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City of Sanibel

Planning Department

MEMORANDUM

DATE: March 20, 2006

TO: Judy Zimomra, City Manger

FROM: Robert J. Duffy, AICP, Director of Planning

SUBJECT: Verizon's Lease Agreement to Construct a Telecommunication Tower at 2222 Wulfert Road, on the City's Wulfert Wastewater Treatment Site

In 2002, City Council approved Resolution No. 02-83, allowing Verizon to construct a 149 feet AGL (above ground level) monopole telecommunication tower at the City's Wulfert Road/Wastewater Treatment Facility. The Planning Department prepared a staff report, dated April 11, 2002 for the public hearing held on this request.

On Tuesday March 21, 2006, City Council will be considering the approval of a lease agreement with Verizon Wireless Telecommunication, Inc. This consideration ensues the Council's approval for constructing the telecommunication tower and all related equipment. The actual lease area that is requested by Verizon will be determined by the City's Public Works Director.

Following tomorrow's formal acceptance and approval of the proposed lease agreement by City Council, Verizon will need to obtain a Development Permit and Building Permit to construct the approved telecommunication tower. Based upon the Planning Department's prior staff report and subsequent meetings held with the City Attorney and representatives of Verizon, Staff has prepared the enclosed list of conditions to be assigned to the development permit.

Please contact me if you have any questions regarding the enclosed report and conditions.

Verizon

**CITY OF SANIBEL
RESOLUTION NO. 02-83**

A RESOLUTION APPROVING THE CONSTRUCTION OF 149 FEET MONOPOLE ABOVE GROUND LEVEL (AGL), TO ATTACH ANTENNAS TO THE MONOPOLE, CONSTRUCT EQUIPMENT SHELTER TO HOUSE THE BASE TRANSCIVER STATION (BTS), VIA CABLES TO CONNECT THE BTS TO THE ANTENNA AND TO FENCE IN AN AREA 50' X 50' TO CONTAIN THE EQUIPMENT ON THE CITY-OWNED LAND AT THE WULFERT ROAD WASTEWATER TREATMENT PLANT, AT 2222 WULFERT ROAD. THE REQUEST IS BEING PROCESSED UNDER THE PROVISION OF LAND DEVELOPMENT CODE SECTION 78-7, CITY EXEMPTED. THE APPLICATION WAS FILED BY MASTEC NORTH AMERICA, INC., ON BEHALF OF VERIZON WIRELESS PERSONAL COMMUNICATIONS, LP., D.B.A. VERIZON WIRELESS

WHEREAS, Application 01-867DP was filed by Mastec North America, Inc., on behalf of Verizon Wireless Personal Communications, LP, d/b/a Verizon Wireless; and

WHEREAS, the City Council held a public hearing on April 16, 2002, said public hearing continued until August 7, 2002; and

WHEREAS, such public hearing was appropriately and legally noticed and at such public hearing the City Council took and considered such sworn testimony, evidence and/or arguments as was presented by or on behalf of the Applicant, and all interested parties appearing at and participating in such public hearing; and

WHEREAS, at the conclusion of the presentation of sworn testimony, evidence and/or arguments at the public hearing on August 7, 2002, the City Council closed the public hearing and continued the matter to its regular meeting of August 20, 2002, for purposes of making the City Council's final decision with regard to the Application;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Lee County, Florida:

SECTION 1. FINDINGS

The City Council hereby finds as follows:

- (a) The Application was filed and processed in accordance with applicable City ordinances, rules and regulations.

(b) All persons wishing to provide sworn testimony, evidence and/or arguments with respect to the Application were provided an opportunity to do so during the public hearing process.

(c) Based upon the sworn testimony and evidence presented to the City Council and set forth in the record; the City Council finds that the application meets all required criteria in the City's Land Development Code relating to the location and development of the telecommunication facility applied for in the Application, and meets all other requirements and criteria of the City necessary for approval of the Application.

