CTC (410) 964-5700

OTHER ATTENDEES

Joseph P. Blocher Attorney for WIN Broadcasting

Clifford Royalty Montgomery County Attorney

Katie Oppenheimer T-Mobile

Mike Budde T-Mobile

Jackie Karp Verizon Wireless

Bill Parris WCTN

Discussion Item - Meeting Minutes: Pat Hanehan moved that the minutes be approved as written. Carlton Gilbert seconded the motion and the minutes were unanimously approved.

Consent Agenda Items:

1. T-Mobile application to attach nine 54" panel antennas at the 55' level on a 41' Storage USA building at 7722 Fenton Street in Silver Spring (Application #200506-05).

2. Verizon Wireless application to attach 12 - 71" panel antennas at the 50' level atop a 42' One Beltway North building at 10230 New Hampshire Avenue (Application #200506-06).

Jane Lawton noted that she had already reviewed these applications with the Tower Coordinator and noted that they both met the height limit for the commercial and industrial zones.

Motion: Martin Rookard moved the consent applications be recommended. Pat Hanehan seconded the motion and it was unanimously approved.

Action Item: WIN Radio Broadcasting Corporation application to replace an existing 198' guyed lattice tower with a new 198' self-supporting tower located approximately 150' away from its present location at the Falls Road Golf Course located at 10800 Falls Road in Potomac (Application #200504-04).

Bob Hunnicutt summarized the application and noted that the two AM broadcast guyed lattice towers had been on the County's Revenue Authority property since the late 1960's. He said one of the guyed towers is to be replaced by a new self-supporting structure approximately 150' away from its current location. He stated that the relocation was necessary because Maryland's Environmental Resources Department required it to be

removed from the spillway of a storm water retention pond.

Mr. Hunnicutt described the new tower as approximately 20' wide at the base and 8' wide at the top - considerably larger than the existing guyed tower. He added that the top of the tower would have an array of additional bars and wires necessary to enhance the transmission capabilities of the structure. He said that although the new structure will be no taller than the existing one, it would appear higher because it is on ground that is approximately 20' higher in elevation than the current site. He noted that at the new location, the tower would not meet the required one-for-one setback. He also noted that some of the ground radial wires extended off the property onto the adjacent parcel owned by the Park and Planning Commission. He said he could not recommend this application to the TTF CG because the proposed location did not meet setback requirements and it would use land the owners did not have permission to use.

Mr. Hunnicutt said that the lease agreement with the Revenue Authority contained a provision for adding two additional towers on the property to accommodate a second radio station to be transmitted from that site. He said that the applicant had advised him that at the time he received the application the station owners had no plans to add additional towers.

Mr. Hunnicutt also advised the group that on July 1, 2005, a storm had toppled the tower to be replaced and had damaged the second tower. He said that the station owners had removed all but 40' of the second tower in fear that it may collapse as well. He said that the station would remain on-the-air transmitting from the remaining 70' of tower.

Jane Lawton noted that a tower in the Barnesville area had collapsed several years ago, and asked if the tower owners at that site had been required to come before the TTF CG to replace that structure. Mr. Hunnicutt said that those owners had not been required to submit a TTF CG application to replace that tower. He reminded the group that the only reason they reviewed an application for the Barnesville tower at the time it collapsed was because there had coincidentally been an application from a cell carrier to attach antennas to that tower.

Mr. Hunnicutt noted that for the WIN broadcasting application, he had advised the applicant that his understanding of the County's interpretation of the zoning ordinance was that broadcast towers that existed prior to 1970 could be reconstructed at their original location even though that site did not meet current setback. He noted that the present location of the tower meets setback requirements, but the new location of the tower does not. Although both towers presently meet code, the relocation at the new location would no longer meet code. He added that the applicant's view of the code was that since these towers had been there since the 1970's, they could be reconstructed as well as relocated to a new site without having to meet the one-for-one setback. Mr. Hunnicutt asked Mr. Blocher, the applicant's attorney, to explain his opinion of the code.

Mr. Blocher noted that the towers had been there for 34 years and that the current owner, WIN Broadcasting, recently bought the station coincidental to the time the original lease expired. He stated that a condition of the Montgomery County Revenue Authority lease required the tower to be relocated to the new location at the request of the State Environmental Resources Department.

