

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

Date: 03/22/10

Item No.: 13.c

Department Approval



City Manager Approval




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Item Description: Discussion Regarding Use of Public Property for Commercial Purposes

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1 **BACKGROUND**

2 At the January 11, 2010 City Council meeting, City Council members requested that a discussion  
3 be held at a future meeting to discuss commercial uses of public property in light of the request  
4 by Clearwire to locate a telecommunications tower in Acorn Park. Per City Council request,  
5 staff has provided with this report the following chapters of the Comprehensive Plan; Land Use,  
6 Parks and Open Space, and Utilities.

7 For the discussion, staff attempted to take an inventory of commercial uses that currently occur  
8 on land owned by the City. It is important to note that depending on how you define a  
9 ‘commercial use’; the list of such uses can be quite large. Below is an initial summary of staff’s  
10 findings:

11 **Right-of-way** – There is extensive use of the right-of-way for commercial uses, primarily by  
12 utilities such as Xcel and Qwest. We are prohibited in charging for the use of our right-of-ways  
13 by these utilities by state statutes. (We do require utilities to get a permit from the city and are  
14 able to have them reimburse the city for staff time reviewing the permit). There are also bus  
15 benches and shelters that have advertising on them for which we charge an annual fee.

16 **City Hall Campus** – There is an existing telecommunications tower that has 4 providers on the  
17 City Hall Campus (Sprint, T-mobile, Verizon, and TTMI). On January 11, 2010, another  
18 telecommunications tower was given land use approval to be located on the City Hall campus.  
19 There are several vending machines to serve employees that are owned by private business. (In  
20 the case of the soda machine in the Police Department, a portion of the sales are donated to the  
21 Roseville Police Benevolent Association). Conference rooms within the buildings on the  
22 campus are occasionally rented out to private companies. A craft show is also held within the  
23 City Hall building annually.

24 **Skating Center** – The Oval has several events held throughout the year that may be considered  
25 ‘commercial activities’, mostly consisting of arts and craft shows. There are also vending  
26 machines and catering conducted by private businesses within the Skating Center facility. The  
27 Oval scoreboard also advertises for Coca-Cola. The Oval is also officially named the “Guidant  
28 John Rose Minnesota Oval” to reflect a donation by the Guidant Foundation.

29 **Parks** – In Reservoir Woods Park, there is an existing telecommunications tower serving 5  
30 providers (T-Mobile, Sprint, AT&T, Clearwire, and TTMI). In addition, the actual reservoir  
31 serves the St. Paul Water Utility (although the actual land that is operated as the reservoir is still  
32 owned by the St. Paul Water Utility). In many parks, there are utility poles and lines located in

33 utility easements including the Magellan Pipeline through Acorn and Central Park. Central Park  
34 has private business vendors for the 4<sup>th</sup> of July event and the summer entertainment series.

35 **Fairview Ave. Site** – The telecommunications tower on the city-owned site at Fairview Ave. has  
36 6 users (Sprint, T-Mobile, TTMI, AT&T, Verizon, and Clearwire).

37 **Misc.** Allina Medical Transportation has exclusive rights to patient transportation for the City of  
38 Roseville.

39 Staff has been unable to locate any official policy regarding the use of public property by  
40 commercial enterprises.

41 As a result of the proposal by Clearwire to locate a telecommunications tower in Acorn Park,  
42 there has been a lot of discussion on what the City’s policy should be in regards to allowing for  
43 telecommunication towers on city property. Presently, there is not any official city policy  
44 regarding the location of the telecommunication towers in parks or on any other public property.

45 Given that fact, the City Manager has informed Clearwire that the city is withdrawing its  
46 support as property owner to the application of locating a telecommunications tower in Acorn  
47 Park. (Attachment D).

48 Staff has been working on a general policy regarding telecommunications towers on public  
49 property for the City Council to consider as a basis of a policy. (Attachment E). Concurrently,  
50 the Parks and Recreation Commission has recommended a policy regarding the siting of  
51 telecommunication towers into parks specifically. (Attachment F). Staff has included these  
52 documents as part of this case for the City Council to review.

### 53 **POLICY OBJECTIVE**

54 The purpose of this item is to discuss how public property is used by commercial interests and  
55 whether the City should have a policy governing the use of public property for commercial uses,  
56 including telecommunication towers in city parks.

### 57 **BUDGET IMPLICATIONS**

58 The large majority of revenue collected from the commercial use of public property is generated  
59 from telecommunication towers. (Approximately \$250,000). There are also facility use fees for  
60 the Oval. The use of the right-of-way and parks by other private utilities generates minimal  
61 revenue.