SECTION 2. APPROVAL OF APPLICATION

The Application filed by Mastec North America, Inc., on behalf of Verizon Wireless Personal Communications, LP, d/b/a Verizon Wireless, is hereby approved.

DULY PASSED AND ENACTED by the City Council of the City of Sanibel, Lee County, Florida, this 20th day of August, 2002.

AUTHENTICATION:

Wole Theria
Mayor

[Signature]
City Clerk

APPROVED AS TO FORM: Kenneth S. Coy
City Attorney

8/21/02
Date

Vote of Council members:

Theiss	<u>aye</u>
Walsh	<u>aye</u>
Harrity	<u>aye</u>
Brown	<u>nay</u>
Workman	<u>aye</u>

Date filed with City Clerk: August 21, 2002



APPROXIMATE WEIGHT OF GALVANIZED POLE SHAFTS (LBS)	
TOP PLATE + SHAFT 1	2050
SHAFT 2	5600
BASE PLATE + SHAFT 3	10300
APPROXIMATE TOTAL	17850

NOTE: WEIGHTS SHOWN DO NOT INCLUDE ANY ATTACHMENTS, MOUNTS, PLATFORMS, HANDHOLES, ETC. FIELD VERIFY WEIGHTS PRIOR TO LIFTING.

P.O. BOX 8597 FORT WORTH, TX 76124-0597
 PHONE: (800) 433-1816 FAX: (817) 255-8656

JOB DATA	
Page 1 of 1	Job No. J020521001
By RGB/TWL	Design No. M02-0507-A
Chk'd By TW/MD	Date 5/14/2002 10:42:28 AM
Pole 145 FT MONOPOLE	Rev. No. Rev. Date
Site WUFERT ROAD WWTP, FL	
Owner VERIZON WIRELESS	
Ref. No.	
Design ASCE 7-93 120MPH/FBC 2002 130MPH 3-SEC WIND GUST ACCORDING TO TIA/EIA-222-F 1996	

PRELIMINARY DESIGN - NOT FOR FABRICATION

LOAD CASES

CASE 1	120 MPH WITH NO ICE	DESIGN WIND
CASE 2	50 MPH WITH NO ICE	OPERATIONAL WIND

POLE SPECIFICATIONS

Pole Shape Type:	18-SIDED POLYGON
Taper:	0.223379 IN/FT
Shaft Steel:	ASTM A572 GRADE 65
Base PL Steel:	ASTM A633 GR. E (60 KSI)
Anchor Bolts:	2 1/4" x 7'-0" LONG #18J ASTM A615 GRADE 75

* SHALL MEET CHARPY V-NOTCH TEST: 15 FT.LBS @ -20F

ANTENNA LIST

No.	Elev.	Description
-	TOP	3/4" LIGHTNING ROD
1-3	146.00	(3) EMS RR65-19-XXDP PCS PANEL (L=6')
-	146.00	(3) ANTENNA CLOSE CONTACT MOUNT
4-6	130.00	(3) EMS RR65-19-XXDP PCS PANEL (L=6')
-	130.00	(3) ANTENNA CLOSE CONTACT MOUNT
7-9	115.00	(3) EMS RR65-19-XXDP PCS PANEL (L=6')
-	115.00	(3) ANTENNA CLOSE CONTACT MOUNT

STEP BOLTS FULL HEIGHT FROM 9'-6" ABOVE BASE PLATE.
 ANTENNA FEED LINES RUN INSIDE OF POLE.

