

MINUTES OF TFCG MEETING

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications

A meeting of the Transmission Facility Coordinating Group (TFCG) was held on July 12, 2006. The following people were in attendance:

MEMBERS

Jane Lawton DTS (240) 777-3724
Mary Pat Wilson MCPS (240) 314-1071
Helen Xu DTS (240) 777-2804
David Niblock DPS (240) 777-6252
Steve Batterden DPWT (240) 777-6063
Jennifer Bryant OMB (240) 777-2761

STAFF

Marjorie Williams DTS (240) 777-3762
Robert Hunnicutt CTC (410) 964-5700
David Doulong CTC (410) 964-5700
Carol Watson CTC (410) 964-5700
Lee Afflerbach CTC (410) 745-5958

OTHER ATTENDEES

Pete Maheridis NB&C/Fiber Tower
Erin Galvin NB&C/ T-Mobile
Steven Weber NB&C
Vanessa Cooper NB&C/ T-Mobile
Jill Goyette Velocitel/Cingular (443) 804-1245
Bruce Henoch Shulman Rogers (301) 230-6569
Dave Freishtat Shulman Rogers
Paul Newman Macris Hendricks (301) 670-0840
Don Katzenberger DRRTS
Cristina Fuster DRRTS
Alejandra Fuster DRRTS
Anita Kramer DRRTS
Wendy Fuster DRRTS
Wayne Bussard DRRTS
Craig Brown DRRTS (301) 807-5636
Terry Brown DRRTS
Gwen Brown DRRTS (301) 253-5632
W.A. Mitchell DRRTS (301) 461-4664
Dave Brown Knopft Brown (301) 545-6100
Pamela Bussard DRRTS (301) 651-1497
Barry Friedman Thompson Hine (202) 331-8800
Brendan Armbruster Rep. CVA (301) 424-3501
John Kalas Rep. Cong. Bartlett (301) 694-3030
Bernie Fitzgerald DPWT (240) 777-7151
Jeff Harmon DRRTS
Daniela Moya Council
Sima Birach, JR WDMU Radio
Rebecca Robey WDMU Radio

Action Item - Meeting Minutes: David Niblock moved the minutes be approved as written. Mary Pat Wilson seconded the motion and it was unanimously approved.

Consent Agenda Items:

1. Cingular application to install three 55' panel antennas at the 130' level on an existing 155' monopole at 5600 Sundown Road in Laytonsville (Application #200607-01).
2. T-Mobile application to attach nine 53" panel antennas at the 97" level on the roof of a 90' high condominium building located at 3005 South Leisure World Boulevard in Silver Spring (Application #200607-02).
3. FiberTower application to install one 13" dish antenna at the 135' level on the existing 190' Oakmont lattice tower located at 16801 Oakmont Avenue in Gaithersburg (Application #200607-07).

Motion: Steve Batterden moved that the consent items be recommended. Dave Niblock seconded and the motion was unanimously approved.

Action Item: Nextel application to attach twelve 48" panel antennas at the 80' level of a 250' lattice tower on County Correctional Facility property located at 22880 Whelan Lane in Boyds (Application #200606-06).

Bob Hunnicutt stated that since Nextel's frequencies were so close to the County's 800 MHz frequencies, the County has typically requested that in the case of any interference Nextel would respond to the problems quickly, and if they could not be resolved they would terminate service. However, at this facility, which also has County 800 MHz antennas, Helen Xu stated that it was critical for public safety that there be no interference at all. He said she had requested that an intermodulation study be performed for this siting before this application is considered by the TFCG. Consequently, Bob Hunnicutt recommended that the application be tabled until that study was completed and the findings could be analyzed.

Steve Batterden added that there were also some issues yet to be resolved with the State of Maryland regarding the County's lease for this Nextel attachment at this location.

Motion: Helen Xu moved the application be tabled. Steve Batterden seconded and the motion to table was unanimously approved.

Action Item: T-Mobile application to sled mount nine 53" panel antennas at the 80' level on the roof of a 70' high apartment building located at 10000 Brunswick Avenue in Silver Spring (Application #200607-05).

Bob Hunnicutt summarized the application.