Mr. Blocher stated that it was a complicated process to move the towers, and the applicant was required to do so at their own expense. He stated he had to file with the FCC, the Board of Appeals, and the TTF CG for permission to relocate the towers. Mr. Blocher said that he had applied to the Board of Appeals to relocate the tower at the same time as he filed with the TTF CG. He said the Board had granted approval to reconstruct the tower as a minor administrative modification to the existing Special Exception. He added that Mr. Hunnicutt had then advised him that the structure in its new location did not meet setback based on his review of the site plan, and in the opinion of the County Attorney's office, WIN could not move the tower to a new location that did not meet setback requirements.

Mr. Blocher displayed a site plan showing the position of the ground radials for the antennas, and noted that the Revenue Authority prohibited them from being placed in the fairway, and consequently had been foreshortened to meet that requirement. He showed a copy of the record plat for the Bedfordshire subdivision and noted the area in which the radials extended off the County's property onto Park and Planning Commission property that is in a flood plain. He said he planned to seek permission from the Park and Planning Commission to use its property for placement of the ground radials after he had received approval

from the TTF CG. Mr. Blocher said that if he does not obtain TTF CG approval, WIN could shorten the radials to stay within the property line; however, it was their preference to seek a lease for the Park and Planning Commission property. He stated that the one tower that was not being relocated would be replaced as soon as possible as a guyed lattice tower in the same location as it was before it was damaged. He added that the Revenue Authority required that the new tower be self-supporting.

WIN's station manager, Bill Parris, said that plans for this site include the operation of a second radio station, and that he believed it was important to preserve operation of this historical Montgomery County radio station. He stated that the new self-supporting structure would have no guy wires to meet the requirements of the Revenue Authority.

Ms. Lawton asked if additional towers would be constructed to accommodate the second radio station. Mr. Parris stated that two additional towers were an option, but that the second radio station would co-locate on the new self-supporting structure.

Mr. Parris asked if the main objection to the application was the setback issue. Mr. Hunnicutt stated that objections included the setback issue, use of the Park and Planning Commission property, and the visual impact of the much larger structure. Mr. Hunnicutt asked Mr. Parris if there were any plans to increase the power of the existing station, and if he knew at what power the second station would be operating. Mr. Parris said there were no plans to increase power for the existing station, and that the new station would be operating at 1000 Watts. Mr. Parris noted that the new structure would be able to accommodate additional antennas, including cellular carriers and public safety radio facilities, if the County desired.

Ms. Lawton stated that she believed this was a good site for the towers, but noted that the applicant would have to first obtain a variance. She said that based on her conversations with the County Attorney, she believed it may be more appropriate for the applicant to obtain the variance first and then seek TTF CG approval.

Mr. Blocher stated that the nearby residents had been notified of the tower relocation as part of the Board of Appeals approval of the minor modification to the Special Exception, and noted there had been no objections. Mr. Hunnicutt commented that when he had reviewed the Board of Appeals file he recalled seeing at least one objection to the most recent filing to relocate the tower. Ms. Lawton stated that her concern was that the Board of Appeals approved the modification request without being notified that the new location did not meet setback requirements. Mr. Blocher stated that he did not advise the Board of that matter because he did not think meeting setback was required. Ms. Lawton added that it is her understanding from the BOA secretary that Mr. Blocher had not advised the BOA that the new location would not meet setback. Mr. Blocher replied that he did not think he had to let them know.

Mr. Hunnicutt asked Mr. Parris to elaborate on the second station that would be added to the site. Mr. Parris stated that the existing station (WXLE) located on Stone Street would be relocated from that location to the new tower once it was constructed. He stated that once the WXLE facilities were relocated, the three AM towers on Stone Street would be removed.

Pat Hanehan asked if they could move the tower to another location on the golf course property in order to meet setback. Mr. Hunnicutt said he had spoken with the WIN station engineer who explained that the physical terrain of the site limited locations on the property for the new tower. Mr. Hunnicutt asked Mr. Parris if the new tower could be moved farther up the hill from its present location to remove it from the spillway of the water retention pond. Mr. Parris agreed that would be an option if the new location were not approved. Mr. Blocher said he objected to changing the location of the tower now because it would require his client to seek another amendment to the lease with the Revenue Authority and re-file with the FCC for a different location. He added that Park and Planning staff are aware of the proposed relocation because they review all actions by the Board of Appeals. Carlton Gilbert stated the Planning Commission does not review administrative modifications, which is what was approved for WIN.

Ms. Lawton stated that the main concern of the group was the setback issue; otherwise she thought this was a good location for the radio towers. She commented that she felt uncomfortable recommending an application that did not meet a major zoning code requirement. Mr. Blocher asked if the application could be recommended conditioned on getting approval from the Board of Appeals for a variance and obtaining

permission from the Park and Planning Commission for use of its property. Ms. Lawton stated that the TTFCG has previously made recommendations with conditions, but usually they were for more minor issues and not as significant as was the case with this application.

