



DEPARTMENT OF TECHNOLOGY SERVICES

Isiah Leggett
County Executive

Harash (Sonny) Segal
Chief Information Officer

**MINUTES OF TFCG MEETING
Revised 5/6/13 as approved by TFCG at May 1, 2013 meeting.**

To: Distribution

From: Bob Hunnicutt, Tower Coordinator, Columbia Telecommunications Corporation

A meeting of the Transmission Facility Coordinating Group (TFCG) was held on April 10, 2013. The following people were in attendance:

MEMBERS

Marjorie Williams		DTS
Dave Niblock		DPS
Bernie Fitzgerald		DGS
Martin Rookard	(via phone)	WSSC
Carlton Gilbert	(via phone)	M-NCPPC
Samantha Harris		MCPS
Naeem Mia	(via phone)	OMB

STAFF

Bob Hunnicutt	CTC
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OTHER ATTENDEES

Rob Neely	SCE, Inc. for Verizon Wireless
M. G. Diamond	Counsel for Verizon Wireless
Clifford Royalty	Office of the County Attorney

Action Item - Meeting Minutes

Motion: Carlton Gilbert moved the minutes be approved. Martin Rookard seconded the motion and it was unanimously approved.

Action Item: Consent Agenda

There were no Consent Agenda Items

Regular Agenda

Action Item: Verizon application to attach 12 antennas, six 72"-high and six 48"-high, at the 100' level on a 105'-high tower on Trinity United Methodist Church property at 13700 Schaeffer Road in Germantown (Application #201212-06). *Co-location*

Bob Hunnicutt summarized the review of the application from the last meeting, noting that the application had been tabled pending today's meeting, when Clifford Royalty could be present to answer questions from the group related to the issues that arose in discussion at the last meeting.

Mr. Royalty commented that he hoped that a representative from the church would be present to answer questions about the construction of the tower. He asked M.G. Diamond who constructed the tower. Mr. Diamond replied that it was built by a general contractor. Mr. Royalty asked who hired the contractor and whether Verizon Wireless leased from the church the property on which the tower sits. Mr. Diamond refused to answer, claiming that for other co-location applications and under the zoning ordinance there is no requirement for the applicant to provide information about a lease agreement between the carrier and the property owner. Mr. Diamond also claimed that the lease is confidential. Mr. Hunnicutt noted that from the minutes of the last meeting, Mr. Diamond said that there is a 20-year lease between the Trinity United church and Verizon Wireless.

Ms. Williams, citing her conversations with the pastor of Trinity United church, a newspaper article about the tower, and the church's website, said that Verizon Wireless had approached the church to attach antennas to their existing bell tower, but on determining it was not tall enough to meet Verizon Wireless needs, the company opted to build a new tower to which they could attach their antennas. The church's website refers to the tower as a "cell tower/bell tower." The *Germantown Patch* article cited by Ms. Williams quotes the pastor of Trinity United as stating that Trinity leased land to Verizon to build a cell phone tower that would also function as a computerized bell tower.

Mr. Royalty asked Mr. Diamond to identify Alex Beiro, whose name is on the building permit application. Rob Neeley said that Mr. Beiro worked for SCE. Mr. Diamond added, in reply to further questions, that the builder was a contractor, B&H, but that the contracts were confidential.

Martin Rookard asked if the tower violates any requirements. Mr. Royalty replied that it did not meet setback requirement for a telecommunications facility, which is what the structure is, despite it being presented to DPS as a bell tower. He added that it is not an actual bell tower and that the bells on the structure are not real bells. It is a *faux* bell tower like the *faux* flag poles and trees that are actually telecommunications facilities and must comply with zoning requirements.

Mr. Diamond said that DPS issued a permit for a bell tower and that at no time has the County questioned the permit or revoked the permit when it was submitted. Mr. Niblock replied that the permit is now final and cannot be revoked.

Bernie Fitzgerald stated that he is still troubled about the permit filing because the church's own website acknowledges that it is a cell tower. Ms. Williams added that the pastor of Trinity United church admitted that the tower was to be used as a cell/bell tower and the TFCG may not have had a problem with this application if the usual and proper processes had been followed to build a telecommunications facility, and the application had gone through the special exception review as it should have to obtain approval from the Board of Appeals. However, she noted, that is not the approach Verizon Wireless took with the church.

Mr. Diamond replied that he represents Verizon Wireless, not the church; that both a bell tower and a cell tower have setback requirements. The bell tower was approved by DPS.

It was noted that the structure may meet setback for a bell tower, but it does not meet the setback for a telecommunications facility. Mr. Niblock stated that he resents the implication that DPS has declared this structure to be a bell tower, noting that DPS reviews applications based on how they are presented; in this case, there was an application for a bell tower. If it had been presented to DPS as what it actually is now known to be, a telecommunications facility, DPS would have denied a building permit because the tower would have been required to obtain proper review and approval by the Board of Appeals and compliance with the zoning requirements.