Elevation	120 MPH WIND		50 MPH WIND	
	Lateral Deflection (Inches)	Rotation (sway) (degrees)	Lateral Deflection (Inches)	Rotation (sway) (degrees)
TOP	144.8	9.310	25.1	1.625

SHAFT SECTION DATA

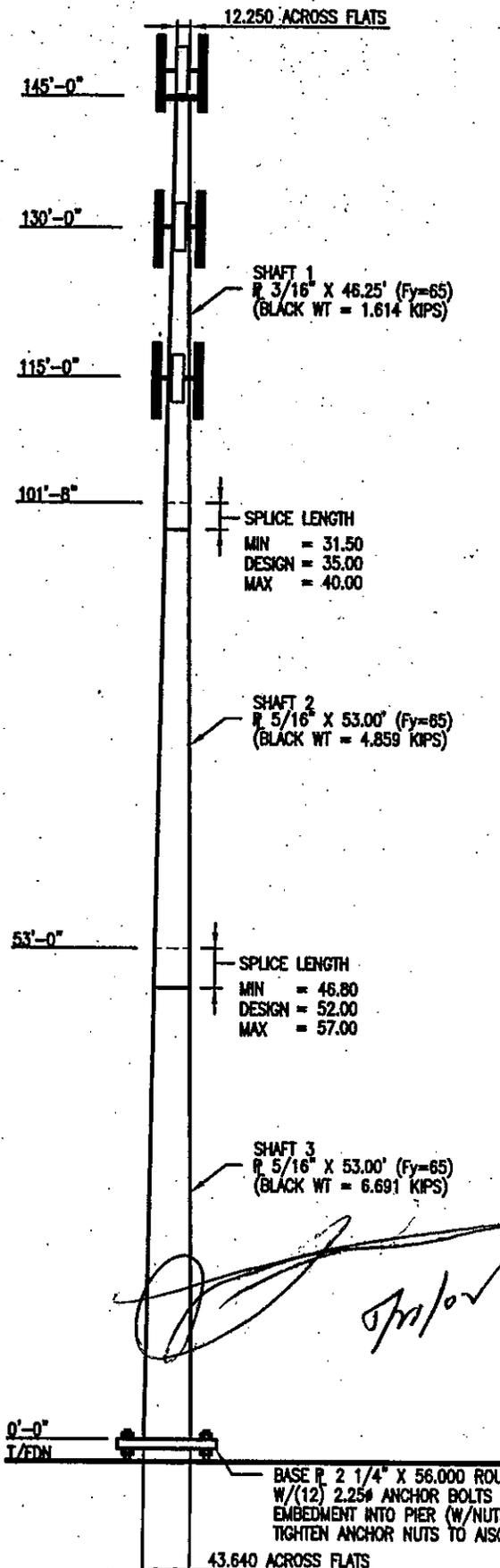
Shaft Section	Section Length (feet)	Plate Thickness (in.)	Lap Splice (in.)	Diameter Across Flats (inches)	
				Top	Bottom
1	46.25	0.1875	35.00	12.250	22.581
2	53.00	0.3125	52.00	21.555	33.394
3	53.00	0.3125		31.801	43.640

NOTE: DIMENSIONS SHOWN DO NOT INCLUDE GALVANIZING TOLERANCES

UNFACTORED BASE REACTIONS

MOMENT = 1977 ft-kips
 SHEAR = 22.9 kips
 AXIAL = 15.3 kips

EST. SHAFT + BASE P. WT. = 14.7 kips
 (BLACK WEIGHT)



Draft Document for Discussion & Comment Use Only

CITY OF SANIBEL

DEVELOPMENT PERMIT No. 01-867

Verizon Wireless Personal Communications, LP. D.B.A.

Verizon Wireless

2222 Wulfert Road

A development permit is hereby granted to for development activities to construction of 149 feet monopole above ground level (AGL), to attach antennas to the monopole, construct equipment shelters to house the Base Transceiver Station (BTS), via cables to connect the BTS to the antennas and to fence in an area 50' X 50' to contain the equipment on the City-owned land at the Wulfert Road Wastewater Treatment Plant, at 2222 Wulfert Road.