Steve Weber, representing T-Mobile, asked why this application required a Mandatory Referral review, or review by the Park and Planning Commission as part of the Mandatory Referral process. Bob Hunnicutt stated that it was because the building was owned by the Housing Opportunities Commission, a County agency. Jane Lawton asked if the Housing Opportunities Commission qualified as a public agency and therefore, required Mandatory Referral. She said she thought it was not really a public agency. Mr. Hunnicutt stated that he was unsure, but believed it to be a public agency and if so, that the siting would require a Mandatory Referral review. Mr. Weber stated he was also unsure about the requirements and was still working with the agency to determine if the application required a Mandatory Referral.

Motion: Dave Niblock moved the application be recommended. Helen Xu seconded and the motion was unanimously approved.

Action Item: Invisible Tower application to construct a new 140' monopole and attach nine 55" panel antennas at MacArthur Boulevard & Stable Lane in Potomac (Application #200604-40).

Bob Hunnicutt stated that due to recent developments and additional information regarding this siting, he was not ready to recommend it to the Group and removed the application for consideration at today's meeting.

Action Item: Birach Broadcasting application to construct four AM broadcast radio towers - Bethesda Church Road & Johnson Drive, Damascus (Application #200506-02).

Bob Hunnicutt summarized the application, noting that it had been under review for over a year, and there had been several rounds of questions posed to and answered by the applicant. He referred the Group to circle 52 in

the packet, which was the request for additional information and the response. Mr. Hunnicutt reminded the group that over the past year, as newspaper articles had been written about this station, the TFCG members have been provided copies and the status of the application had been discussed at a number of TFCG meetings over the past year. He asked Lee Afflerbach to summarize how an AM broadcast tower differs from a typical cellular monopole.

Mr. Afflerbach stated that the most noticeable difference between AM radio towers and a typical cellular monopole is that AM towers are considerably higher. He stated that the height of the towers was determined by the operating frequency, which in this case is in the low range of the AM band. He said that towers for stations operating in the low AM frequencies are necessarily taller than an AM station operating at a high frequency in the AM band due to the laws of physics. He stated that with regard to the location of the towers, the applicant has been issued a construction permit by the Federal Communications Commission (FCC) that specifies the specific tower height and location.

Mr. Afflerbach reported that he had reviewed the TFCG application, the application for the FCC construction permit, and the construction permit itself, and found the application was a fairly typical request for an AM station. He said that he had reviewed information submitted by the station's engineer, and had conducted his own independent review of the construction application and related information at the FCC's website. Based on this review, he had concluded that the additional height of these towers above the 275 foot limit in the code is necessary in order to meet the minimum FCC requirements.

Jane Lawton noted for the benefit of the residents present at the meeting that the TFCG is not the appropriate body to deal with land use issues which she understood were of concern to some of them. She said that the TFCG reviews the technical aspects of tower applications, such as addressing potential methods to minimize the impact of a new monopole or identifying any colocation opportunities available to the cellular carrier in lieu of new construction. She noted that their technical review of an AM radio tower differs from their review of a monopole because of the different nature of AM radio facilities.

Jennifer Bryant asked why the question on the Tower Coordinator's Recommendation Form regarding impact on the land owning agency had been answered "not applicable" since there were County public safety facilities near this site that might experience possible interference. Mr. Hunnicutt replied that question on the form was related to siting facilities on property owned by the County or other public agencies, such as the WSSC, M-NCPPC and Public Schools which was not the case with this application.

Ms. Lawton asked Mr. Afflerbach to address the radio interference issues that the AM station may pose to the public safety communications facilities in the area. Mr. Afflerbach explained that because the AM frequencies are so far removed from the frequencies operated by the County, there was likely only an extremely remote chance for any AM interference with the County frequencies. He noted that the County's public safety 800 MHz frequencies were 1,600 times higher on the frequency spectrum than the 540 kHz frequency that this AM station would be using.

Ms. Lawton asked Mr. Afflerbach if the towers could be lower than the 411 feet proposed. Mr. Afflerbach replied that in this case the applicant had a valid construction permit issued by the FCC which sets the present tower height and location of the towers. He stated that based on his review of the information available to him, these towers just barely meet the minimum requirements for operating efficiency required by the FCC, and they also meet the Zoning Code requirements for constructing towers over 275' tall. He added that even if a top-loading design could be used, as suggested by the Damascus residents' engineer, the towers would still be in the range of 350' tall, well above the 275' maximum limit in the County Code. Further, he said that it is unlikely that an engineering study for an alternative design could be completed and approved by the FCC before the current FCC construction permit expires. He added that there are no permit extensions permitted by the FCC on construction permits.

