



CITY COUNCIL AGENDA ITEM

To: Mayor Graham and City Council

From: Ted Shekell, Planning Director
Walter Denton, City Administrator

Date: September 27, 2006

Subject: Resolution Authorizing the Mayor to Sign a Release and Settlement Agreement, and a Termination of Memorandum of Lease with Cingular Wireless (formerly ATT)

List of committees that have reviewed: The CD Committee discussed the proposed lease termination agreement at its September 27, 2006, meeting, with a consensus to take the agreement forward without objection.

Background: The five year lease the City had with Cingular wireless (formerly ATT) for use of the Behrens Street water tower for their cell communication equipment expired on August 28 of this year. They decided to not renew the lease because of the consolidation between Cingular and ATT. Cingular already has a tower behind the Fire Station on Washington St., so they didn't need a redundant antenna on the water tower.

As part of the lease, they had two options at the end of the lease: 1) they were required to remove all of their equipment, including the equipment shelter (which also houses O'Fallon PD antenna communication equipment) and return the tower and site back to its original condition, or 2) the equipment shelter, cabling, and antenna may remain in place at the City's discretion and they can attempt to sell their equipment to another cell provided, or give it to the City. Cingular would like to give the shelter, cabling, and antenna to the City and to be released from their obligations under the lease. The attached Release only releases them from the obligation to remove, but not any other obligation they may have incurred as tenants on our water tower. The release also relieves the City of it's obligation to pay Cingular \$300/month for the use of the shelter (which is triggered by the termination of the lease). It should be noted Cingular paid the City a lease termination fee of \$12,000 last month.

The Resolution authorizes the Mayor to sign the proposed Release and Settlement Agreement, and a Termination of Memorandum of Lease. These will end the lease with Cingular and will grant to the City the shelter, cabling, antenna, and related appurtenances at no cost. Upon receipt, the City may then prepare either an RFP for other wireless carriers to utilize these facilities. The City should also evaluate the antenna's potential for enhancing our communication network.

Legal Considerations, if any: None.

Budget Impact: The City will receive approximately \$20,000 in equipment, including the shelter, cabling, and antenna, as well as saving \$3,600 per year rent of the shelter (for PD's equipment) to Cingular that would have been triggered upon termination of the lease.

Staff Recommendation: Staff and legal counsel Dan Vogel recommend approving the termination agreement and release and settlement agreement