

Payne, Nancy

From: Eeg, Thomas
Sent: Tuesday, May 31, 2016 10:50 AM
To: Payne, Nancy
Subject: FW: T-Mobile lease agreement - ATTORNEY-CLIENT PRIVILEGED INFORMATION - DO NOT SHARE

Attach this in Legistar and maybe this should be displayed tonight on Power Point.

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From: Larsen, Nicole
Sent: Tuesday, May 31, 2016 10:39 AM
To: McCarthy, Terry; Lemke, Melissa; Jones, Mollie; Perez, Henry; Meekma, Jason
Cc: Eeg, Thomas; Letteney, Scott
Subject: T-Mobile lease agreement - ATTORNEY-CLIENT PRIVILEGED INFORMATION - DO NOT SHARE

Good morning, Alders,

I just spoke with Tom Eeg who advised me that the council has concerns with entering into a lease agreement with T-Mobile for their equipment placement at 1301 Sixth Street. I was not at the public works meeting or council meeting where the concerns and so I wanted to be sure you had all the information. I understand the matter is on the Public Works & Services committee agenda tonight. Please bear with my explanation as the interested parties have changed hands and so the facts get a little convoluted.

The property in question, 1301 Sixth Street, was acquired by the City in 2002 from Orvill & Geraldine Gleason. When the City purchased the property from the Gleasons, the property was subject to an exclusive easement that the Gleasons had given to Racine Cellular Telephone Company. The purpose of the easement was for Racine Cellular to construct, maintain and operate a cell tower at the site. Racine Cellular did in fact construct a cell tower on the site and now, US Cellular, as its successor, maintains and operates the cell tower.

U.S. Cellular leases space on the cell tower to T-Mobile. It is U.S. Cellular's right to do that. But, U.S. Cellular does not have the authority to grant T-Mobile the right to access the Site; only the City can do that since it owns the property over which T-Mobile has to travel to reach the cell tower. T-Mobile's predecessor is VoiceStream. VoiceStream had an access agreement with the Gleasons that was entered into in 2000. That access agreement was a 10-year agreement and expired in 2010. Whenever T-Mobile took over VoiceStream, it took the right to the access agreement, as well. Now, since the City owns the property, we are looking to have a new access agreement with T-Mobile. Currently, they are accessing the site without any agreement or any payment.

T-Mobile is interested in a longer term agreement so that it doesn't need to renegotiate this access agreement every several years. I do not advocate for T-Mobile, but I do understand that concern, since they have thousands of lease agreements around the country that they are always balancing. Initially they were proposing a 25-year agreement to coincide with their lease agreement with U.S. Cellular, and through negotiations, we came down to a 4-year (finishing out through 2020) with four renewable terms. I understand that the length of time that constitute the renewal terms may be the point of concern for some council members.

I do not know T-Mobile's intentions if we do not reach an agreement. If they continue to use it without permission, then it would be up to the RPD to enforce the trespass ordinance, which would be near impossible, because it would require constant RPD presence on the property to monitor the periodic trespass-not a good use of resources. If they abandon the site, then it is a loss of funds for the City. I do think they have a high desire to remain, and that they are willing to pay the City for the privilege.

If T-Mobile does not want to go less than the negotiated term, one option to address the length of time issue might be for staff to reopen negotiations with T-Mobile to revise language to add language that increases the City's ability to terminate the lease. Another option might be to make the agreement conditional upon U.S. Cellular's continued use, to limit T-Mobile's use to the length of time that U.S. Cellular remains. These are merely suggestions at this point, however, and we have not discussed these options with T-Mobile. Just thoughts that I have right now in an effort to move towards concluding this matter. Tom and I will continue to work on this throughout the day so we can bring you updated information at the meeting.

Please let me know if you have any thoughts, questions or concerns.

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