



LAKE COUNTY FOREST PRESERVES  
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Preservation, Restoration, Education and Recreation

**DATE:** February 1, 2016

**MEMO TO:** Carol Calabresa, Chair  
Land Preservation and Acquisition Committee

S. Michael Rummel, Chair  
Finance and Administrative Committee

**FROM:** Alex Ty Kovach,  
Executive Director

**RECOMMENDATION:** Provide Policy Direction regarding request from American Tower Corporation to extend the lease on the Verizon cell tower located on Bluebird Meadow Forest Preserve to authorize staff to negotiate agreements.

**FINANCIAL DATA:** At this time there is no financial impact.

**BACKGROUND:** The License and Easement Ordinance cites Section 6 of the Downstate Forest Preserve District Act, which states the Lake County Forest Preserve District (the “District”) has the "power to grant licenses, easements and rights-of-way for the construction, operation and maintenance upon, under or across any property of [the] District of facilities for water, sewage, telephone, telegraph, electric, gas or other public service...”

The District has been approached with a request to extend the term of the lease on the tower at Bluebird Meadow, which expires December 7, 2031. The time and expense involved in finding locations, establishing land rights, and building new towers is formidable, thus wireless companies leasing space on existing towers wish to lock in their ability to use those towers for longer terms. Therefore, tower management firms need to be able to guarantee their ability to offer wireless companies extended terms.

Though the District is statutorily unable to extend the existing lease, it does have the ability to establish a new license or easement that could go into effect upon the expiration of the lease. American Tower has proposed an extension of up to 30 years (via six (6) five-year renewal periods), for which it proposed a one-time payment of \$15,000, with the annual payment structure to continue from its then-current level. When the existing lease expires in 2031, the annual payment would be \$21,098.56 per year, with 15% increases upon each new renewal term (every five years). The bond funds used to purchase the property on which the subject tower is located will be paid off in 2033, so the five percent income limitation will thereafter no longer be a concern.

Though American Tower has offered two additional options, which in both cases would have the District grant a perpetual easement, the resulting financial benefits would not approach the income potential available under the license agreement scenario. In fact, in one of the two options, a proposed lump sum payment would cause serious difficulties under the five percent income limitation.

Though American Tower was provided the list of terms by which the District is willing to consider *new* cell towers agreements, for its requested extension of the existing lease, it has stated:

- it is unwilling to consider any revenue-sharing plan by which it would be required to pay an additional annual fee for each additional carrier added to the tower, and
- it is unwilling to accept the District's right to terminate the license, *without* consideration, prior to each renewal period, or, with consideration, at any time.

In light of efforts to broaden the District's revenue base as a result of the declining Equalized Assessed Value and other financial challenges, staff sees potential benefits in creating a new license agreement for this existing tower. However, staff believes the request should be denied because the terms proposed do not adhere to the requirements set out by the District. Staff would like to obtain committee direction on whether to engage in further due diligence, discussions and negotiations with American Tower regarding a new license under its current proposal. If negotiations proved fruitful, staff would present a new license to the Committee for further review and recommendation.

**REASON FOR RECOMMENDATION:** Policy Direction is required in accordance with District policy.

**REVIEW BY OTHERS:** Chief Operations Officer, Director of Planning and Land Preservation, Finance Director, Corporate Counsel

**PRESENTER:** Alex Ty Kovach