Naeem Mia asked if there were any antennas on the structure already. Ms. Williams replied that the tower does not have any antennas or other equipment presently attached.

Mr. Diamond distributed excerpts from an e-mail (copy attached for reference) which he summarized and Ms. Williams read aloud for the benefit of those TFCG members participating by telephone. Mr. Diamond restated that it is a bell tower and the TFCG has no authority to say otherwise. Mr. Royalty replied that the TFCG has authority to consider the zoning standards when reviewing applications and that Mr. Diamond had already admitted that the zoning ordinance is relevant to this proceeding. Mr. Royalty noted that, on prior occasions, the TFCG has not recommended the placement of facilities on structures that do not comply with the zoning ordinance.

Mr. Hunnicutt asked why the rest of the e-mail was not included with Mr. Diamond's handout because it appears to have part of further discussion about the matter. Mr. Diamond said that is all he has. Mr. Hunnicutt noted that Mr. Neeley could provide the rest of the document because Mr. Novak, the author of the e-mail, works with his company.

Mr. Niblock responded that the e-mail documents that the structure was characterized as just a bell tower from the beginning and that is how it was reviewed on the permit application and the plans submitted to DPS. He said that if DPS gets another application for that structure, then DPS could make a determination based on that application.

Mr. Fitzgerald said, despite the foregoing discussion, that the church was clearly aware that the structure was a cell tower from the beginning. Mr. Diamond again said he does not represent the church and that the TFCG application is for a co-location on an existing structure, which is permitted by-right.

Ms. Williams asked for a motion on the application.

Motion: Mr. Rookard moved the application be tabled until the Chair of the TFCG obtains further information about the application.

Discussion: Ms. Williams said that, based on what has been said at today's meeting, clearly, there would not likely be any further information forthcoming about this application. She noted

that they had heard from Mr. Royalty representing the Office of the County Attorney, Mr. Niblock representing DPS, and Mr. Diamond representing Verizon Wireless.

Motion: Mr. Rookard moved that the application be Not Recommended based on the Tower Coordinator's Recommendation and the information presented at the meetings. Carlton Gilbert seconded the motion and it was approved with David Niblock abstaining.

Action Item: The Potomac Edison Company application to attach two 10'-high omni-directional antennas, one at the 210' level and one at the 170' level, and one 4'-wide dish antenna at the 100' level on a 250'-high lattice tower on Montgomery County property at 26149 Ridge Road in Damascus (Application #201303-04). *Co-location*

Mr. Hunnicutt summarized the application noting that when first filed the antenna was of a size that exceeded the limits in the zoning regulations and subsequently another antenna was selected which meets the size limits. Consequently, the plans needed to be revised to show the new antennas which the applicant had agreed to. At the time he prepared the agenda for this meeting he had not received the plans, but he then received them and distributed them to the group via Box.net. Therefore, the condition noted on the recommendation form and agenda related to the plans has been met and that condition can be removed. Because the generator remains to be placed at the site, his condition for compliance with the County's noise ordinance is still part of the recommendation for approval.

Motion: Dave Niblock moved the application be recommended as conditioned by the Tower Coordinator. Martin Rookard seconded the motion and it was unanimously approved ~~with Bernie Fitzgerald abstaining.~~

Action Item: Clearwire application to attach two dish antennas, one 1'-wide and one 2'-wide, at the 200' level on the penthouse walls atop a 236'-high residential condominium building on Washingtonian Tower Condominium, Inc. property at 9701 Fields Road in Gaithersburg (Application #201304-04). *Co-location*

Mr. Hunnicutt summarized the application noting that because the rooftop of the building contains many antennas, the recommendation is conditioned (as has been done with other applications for this site) on compliance with the FCC's requirements for emission standards for rooftop antenna sites.

Motion: Bernie Fitzgerald moved the application be recommended as conditioned by the Tower Coordinator. Samantha Harris seconded the motion and it was unanimously approved.

Action Item: Sirius Satellite Radio application to replace existing panel antenna with a 54"-high panel antenna at the 265' level and add one 71"-wide dish antenna at the 267' level on the penthouse atop a 236'-high residential condominium building on Washingtonian Tower Condominium, Inc. property at 9701 Fields Road in Gaithersburg (Application #201304-06). *Minor Modification*

Mr. Hunnicutt summarized the application noting that because this application is also at the same rooftop as the prior application reviewed, the condition for compliance with the FCC's requirements is the same as the last application.

Motion: Martin Rookard moved the application be recommended as conditioned by the Tower Coordinator. Carlton Gilbert seconded the motion and it was approved With Bernie Fitzgerald abstaining.

Discussion: Mr. Hunnicutt and Ms. Williams reminded the group about the upcoming Webinar to discuss a recent FCC Notice regarding antenna placements. Information about the event was e-mailed to the members and they encouraged the members to participate as it will likely have bearing on future TFCG applications.

The next regularly scheduled meeting of the TFCG will be held on May 1st in Room #225 of the COB.