DEVELOPMENT IN ACCORDANCE WITH PERMIT: Any development which is undertaken by the applicant shall be in accordance with, and is expressly limited to, development identified on this permit. **All authorized activities shall be performed in accordance with City Council Resolution No. 02-83.**

SPECIAL INSTRUCTIONS OR CONDITIONS: Due to the type and scope of development proposed in the application, the following conditions (extracted from the Planning Department Staff Report, dated April 11, 2002, for Agenda Item 12 (b), heard by the City Council on April 16, 2002) are to be adhered to in the undertaking of the development:

1. **POST DEVELOPMENT PERMIT PLACARD ON SITE**, in a location visible from the street.

COMPLY WITH APPROVED PLANS, described as:-----.

2. **ALL NATIVE VEGETATION SHALL BE PRESERVED AND/OR PROTECTED ON SITE.** All Brazilian Pepper, Melaleuca, Earleaf Acacia, Lead Tree, Java Plum, Air Potato, Exotic Inkberry, Mother-in-law's Tongue/Bowstring Hemp shall be removed from the parcel and the site shall be kept permanently free of these exotics.
3. Obtain applicable permits from the Building Department. Call 472-4555 for information on required permits.
4. Comply with all applicable performance standards and regulations of the *Sanibel Code* and *Sanibel Plan*.
5. **COMPLY WITH ATTACHED LIST OF SPECIAL CONDITIONS FOR DEVELOPMENT PERMIT NO. 01-867.**
6. The approved back-up generator shall comply with the maximum Sound Pressure Levels By Receiving Land Use standards under Land Development Code Section 30-64., **Noise Disturbances.** The maximum sound pressure level limit, in this instance, shall not exceed **60 dBA, when measured at or outside of the real property lines for the property on which such sound is created.**
7. Prior to the issuance of a Completion Certificate, certification from a license and register engineer shall be submitted which demonstrates the approved generator's compliance with all sound pressure requirements of the Code.

Verizon Telecommunication Tower Permit

8. **Strict compliance with Planning Commission Resolution No. 05-08, for variance O5-2764V.**
9. **Relocate the existing light pole to city-approved location outside the fenced-in lease area at Verizon's expense.**
10. **Paint the tower and all attachments thereto the following color: Reflection TWT SW2122, Sherwin Williams.**
11. **The monopole shall not be lighted and shall not have any lights attached to it. In the event that certain lights are required, by either the FCC or FAA, to be placed on the monopole, such required lights shall be deemed permitted under those circumstances. Verizon Wireless shall provide the City, in writing, with all supporting documentation as evidence of supporting the required lights.**
12. **All electrical equipment and equipment cabinets shall be elevated to or above the base flood elevation of A-9, Elevation + 8 feet, NGVD.**
13. **The following standards and requirements shall be adhered to in the construction and development of the facilities on the city-owned lands:**

Land Development Code Section 126-1589 General Standards and Requirements. (3), (4), (5), (6), and (7).

(3.) Lighting. Artificial lighting shall be limited to:

- b. **Security lighting for any equipment, buildings, shelters or other on-the-ground ancillary equipment and structures, shall be compliant with the outdoor lighting standards of this land development code. Such lighting shall be manually operated and used only during night maintenance checks or in emergencies.**

(4) Signage.

- a. **No signage shall be allowed on any telecommunications facility except as required for public safety purposes, or by the FCC or FAA.**
- b. **No telecommunications device shall have advertising on it or contain any sign or insignia for the purpose of advertising.**
- c. **The display of required Federal Communications Commission tower registration information is permitted, using the smallest sign face which meets FCC requirements.**

(5) Secure design and safety.

- a. **All parts of telecommunications facilities shall maintain clearances from any electricity lines and equipment as required by the National Electrical Safety Code (NESC).**

Verizon Telecommunication Tower Permit

b. Telecommunications equipment shelters shall be of vandal-resistant design or shall be provided with a suitable security barrier.

c. A controlled access enclosure is required around the base of the mount and equipment shelters of all telecommunications devices as principal uses.

d. Access to the telecommunications device as a principal use and ground equipment shall be only through a lockable entrance.

(6) Noise. All sound-emitting devices shall comply with the requirements set forth in section 30-61 et seq., pertaining to noise.