Mr. Hanehan asked Cliff Royalty to state his opinion regarding a conditional recommendation. Mr. Royalty explained that an application with an approval, even with conditions, is still an approval, and he did not think it was appropriate for the TTFCG to approve an application that is not in compliance with the relevant zoning requirements. He stated his understanding of the TTFCG conditional approvals involved minor matters that were usually under the control of the applicant. Mr. Hanehan replied that many of the structures sited on public school property had to go for Mandatory Referral before the Planning Board yet had been conditionally approved. Ms. Lawton added that for this application, it was not just the fact that the tower did not meet setback, but that the Board of Appeals had approved a minor modification without knowing that the proposed new location did not meet setback requirements.

Jennifer Bryant asked why it would be so difficult to renegotiate the lease with the Revenue Authority. Mr. Blocher replied that the first lease negotiation took more than five months and had involved meetings with multiple parties. He said he presumed that further negotiations would also be a lengthy and expensive process for his client. He said it would be far quicker to go before the Board of Appeals and request a variance than to renegotiate the terms of the lease. Ms. Bryant asked what were the consequences for WIN if they could not get approval for the new location. Mr. Blocher stated that they would have to renegotiate the agreement with the Revenue Authority. Mr. Hunnicutt asked if the Revenue Authority's lease specified the position of the location of the new tower. Mr. Blocher said that it did.

Motion: Pat Hanehan moved that the application be recommended subject to the applicant obtaining getting a variance regarding the setback requirements. There was no second to the motion and the motion failed.

Bob Hunnicutt suggested the group table the application until the applicant resolves the issues regarding setback and use of Park and Planning Commission property.

Motion: Steve Batterden moved that the application be tabled until the setback and adjacent property use matters could be resolved with the Board of Appeals and the Park and Planning Commission. Carlton Gilbert seconded the motion and the application was tabled by unanimous vote. Jane Lawton asked Mr. Hunnicutt to draft a letter for her to send to the Board of Appeals regarding the TTFCG's action on this application. Mr. Blocher asked for written notice of the TTFCG's opinion on this application.

Action Item: Cingular Wireless application to attach up to 12 - 55" panel antennas at the 175' level on an existing 230' lattice tower on the Benmar property located at 23000 Whites Ferry Road in Poolesville (Application #200506-01).

Matt Wolff summarized the application. He noted that this recommendation was conditioned on any necessary modifications to the Special Exception for the use of additional ground space, and notice to the Board of Appeals of the change in ownership of the facility.

Motion: Carlton Gilbert moved that the application be recommended. Jennifer Bryant seconded the motion and it was approved with Pat Hanehan abstaining.

Action Item: Nextel application to attach 12 - 48" panel antennas at the 110' level on a 120' monopole to be constructed by Cingular at Northwood High School located at 919 University Boulevard in Silver Spring (Application #200506-03). Three GPS antennas will also be installed.

Matt Wolff summarized the application. He noted that the application was conditioned on approval for use of the additional ground space, and that the final height approval of this facility had been at 110', not the 120' stated in Nextel's application. He noted that this would require Nextel to attach at a lower elevation than the 110' shown on its application, as that space is already in use.

Motion: Martin Rookard moved that the application be recommended conditioned upon the structure being built. Carlton Gilbert seconded the motion and it was approved with Pat Hanehan abstaining.

Action Item: Nextel application to attach 12 - 48" panel antennas at the 120' level on a 130' monopole to be

constructed by T-Mobile at JFK High School located at 1901 Randolph Road in Silver Spring (Application #200506-04). Three GPS antennas will also be installed.

Matt Wolff summarized the application.

Motion: Carlton Gilbert moved the application be recommended conditioned upon the structure being built. Martin Rookard seconded the motion and it was approved with Pat Hanehan abstaining.

Discussion Item - Tower Legislation: Jane Lawton commented that Marilyn Praisner recently introduced two new bills regarding broadcast towers. She asked Margie Williams to provide copies of the bills to TTF CG members.

Discussion Item - August Meeting: Jane Lawton stated that the TTF CG often does not meet in August due to vacations and a lack of applications. She asked Mr. Hunnicutt if there were any applications submitted for the August meeting. Mr. Hunnicutt replied that he had not received any new applications at that time. The group agreed to cancel the August meeting, and would meet again in September.

Discussion Item - Next Meeting: The next meeting of the TTF CG is scheduled for Wednesday, September 14, 2005 at 2 p.m. in the second floor conference room #225 of the COB.