Ms. Lawton asked David Freishtat if he would like to make any comments of behalf of the applicant. Mr. Freishtat referred to exhibits showing the site plans for the facility and acknowledged that the towers would be 411 feet tall. He said the towers did meet set-back requirements and would be lit and marked to FAA specifications. He said there would also be an equipment shelter on the property but it would be screened from view in accordance with the screening requirement in the County Code. He acknowledged that the towers would be highly visible given their height and lighting.

Ms. Lawton asked why it had taken so long for Mr. Freishtat to provide the information requested by the TFCG to get this application on the agenda. Mr. Freishtat stated that their process had been slowed by the time it took them to prepare documents to meet the NRI/FSC requirements of the M-NCPPC before they could file for a Special Exception. Ms. Lawton noted that matter should not have hindered their ability to provide the information requested by the TFCG in a timely manner. She wanted to make it clear that the TFCG had done nothing to delay the review of this application. Mr. Freishtat stated he thought that they had answered all of the questions of the TFCG and had only recently realized there was still additional information required. He stated emphatically that the TFCG had not done anything to delay review of the application.

Ms. Lawton asked what programming would be broadcast from this station. Mr. Freishtat replied that this would be an AM station at 450 kHz and business radio presently broadcast from the Pokomoke City station location would be broadcast. Ms. Lawton said that she understood that this station would be broadcasting Radio Disney, not business radio. Sima Birach stated that their sister station in Frederick County broadcasts business radio and that this station was planned to broadcast Radio Disney.

Steve Batterden asked if the 36-month time period for the construction permit required that the station be completely constructed by the end of the 36 months. Mr. Freishtat stated that at least one tower had to be operational within 36 months.

Jane Lawton, recalling issues the group dealt with regarding WMET and their station modifications, there had to be tests performed within before the construction permit expired and asked Mr. Afflerbach if that was correct.

Mr. Afflerbach stated that from what he understood from his discussions with FCC staff regarding this station, that the complete antenna array including all four towers were required to be operating at full capability by the expiration date of the FCC permit. He noted that if only one tower was operating, it could not be operating at full capability. Mr. Birach agreed with Mr. Afflerbach that all four towers would have to be operational by the November expiration date of the construction permit.

Ms. Lawton recognized the community representatives at the meeting and asked if they had comments they would like to make to the TFCG. Barry Friedman, Pamela Bussard, and Dave Brown identified themselves as representatives on behalf of the Damascus Residents for Responsible Tower Siting Inc. (DRRTS). Mr. Friedman distributed copies of a statement from Ms. Bussard, which she read aloud to the Group.

Ms. Lawton pointed out that the TFCG has no say on the zoning standards (master plan and vista issues) referred to in Ms. Bussard's statement, as those issues are subject to review by the M-NCPPC and the Board of Appeals.

Mr. Friedman stated that he had contacted the Disney Corporation and was told they had no knowledge of a contract with Birach to operate Radio Disney at this site. Mr. Birach replied that they have had a signed contract in place since the year 2000.

Ms. Lawton asked Mr. Afflerbach to comment on the statements from the DRRTS engineer, who reported that the towers could be as low as 334 feet. Mr. Afflerbach stated that if one were to redesign the station they could consider other locations or a different design, such as a top-loaded tower. He said it appeared that DRRTS's engineer did not conduct the detailed engineering study necessary to determine the feasibility of an alternative design, but rather only conducted a preliminary and hypothetical engineering review and concluded that, theoretically, this station could operate using a top-loaded design at the proposed site, or that locations outside Montgomery County could perhaps provide the required coverage to the Damascus city of license. He stated that any changes to this station, its design, or its location now could not be made by the applicant but would have to be approved by the FCC. He noted that this application is different from working with cell carriers who on their own authority can agree on a different location for a new monopole, make the monopole shorter, use a "stealth" design, or co-locate their antennas on an existing structure in lieu of constructing a new monopole. He noted that these options not applicable to an AM station whose design and location is fixed in the construction permit approved by the FCC.

Mr. Friedman said that the station operator selected the location and the tower height, not the FCC. Ms. Lawton asked Mr. Afflerbach if the FCC provides a range of heights for broadcast towers. Mr. Afflerbach replied that prior to granting a construction permit, the FCC performs a rigorous review of an application as submitted

by the station owner and performs its own calculations to determine if the design and location meets the FCC's requirements for tower height and coverage interference with other stations.