### 62 **STAFF RECOMMENDATION**

63 Staff suggests the City Council discuss the need for an official policy in regards to the use of  
64 city-owned property by commercial enterprises for commercial use and specifically discuss the  
65 need for a policy regarding the use of city-owned property for telecommunication towers.

### 66 **REQUESTED COUNCIL ACTION**

67 The City Council should discuss whether the City should have a policy regarding the use of City-  
68 owned property by commercial enterprises for commercial use.

Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: 2030 Comprehensive Plan – Land Use Chapter (link to PDF)  
B: 2030 Comprehensive Plan – Parks and Open Space Chapter (link to PDF)  
C: 2030 Comprehensive Plan – Utilities Chapter (link to PDF)

- D: Letter dated March 15, 2010 from the City Manager to Clearwire
- E: Draft Staff Policy regarding Telecommunication Towers on Public Property
- F: March 2, 2010 Roseville Park and Recreation Commission recommendation regarding telecommunication towers in city parks.



March 15, 2010

Cleawire LLC  
c/o Buell Consulting  
Attn: Tony Vavoulis  
2324 University Avenue W, Suite 200  
St. Paul, MN 55114

**RE: Withdrawal of Clearwire/Acorn Park application**

Dear Mr. Vavoulis,

Although Roseville City staff has continued to work with Clearwire's application for approval of a telecommunication tower as a conditional use in Acorn Park, we have been unable to resolve conflicts between the policies that guide the activities and recommendations of various City Departments and Commissions.

This impasse appears to be a result of the absence of a City policy for the siting of telecommunications towers. Without a City policy for determining when or whether Roseville, as a property owner, is interested in siting telecommunication infrastructure on City-owned property, the City is unable to answer this question as it applies specifically to Acorn Park.

Since Roseville is the land owner in this request and remains uncertain of its interest in the construction of a monopole facility in Acorn Park, the City intends to withdraw its support of the land use application. Moreover, Roseville will not be entering into any lease agreements on the Acorn Park property at this time.

As Clearwire is the named as the applicant for the requested approval of a telecommunication tower as a conditional use in Acorn Park, I would advise Clearwire to formally withdraw the application. The current State-mandated deadline for City Council action on this request is April 7, 2010. If City staff does not receive a written statement of the intent to withdraw the application, the City Council is prepared to deny the proposed conditional use at its meeting of March 29, 2010 – the City Council's final meeting before the April 7<sup>th</sup> deadline.

I apologize for any inconvenience resulting from the City's indirection. Please don't hesitate to call me at 651-792-7021 if you have any questions or concerns.

Sincerely,

CITY OF ROSEVILLE

A handwritten signature in black ink, appearing to read "W. Malinen".

William J. Malinen  
City Manager

DRAFT

## City of Roseville Policy

### Telecommunications Towers on Public Property

**Purpose:** Consistent with the community vision document Imagine Roseville 2025 and the 2030 Comprehensive Plan, it is the policy of the city to locate telecommunication towers serving the general public on city-owned land whenever possible in order to provide all Roseville residents and businesses access to leading-edge telecommunication and information technology. For the purposes of this policy, City-owned shall be land owned by the City of Roseville, including, but not limited to, the City of Roseville City Hall Campus, City Parks, City water tower sites, City Fire Stations, City right-of-way, City-owned drainage areas and other such property owned by the City.

As property owner, the City will carefully weigh the possible impacts a telecommunications tower could have in the immediate area with the overall need for maintaining and improving telecommunication and information technology for its residents and businesses. However, the City recognizes that not all impacts can be eliminated when such technology is installed and therefore will strive to minimize the impacts as much as is reasonably possible thru siting criteria.

#### Siting Criteria

Prior to any discussion of building a new telecommunications tower to provide telecommunication and information technology, the proposer for such facility should first conduct an analysis on whether there are any other facilities within the City could be utilized to provide the service. If it is determined that there are no existing facilities would work, the provider shall meet with City staff to determine possible locations on City-owned land. Once a geographic area is identified, the provider and City staff shall review possible locations on the City-owned land for the telecommunication tower.

When exploring an appropriate location on the City-owned site, the following criteria should be used:

- Telecommunications towers shall be located upon public land in a location so as to not disrupt the primary function of the property.
- Telecommunication towers shall be built and designed for co-location opportunities whenever practicable.
- Telecommunication providers shall use existing structures and infrastructure, such as rooftops, water towers, utility poles, etc. whenever possible.
- Telecommunication towers shall be located so as to maximize the distance from residential areas and uses and to take maximum advantage of existing natural landscaping and screening.
- Telecommunication towers shall be located near existing infrastructure and utilities on the site.

