TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: City Manager’s Office

DATE: MAY 9, 2005 CMR: 247:05

SUBJECT: TELECOMMUNICATIONS POLICY UPDATE

This is an informational report and no Council action is required.

BACKGROUND

On October 6, 1997, the City Council approved a Policy and Services Committee recommendation to adopt four policy statements:

1. General – It is the policy of the City of Palo Alto to facilitate the competitive delivery of conventional and advanced telecommunications services throughout Palo Alto in an environmentally sound manner, while insuring cost recovery and enhancement of revenues derived from the use of the City's assets.

2. Siting and Installation of New Telecommunications Facilities – The City is the owner of the public right-of-way, over which it has control; and the regulatory body for the development of facilities within its jurisdictional boundaries. The City exercises its police power to regulate facilities in the public rights-of-way based on time, place and manner considerations. The City also seeks to facilitate timely installation of telecommunications infrastructure in an environmentally sound manner.

3. Use of Utilities Infrastructure -- the City allows the use of utilities infrastructure and utilities-owned or -leased facilities to promote the delivery of telecommunications services, provided that any telecommunications use does not impinge upon the City’s ability to provide safe and reliable electric, gas, water, wastewater, and storm drainage services and does not interfere with the City's planned use of the facility or property.

4. Use of City Facilities and Property -- the City owns and leases property and facilities, in addition to utilities facilities, that could be used to support the deployment of affordable telecommunications services, while limiting the potential adverse impacts associated with the development of the necessary infrastructure. It is the policy of the City to encourage qualified outside parties to use designated City-owned or -leased property and facilities for
siting telecommunications infrastructure that is compatible with the primary use of the property, and in a manner that is consistent with City real estate policy, zoning, legal, environmental, and other requirements as necessary.

**DISCUSSION**

Council adoption of the 4 policy statements was originally intended to be a first step in the development and implementation of a comprehensive telecommunications policy for Palo Alto. However, City staff committed to the development of this policy had to be redirected to other key City and Utilities priorities, including significant land-use development applications, the PG&E bankruptcy, fiber to the home, utilities deregulation, and Enron litigation.

While it is not anticipated that the City will be undertaking development of a comprehensive telecommunications policy at any point in the near future, staff continues to follow the policy direction provided by the Council in 1997. Specifically, since 1997:

- The City has continued to regulate placement of telecommunications facilities in the public right of way, and has issued the following permits to contractors installing such infrastructure in the public right of way between 1997 and the present:
  - Cell tower facilities (construction activities consisted of installing a communications line from an existing telecom trunk line to the cell tower site): 4
  - Comcast HSI fiber optic lines: 53
  - Private telecommunications fiber optic lines: 46

  A new street cut fee and street repair standards have been implemented: this was a major issue in terms of private telecommunications companies being able to cut into City streets with little ability on the part of the City to receive full cost recovery for all use of City rights of way and for damage to public streets or infrastructure.

- Forty-seven conditional use permits have been issues for telecommunications facilities on private property (Attachment 2). Of these, one was reviewed by the City Council on appeal. The Council has also approved amendments to Planned Community districts for the installation of antennas as well as for future installation of antennas if certain conditions are met and after design review.

- Three leases and one license for use of City property and facilities have been completed; all four were approved by the City Council. Annual revenue from these leases totals approximately $66,840. The license for a fifth site will be submitted to the Council for approval in June 2005.

- At the present time the City has a joint ownership agreement for telecommunications facilities with SBC. SBC leases space within its portion of the pole to Comcast and has the right to lease space within its section of the pole to other telecommunications providers. On several occasions, the City has had requests to lease space on poles. These
requests have never resulted in a final agreement to lease available space. At the present
time, the City only accepts attachment requests from certified telecommunications
carriers registered with the California Public Utilities Commission (CPUC).

Because of the proliferation of wireless attachments, there is an initiative by the CPUC to
establish statewide safety standards for the attachment of wireless telecommunications
facilities to utility structures. An Order to Instituting Rulemaking to Revise General
Order 95 - Rules for Overhead Electric Line Construction was filed on February 24,
2005. Proposed Rule 94 would establish uniform construction standards requiring a
separation distance between wireless antenna facilities and electric utility facilities.

- Fiber to the Home: A FTTH business plan was completed over a year ago.
  Consideration of the plan is on hold until a method of financing can be found that is
  legally acceptable and reasonably priced. Currently staff is following the development of
two other publicly sponsored FTTH projects in the state: Truckee-Donner PUD and
Lompoc Municipal Utility. Staff has also been in contact with Dynamic City, the
manager of the Utopia (Utah JPA) project.

- Utilities continues to operate the FTTH trial to 66 residential customers. The trial is
  marginally cash flow positive based on operating costs and revenue, however the
  hardware used in the project is borrowed and if its purchase or replacement is required
  the project would become cash flow negative with a lengthy payback period. At some
  point, equipment problems can disturb the FTTH trial service. Staff will be returning to
  the Council with options on how to proceed.

**POLICY IMPLICATIONS**
While staff is not planning to undertake a comprehensive telecommunications policy at any time
in the near future, the Zoning Ordinance update will revise Title 18 to clarify the wireless
telecommunications use. The focus of these revisions will be on definitions, allowable locations
(zone districts) and the review process.

The Comprehensive Plan supports wireless telecommunications as stated in Policy B-13,
“support the development of technologically-advanced communications infrastructure and other
improvements that will facilitate the growth of emerging telecommunications industries.”
RESOURCE IMPACT
Development of a comprehensive telecommunications policy would require an estimated 18 month commitment of staff from the City Attorney, City Manager, Planning, Administrative Services, Utilities and Public Works Department and is not in the workplan for 2005-07.

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