

OFFICE OF THE CITY MANAGER
DES MOINES, IOWA

ITEM X-1

CITY COUNCIL COMMUNICATION 97-015
JANUARY 6, 1997 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
AUTHORIZATION FOR AIRPORT BOARD TO CREATE POLICY ON COMMUNICATION ANTENNAS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ERIC A. ANDERSON CITY MANAGER

SYNOPSIS —

On September 16, 1996, by Roll Call No. 96-3201, Council approved Ordinance No. 13377 amending zoning regulations for communication towers and antennas within the City of Des Moines. On October 21, 1996, by Roll Call No. 96-3615, Council approved a lease policy for communication antennas on public property. The lease guidelines adopted by Council established an application and review process to determine if the desired site would be suitable for an antenna. This policy provided guidelines for all City property, including Enterprise Funds such as the Airport.

After further review of the policy, it has been determined that, due to the uniqueness and complexities of the Airport, that policy should not apply to the Airport; and the Airport Board should develop an independent policy to address towers and antennas on Airport property. For towers and antennas on Airport property, the review process by the Communication Antenna Lease (CAL) Committee would apply except that Agreements will be no more than three years in length, include appropriate compensation plus a one-time benefit, include required FAA lease provisions and language, be coordinated with City Manager or his designated representative, and be approved by the Des Moines International Airport Board rather than City Council.

Issues which make the Airport unique and support the justification for a separate Airport Antenna Leasing Policy are as follows:

- Any location on the Airport has to meet the requirements of the Height and Hazard Ordinance - Federal Aviation Regulation (FAR) Part 77 Requirements and be approved by FAA.
- FAA Regulations and Federal Grant Assurances require lease rates be fair, reasonable, and not unjustly discriminatory.
- A new Federal requirement is that agreements with aeronautical users must contain rates and charges that are based on historical costs.
- Agreements of five years or longer must have escalator clauses at least every five years.
- The Airport has a distinct need to allow for flexibility in changes in rates and charges and to be able to respond in a reasonable time to the physical growth needs of the Airport. There is no desire, nor benefit to long-term leases of this type because of uncertainties about future Airport need. The Department of Aviation, acting through both City Council and the Airport Board, has purposely held most lease terms to three years or less.
- Airport leases must contain specific FAA required language addressing:
 - Nondiscrimination
 - Civil Rights
 - Just Services
 - Exclusive Rights

Subordination to Agreements
Disadvantaged Business Enterprise (DBE)
Inclusion of Disadvantaged Business Enterprise (DBE)
Discrimination Provisions in Tenant Agreements

- Specific FAA mandated Airport Security issues must be addressed in every lease agreement.

FISCAL IMPACT —

There is no fiscal impact on the City General Fund.

RECOMMENDATION —

It is recommend that all antenna sites on Airport property be exempted from the existing City Lease Policy for Communication Antennas on Public Property as set forth in Council Communication No. 96-458 dated October 21, 1996; and the Airport Board be authorized to establish a separate leasing policy for communication towers and antennas to be located on Airport property.

BACKGROUND —

The current approved policy regarding Communication Antennas on Public property further states that upon recommendation by the Communication Antenna Lease (CAL) Committee that a site is suitable, the application will be referred to the City Manager and Legal Department with a recommendation to proceed with lease negotiations. As required, the application will be reviewed by the Board of Adjustment, by affected neighborhoods and oversight boards, such as the Airport Board. If the site is approved by the Board of Adjustment and the applicable oversight board, the City Manager, or his designee, will conclude negotiations with the telecommunications company. Compensation and term of the lease will be negotiated by the City Manager, or his designee, as provided in the Lease Guidelines. The one-time compensation package will be negotiated by the City Manager and the operating department, with input from the affected neighborhood.