#### Location Approval Process

Once City staff and the provider have determined a preliminary location for a new telecommunications tower, the matter should be brought to the City Council for their review and approval of the location. The decision by the City Council is **not** a land use decision. Instead, the City Council is making a decision as **property owner**. If the City Council determines that the City does not want to authorize the use of

the public land for the telecommunication tower, the matter is considered settled. However, if the use of the City-owned land and the proposed location of the telecommunication tower is deemed acceptable by the City Council, the provider must apply for a conditional use to gain land use approval for the telecommunication tower as well as negotiate a leasing arrangement with the City. Both the land use decision and the lease agreement will need to be approved by the City Council at future meetings.

As part of the Conditional Use approval process, the City may add certain conditions to the approval in order to take into account any special concerns about the telecommunications tower.

1) The following recommendation was made on March 2<sup>nd</sup>, 2010 by the Roseville Parks and Recreation Commission as it relates to towers in city parks:

General Conditions for Policy on Towers in City Parks:

- Shall be considered on a case by case basis and must be consistent with the Parks and Recreation Master Plan
- Proposal must be a direct infrastructure benefit to the park
- Proposal must be a direct benefit to all park users
- Each case shall be referred to the Parks and Recreation Commission for review and recommendation
- Each proposal shall involve community and neighborhood input meetings
- Park must be appropriate size to support a commercial use
- Co-location is not recommended in a city park because of the height and space requirement that are dictated
- A building shall not be allowed unless there is a possibility for dual use, i.e., restroom/community room facilities etc.?
- Agreement shall include a provision to remove pole/equipment and restore area should provider go away where there is no longer a need, i.e. letter of credit or bond
- Each case shall require a visual impact assessment (visual impact statement)
- All installation and restoration costs shall be borne by the provider with no cost to the city
- Appropriate compensation shall be received by the City

The motion was made by Commissioner Etten that the above general conditions be recommended to the City Council when considering towers in city parks, seconded by Willmus. Motion approved 7-1 with Commissioner Ristow voting no.

Present: Brodt Lenz, Etten, D.Holt, M.Holt, Pederson, Ristow, Stark and Chair Willmus

Absent: Hiber, Youth Commissioner Jacobson

2) The following recommendation was made on March 2<sup>nd</sup>, 2010 by the Roseville Parks and Recreation Commission as it relates to a tower in Acorn Park:

Monopole (data only):

- Installation shall be consistent with the park plan and not exceed the following criteria:
  - Dimension of pole similar to existing light or telephone poles (X dimension)
  - Height of pole shall not exceed 100 ft.
  - Ground space shall not exceed 7 x 7 ft
- Installation shall prefer combination use with park amenity, i.e. attached to replaced light pole
- Installation, maintenance and operation shall not interfere with park activities and shall be scheduled with the Parks and Recreation Department
- Screening shall be defined by the Parks and Recreation Department
- Perform a visual impact assessment (visual impact statement)
- Agreement shall include a provision to remove pole/equipment and restore area should provider go away where there is no longer a need, i.e. letter of credit or bond

- Agreement shall include a provision to have the pole and equipment moved at city discretion if dictated by Park System Master Plan
- All installation and restoration costs shall be borne by the provider with no cost to the city

The motion was made by Commissioner Stark to recommend to the City Council the above conditions if a tower is considered in Acorn Park, seconded by Commissioner Holt. Motion passed unanimously.

Present: Brodt Lenz, Etten, D.Holt, M.Holt, , Pederson, Ristow, Stark and Chair Willmus

Absent: Hiber, Youth Commissioner Jacobson

3) The following recommendation was made on March 2<sup>nd</sup>, 2010 by the Roseville Parks and Recreation Commission on the distribution of revenues derived from towers in city parks:

Revenues:

- It is recommended that all tower revenues be deposited in the city general fund and redistributed to departments through the annual budget process
- Park infrastructure improvements and/or acquisitions may be considered in lieu of cash

The motion was made by Commissioner Stark to recommend to the City Council that the above revenue distribution method be used if towers are installed in city parks, seconded by Holt. Motion passed unanimously.

Present: Brodt Lenz, Etten, D.Holt, M.Holt, , Pederson, Ristow, Stark and Chair Willmus

Absent: Hiber, Youth Commissioner Jacobson