(7) The monopole, including surmounting appurtenances, shall not exceed a height of 149 feet, AGL.

Land Development Code Section. 126-1590. Additional General Standards. (b), (e), (i), (k), (l), (m), (n), and (p).

(b) Foundations for ground-mounted, structure-mounted and utility-pole-mounted telecommunications devices shall not disturb, break or penetrate the aquiclude or clay layer at the bottom of the freshwater lens, permit saltwater intrusion or otherwise endanger the integrity of the freshwater lens. If it is necessary to drive pilings below the level of the aquiclude, such penetration shall be sealed according to the best technology available to avoid saltwater intrusion.

(e) All telecommunications devices shall be subject to periodic reinspections.

(i) All telecommunications devices shall meet all manufacturer's specifications. Any mount or accessory equipment shall be of noncombustible and corrosive-resistant material. Miscellaneous hardware, such as brackets, turnbuckles, clips and similar equipment subject to rust or corrosion shall be protected with a zinc coating either by galvanizing or sheradizing process after forming, or by use of stainless steel

fittings, or by equivalent protective processes. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.

(k) All telecommunications devices shall be maintained in good condition and in accordance with all the standards of this section. No additions, changes or modifications shall be made to a device unless the addition, change or modification is in conformity with the standards of this section and the land development code. All required permits must also be obtained for additions, changes or modifications.

(l) Mounts shall be the narrowest feasible at the horizontal measurement to provide the required stability and loading.

(m) Permanent platforms, exclusive of antennas, that serve to increase the visibility of the telecommunications device from off-site are not permitted.

Verizon Telecommunication Tower Permit

(n) All mounts, antennas and surmounting appurtenances, including attachments thereto, shall be of a type, design, color and texture which are the least visually obtrusive structures possible, while accomplishing their intended purpose.

(p) At all times each facility shall be insured for liability in an amount of not less than \$5,000,000.00. For each facility, the applicant or owner shall provide to the city a bond or other security in an amount sufficient to ensure that the facility is returned to its natural state upon abandonment.

Land Development Code Section. 126-1591. Additional Construction Standards. (1), (2) and (3)

All structures including the monopole and all attachments thereto shall be designed and constructed to meet the following codes and standards:

(1) The Florida Building Code, Section 1606, Wind Loads, Exposure C, 130 MPH basic wind speed.

(2) FAA Advisory Circular #AC70.7460-1H

(3) Electronics Industries Association (EIA) Standards, the then-current revision of (EIA)/TIA 222

If there is any conflict among these three requirements, the more stringent shall control.

Land Development Code Section. 126-1593. Standards for Ground-mounted Facilities. (c)

(c) Ground-mounted telecommunications facilities shall be accessible by service vehicles.

Land Development Code Section. 126-1597. Collocation; Sharing of Telecommunication Facilities. ((b) (2), (3), (4), and (5))

(b) (2) All new ground-mounted facilities shall be designed and constructed to accommodate shared use when technically feasible and practical. The owner of the telecommunications mount shall, as an ongoing condition of the required development permit, respond to requests for other service providers, in a timely manner, as to the availability of space on the telecommunications mount.

(b) (3) The design and construction of telecommunications support structures for collocation shall assume that each additional service provider will have loading requirements comparable to the original proponent. The owner of the device must provide reasonable leasing opportunities to other service providers to use the device.

(b) (4) A reasonable pro rata charge may be made for shared use, or rental rates consistent with prevailing market conditions may be charged, consistent with an appropriate sharing of construction, financing and maintenance costs. Fees may

Verizon Telecommunication Tower Permit
also be charged for any structural or radio frequency changes necessitated by such shared use. Such sharing shall be a condition of approval, if approval is granted.

a. The applicant shall describe what range of charges are reasonably expected to be assessed against shared users.

b. The applicant shall base charges on generally accepted accounting principles and shall explain the elements included in the charge.