Ms. Lawton stated that she was not familiar with the Maryland Code Section cited on page 3 of Ms. Bussard's statement and asked Mr. Friedman to explain. Mr. Friedman replied that the Code requires that only a Professional Engineer licensed by the State of Maryland can present information to be considered by the TFCG and that Mr. Birach's attorney was not licensed by the State of Maryland. Dave Brown added that the TFCG was required to advise the Board of Appeals that they would be relying on a determination by an unqualified engineer that the tower is at the lowest possible height.

Mr. Afflerbach stated that he holds a Professional Engineer license with the State of Maryland and that he has 40 years of experience in the field. He said that based on his review, the antennas as designed meet the FCC's minimum requirements.

Helen Xu asked if Mr. Birach would abandon its Pokomoke City site and if the target service areas only included Damascus or did it include a larger area. Mr. Birach replied that the Pokomoke City station would be closed and that they wanted to cover Damascus and upper Montgomery County as a target service area. Ms. Xu asked what area was covered from the station at Pokomoke City. Mr. Birach replied that Pokomoke City coverage only included the eastern shore area.

Ms. Bussard asked how far south the station signals would be received. Mr. Birach stated he would not want to speculate as to exactly how far the signals could be received.

Mr. Freishtat noted that this application was highly contested at the FCC by competing station operators and had been a very long time to obtain all the necessary approvals. Mr. Henoch stated that to do an engineering study beyond simple speculation to consider some alternative station location or antenna design would be a very long, involved, and complicated process.

Ms. Lawton asked when the Board of Appeals hearing was scheduled. Mr. Freishtat said that hearing is scheduled for October 6th, and that the M-NCPPC hearing had not yet been scheduled.

Ms. Lawton asked the applicant if they could have designed a shorter facility. Mr. Birach stated that they wanted to have the minimum facility and height necessary, and that to do anything less would not have been approved by the FCC. Mr. Freishtat added that Mr. Birach had created the design to meet FCC requirements and it was upon that design that the construction permit was issued.

Mr. Bussard noted that originally Mr. Birach had planned to operate two stations out of this site with seven towers. Mr. Birach stated that was correct but he had withdrawn that plan and is now just proposing four towers at this site.

An unidentified Damascus resident questioned why the towers could not be shorter if it was Mr. Birach's intention to only serve Damascus and upper Montgomery County. Ms. Lawton stated she believed it was because the low frequency required taller towers and asked Mr. Afflerbach if that was correct. Mr. Afflerbach said that was correct.

Another unidentified resident noted that he had concerns about the health effects from RF radiation from the station. Ms. Lawton responded that the FCC preempts local authority denying an application based on health effects and asked Mr. Afflerbach to comment on interference issues.

Mr. Afflerbach stated that some residents very close in proximity to the station may experience interference with phone service in their homes. He noted, however, that the FCC requires the station operator to resolve those issues if they are within a certain distance from the facility. He added that the FCC also requires that the base of the towers be fenced to preclude anyone from getting near any of the RF radiation.

Another resident stated that based on his experience dealing with committees like the TFCG, the members had the option to defer action on an application in order to consider any relevant new information about that application. Ms. Lawton agreed that was true and that although the Group members have had their application packet for over a week, they could choose to defer action on the application.

Jennifer Bryant said she believed that they needed an opinion from the County Attorney regarding the applicability of the Maryland Code cited by Ms. Brussard in her statement. She also stated that she thought the legal opinion might be needed with regard to whether the applicant had met the requirement of minimizing the impact of the facility.

Ms. Lawton asked Mr. Afflerbach to comment on Ms. Bryant's statement. Mr. Afflerbach stated that based on Birach's design, the tower height was the minimum height needed to meet the FCC requirements, and that even if a new design could be used, such as top-loading as suggested by the DRRTS engineer, the towers would still be considerably above the 275' maximum height limit in the County's Zoning Ordinance. He added that at this point, the applicant does not have the authority to change their design; that would be up to the FCC.

Jane Lawton asked for a motion on the application. No motion was offered. Ms. Lawton asked if the Group would like to reconvene in two weeks after having considered the discussion today.

Motion: Mary Pat Wilson moved the application be tabled for two weeks. Jennifer Bryant seconded the motion and it was unanimously approved.

Jane Lawton said that she would tentatively schedule another meeting just for this application on July 26th and asked everyone to check their schedules to see if that day would work for all the members.

Discussion Item - Next Meeting: The next regular meeting of the TFCG is scheduled for Wednesday, September 6, 2006 at 2 p.m. in the second floor conference room #225 of the COB.