(b) (5) The applicant shall quantify the additional mount capacity proposed, including the number and types of antenna. The applicant shall also describe any limitations on the ability of the mount to accommodate other users, such as radio frequency interference, mast height, frequency or other characteristics.

(Ord. No. 99-07, § 4(I.E.32.f(7)), 11-2-1999)

[Note: Verizon engineer shall certify the number of any and all additional mounts the monopole can carry. Any changes in the number of additional mounts will first require City approval.]

Land Development Code Section. 126-1598. Visual Compatibility Standards. (a), (e), (f), (g), (h) and (i)

(a) All support structures and attachments thereto shall present the slimmest profile possible, as seen from public views, by utilizing facilities/devices and construction materials and techniques with the smallest feasible diameter, diagonal or horizontal measurement.

(e) To the greatest feasible extent, ground-mounted telecommunications facilities shall be sited where they are concealed from public view by other objects such as trees or buildings.

(f) In keeping with the Sanibel Plan, including the vision statement, and in efforts to minimize visual impact, carriers shall propose the slimmest profile possible for their transmitting facilities. Carriers shall be required to utilize cross-polarized antennas for purposes of diversity, as opposed to the use of additional antennas for space diversity, unless a carrier includes an engineering demonstration showing that cross-polarized antennas would not provide adequate coverage from the proposed transmitting location. Such showing shall also include a map which depicts the precise areas where coverage would not be satisfactory from a cross-polarized antenna configuration, as compared to a space diversity configuration.

(g) To the greatest feasible extent, equipment shelters associated with ground-mounted or utility-pole-mounted telecommunications facilities shall be concealed from public view or shall be buffered to be compatible with surrounding land uses.

(h) The telecommunications device, supporting structures and accessory equipment:

2) Shall not be made of materials which are bright, shiny, garish or highly reflective of light; and

Verizon Telecommunication Tower Permit

4) Shall be screened by the use of landscaping or architectural features which harmonize with the elements and characteristics of the parcel on which it is located and adjacent properties.

(i) Mounts, antennas, towers, equipment shelters, support structures, storage facilities, operations buildings and auxiliary structures shall be screened from public view to the greatest extent feasible

[Note: A vegetation buffer shall be installed or augmented to comply with this subsection as determined by the City Manager.]

Land Development Code Section. 126-1599. Compliance with Requirements of other Regulatory Authorities. ((b) (1), (2), (3) and (4))

(b) Telecommunications devices as principal uses.

(1) Prior to receiving a completion certificate, the applicant shall certify in writing that the telecommunications device complies with all current Federal Communications Commission regulations for nonionizing electromagnetic radiation and radio frequency emission levels.

(2) No telecommunications device shall transmit signal strengths in excess of those allowed under the then-current federal regulations.

(3) The applicant shall certify in writing that the device complies with all current Federal Aviation Administration regulations and with Southwest Florida International Airport Authority requirements.

(4) Documentation must be submitted that the applicant possesses any required licenses required by federal, state, or local agencies to operate, own, or install such a device.

Land Development Code Section 126-1563. Applicant certifications. (1), (2), (3) and (4)

The applicant shall furnish to the City the following certifications prior to the issuance of a completion certificate or a Certificate of Occupancy:

Prior to the issuance of the completion certificate required by section 82-362, or a certificate of occupancy, the applicant for a telecommunications device, as a principal use, shall furnish the city with the following certifications:

(1) Radio frequency (RF) emissions. Each applicant shall certify that it is in compliance with the Federal Communications Commission's RF emissions rules as they relate to human exposure. Such certificate shall be furnished with respect to both new devices and each proposed addition to a radio site. The certification shall be furnished by an individual with demonstrated competence in the field of RF emissions.

Verizon Telecommunication Tower Permit

(2) Environmental rules. Each applicant shall certify that it is in compliance with the FCC's environmental rules, as well as the Florida Department of Environmental Protection Agency requirements. The certification shall be furnished by an individual with demonstrated competence in the field of FCC's environmental rules.

(3) FCC/FAA marking and lighting requirements. Each applicant shall certify that the construction and operation of its proposed device is, and will remain, in compliance with part 17 of the FCC's rules and satisfies the FAA's rules and regulations. The certification shall be furnished by an individual with demonstrated competence in the field of FCC/FAA marking and lighting requirements.

(4) Certification of compliance with all applicable standards and codes. The applicant shall certify that the proposed use, engineering design, manufacture, construction and safety are in accordance with the latest revision of industry codes, design guides, and applicable standards in effect at the time of issuance of the permit. In addition, the applicant shall certify that all applicable federal, state, and local codes and standards have been observed, and that the devices have been installed in accordance with the approved plans.

The following LDC subsections shall apply to this application:

Land Development Code Section 126-1564. Assignment and subleasing of telecommunications devices as principal uses. (a), (b) and (c).

(a) Telecommunications devices, sites or permits may not be sold, transferred or assigned until the assignee obtains approval from the city, except in conjunction with the sale or transfer of the underlying FCC license, provided written notice is

given to the city within 30 days of consummating such transaction. When prior city approval is required, such city approval shall be granted upon determination by the assignee that it has the capability of complying with the ongoing obligations of this land development code.

(b) Sublease of a telecommunications device shall not be entered into by any provider until the sublessee has obtained a development permit from the city for the telecommunications device, or the sublease is conditioned on sublessee's receipt of a development permit, prior to commencing any construction.

(c) Potential providers may not claim that a permit should be issued by the city for an assigned or subleased telecommunications device on the basis of any expense incurred in relation to the device.

Land Development Code Section 126-1565. Inspection

The city may inspect any telecommunications device that is a principal use to ensure that the mount and its antennas and equipment shelters are being maintained in compliance with the standards of this section. Upon a determination that a telecommunication device does not comply with the standards of this section, or constitutes a danger to persons or property, the owner of the device shall have 30 days to bring the device into compliance.

Land Development Code Section 126-1566. Abandonment. (a), (b), (c) and (d)

(a) If the use of any telecommunication device, or any portion of a telecommunication device, has been discontinued for a period of 180 consecutive days, the telecommunication device shall be deemed to be abandoned.

(b) Upon a determination of abandonment, the owner or operator of the telecommunications device shall have 90 days within which to:

(1) Reactivate the use of the telecommunication device;

(2) After submitting an application to the to do so, transfer the telecommunications device to another owner or operator who makes actual use of the device within 45 days following the completion of the transfer; or

(3) Dismantle and remove the telecommunication device, or any unused portion thereof. All costs associated with dismantling and removal of the device shall be borne by the owner or operator of the telecommunication device.

(c) The owner or operator of the abandoned telecommunications device shall be held under the duty to remove the device and restore the property to its preexisting condition. If it is not removed within 60 days after notice from the city requiring removal, the City may remove it and restore the property to its preexisting condition. The cost of removal and site restoration shall be borne by the owner or operator of the telecommunication device and may include any other costs associated with this action.

(d) Delay by the city in taking action shall not in any way waive the city's right to take action.

AUTHORIZED BY: _____ DATE: _____

**CITY OF SANIBEL
LEGAL DEPARTMENT**



MEMORANDUM

TO: Members of City Council

FROM: Kenneth B. Cuyler *KBC*
City Attorney

DATE: March 14, 2006

**RE: Proposed Lease Agreement with Verizon for 2,500 Square Feet
at 2222 Wulfert Road (City's Wastewater Reclamation Facility Property)**

The purpose of this Memo is to provide a brief background relevant to the proposed Lease Agreement between the City of Sanibel and Verizon Wireless Personal Communications, LP, d/b/a Verizon Wireless ("Verizon") which is part of your March 21, 2006 agenda package.

Pursuant to Section 126-1536 of the Sanibel Land Development Code, 2222 Wulfert Road (the "Wulfert Site") is designated as a Telecommunications Tolerant Area. These are areas identified by the City for telecommunications facilities and Section 126-1536(c) provides, in part, as follows:

(c) It is the City's policy to encourage any new, tall (up to 149 feet above ground level) antenna support structures to locate on the City-owned parcels identified as areas (1) to (4) in subsection (b) of this section.

The Wulfert Site is listed as area (3) in subsection (b).

Verizon applied under the City's Land Development Code to site and construct a telecommunication tower and associated equipment at the Wulfert Site in accordance with the City's applicable regulations. After several lengthy hearings, and with the assistance, review and advice of a telecommunications expert hired by the City, the City Council approved the application filed by Verizon. Prior to a Lease being negotiated between the City and Verizon (since the Wulfert Site is City property), the decision of the City Council approving Verizon's application was appealed to the Circuit Court by neighboring property owners who objected to the approval of the application. The Circuit Court ruled in favor of the Plaintiffs/Petitioners and held, on various grounds, that the approval by the City Council was not legal. Verizon appealed the Circuit Court decision to the Second District Court of Appeal, which overturned the Circuit Court ruling and held that the City Council approval was correctly made and was legal.

Although the City and Verizon had commenced Lease negotiations in 2002, such negotiations were suspended for the last 3 ½ years due to the ongoing litigation. The proposed Lease document in the Council's agenda package is a document that has resulted from the continuation and finalization of those Lease negotiations.

Some of the highlights of the Lease provisions are as follows:

- The Lease is for approximately 2,500 square feet of land within the Wulfert Site;
- The Telecommunication Tower must be constructed in accordance with the applicable ordinances and regulations of the City of Sanibel, specifically including the "Approval Conditions" which are defined in the Lease to be the City Council's various conditions of approval which occurred as part of the original hearings and approval of Verizon's application and which will be a part of the development permit;
- As required by the Code and conditions of approval, the Monopole Communication Tower cannot exceed 149 feet in height;
- The City receives, at no cost, a non-revocable exclusive license for the use of that portion of the tower extending from 130 feet to 140 feet for the purpose of installing and operating emergency communication equipment (the equipment must be purchased and installed at the cost of the City). The City has a five (5) year option to utilize such space;
- With respect to the term of the Lease, the Lease provides for an initial term of five (5) years and three (3) additional successive five (5) year extension periods (unless Lessee gives the City written notice of the Lessee's intent not to extend at least one hundred eighty (180) days prior to the end of the then current term);
- The rent is \$25,000 for the first year and escalates at three percent (3%) per year during the initial term of the Lease and all renewal terms;
- As encouraged by the Land Development Code, there is the possibility that another telecommunications provider may sublease space on the Telecommunication Tower. In that event, the Lease provides a mechanism for the City to receive a portion of the sublease revenues;
- The Lease provides conditions under which the Lease can be assigned, but only under certain conditions and always subject to compliance with the City's ordinances, regulations and the Approval Conditions applicable to the Telecommunication Tower and equipment;

- Within ninety (90) days after the termination or expiration of the Lease, Lessee is required to remove, at its cost, all or any part of the Communication Facilities placed on the Wulfert Site. The City has the right, however, to notify the Lessee that the Tower and the City's emergency broadcasting equipment, if any, shall remain on the leased property and the Lessee is required to execute all documentation necessary to transfer title to such Tower and associated equipment to the City. If such transfer occurs on or before fifteen (15) years after the commencement date of the Lease, the City pays to the Lessee the fair market value of any assets transferred to the City.

There are, of course, other important provisions in the Lease, but the above provisions are a brief summary of many of the major points set forth in the Lease document.

I will be available to discuss any aspects of the Lease document or background information regarding this issue at the March 21, 2006, Council meeting. If you have any questions in advance of the meeting, please let me know.

KBC/jkg

cc: Judie Zimomra, City Manager
William Tomlinson, Police Chief
Robert Duffy, Planning Director
Bert Smith, MIS Director