

**THE CITY OF KENT, OHIO  
FINANCE COMMITTEE  
WED., DEC. 5, 2007**

This meeting of the Finance Committee of Kent City Council was called to order on Wed., Dec. 5, 2007 by Wayne Wilson, Chair, at 7:00 p.m.

**PRESENT:** MR. BARGERSTOCK, MR. DELEONE, MR. FERRARA, MS. GAVRILOFF, MR. HAWKSLEY, MR. KUCHAR, MS. OSWITCH, AND MR. WILSON

**ALSO PRESENT:** J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; W. LILLICH, SAFETY DIRECTOR; B. RISSLAND, DIR. OF BUDGET & FINANCE; J. IDONE, DIR. OF PARKS AND RECREATION; AND L. COPLEY, CLERK OF COUNCIL

**ABSENT:** MR. SCHULTZ

Chair Wilson said the first issue they would discuss is an extension on the lease of the cell tower. **Dave Ruller, City Manager**, explained that **William Lillich, Safety Director**, had been working to renegotiate some of the terms of the lease for the cell tower. He said Mr. Lillich was present to provide and update, and would like authorization to amend the terms of one of their agreements.

Mr. Lillich said that about one and one-half years earlier, The Lyle Company made a proposal, on behalf of Crown Castle. He said they wanted to reduce the rent they were paying for the tower they were leasing, which is located on the City's property at the corner of Cherry Street and Mogadore Road. Mr. Lillich said this was built twelve years earlier by GTE, who sold the tower because they found it was not in their business plan to own a lot of towers.

Mr. Lillich said that Crown Castle bought the tower, and the Lyle Company leases space from them. He said it is similar to other companies, with respect to cell phones. He said originally, when cell phones first became popular, there were about fifteen to eighteen businesses around the country. He said there are now about six. He said the companies are trying to refine their costs, lock in their costs, and increase some of the benefits with the assets.

Mr. Lillich said he has spoken with the representative from the Lyle Company. He said that they first wanted to reduce their rent. Mr. Lillich said he did not have contact for a while, and more recently, another representative contacted him. He said they have rethought their strategy, and rather than express a desire to reduce the lease price paid, they wanted to extend the term of the lease, continuing with existing benefits. He said they have a proposal that would take the current thirty-year lease, extending it another fifty years. He said there are eighteen years remaining on the current lease.

Mr. Lillich said their value is to lock in long term costs so they can begin to lease additional space on the tower to additional service providers, which has become common. He said they are also willing to share some of the co-location fees for additional service providers that rent space on that tower in the future. He said they are offering to do that for about \$250 a month for the third and subsequent co-locators beyond the third company.

Mr. Lillich said they are currently receiving approximately \$700 a month, adding that for this type of application, \$700 is average or slightly above for a situation where the City owns the ground and the company installs the facility. He said they lease space on the City's water tower, adding they own that tower, so the rent is substantially more than \$700 per month.

Mr. Lillich said there is an automatic increase of 15% every five years, which is a 3% increase annually, thrown on at the five-year renewal, if they agree. He said it sounds like a reasonable generation of revenue. Mr. Lillich pointed out that over the term of the lease, they will generate more than \$1 million in revenue. He said the down side is they are extending the lease up to a total of sixty-eight years. He said

it is a big tower, and will be around for a long time.

Mr. Kuhar asked the net annual revenue, and Mr. Lillich said it is \$8397. Mr. Kuhar asked if technology changes in nine or ten years, and the tower is obsolete, if the City is protected, and Mr. Lillich said the Lyle Company does have "out clauses." Mr. Kuhar noted that would probably happen. Mr. Lillich said there is a potential, but he does not have a crystal ball to project the satellite communications in the short term. He said the tower is here to stay in Kent, for the short term, partly because they are a college town. He said a lot of the per capita use cell phones more than many other communities, so it behooves these companies to be located in Kent.

Mr. Kuhar said that with some of the new technology, towers will be obsolete, and there is nothing they can do to change it. Mr. Lillich said they can make sure there is language in the lease if the tower becomes obsolete that allows the City to keep it or have the company remove it, making it their responsibility. Mr. Kuhar asked if there is no protection clause, and Mr. Lillich said it is for twelve to twenty-four months.

Mr. Bargerstock said one of his questions dealt with removal, adding he was glad they would be responsible. Mr. Lillich said he would prefer it be an "either/or" situation, as the City may benefit from the tower as they look at their communication needs. He said one of the provisions in the current lease allows the City to use it at no expense.

Mr. Bargerstock said he had a chance to sell a tower about six years earlier, so he had some experience. He asked if the free use clause would be in their lease, if extended, and Mr. Lillich said that was correct. Mr. Bargerstock asked about a cost of living cap, adding some include a review cap, and if the cost of living exceeds a certain level, they have the option of renegotiating it. Mr. Lillich said that is the reason for the extension. He said that without knowing their costs in the next ten, twenty, or thirty years, it will be more difficult to entice others to locate on that tower. Mr. Bargerstock said he understood that, but they do not know what the dollar is going to do. He said the revenue could be a pittance, and there are mechanisms available to them. Mr. Bargerstock asked if it was out of the question, and Mr. Lillich said that in presenting this, they are presenting the Lyle Company's proposal. He said they can make counter proposals, adding they are not locked into the terms.

Mr. Hawksley asked if they have discussed how this would impact the use of the property, and asked if the City assumption is to keep that piece of property. Mr. Lillich said he did not know what the assumption was, adding he cannot say that. He said it is not terribly valuable, and **Gene Roberts, Service Director**, said the back portion is the flood plain. Mr. Lillich said if they sell the land, the lease would go with it.

Mr. Hawksley asked what the City gains, other than a potential increase in rent, and Mr. Lillich said they are already locked into an agreement. He said if they can guarantee a little more income, they might as well, as it is not costing the City anything one way or another.

Mr. Kuhar said that Mr. Bargerstock's comments brought up a question, and asked if they are currently using any of the tower for the dispatch of the police and fire, and Mr. Lillich said they are not, as they have other locations that better meet the needs caused by the terrain. He said there are some types of communications, adding they are looking at it as one alternative to interconnect some of the City buildings. Mr. Kuhar asked if it would be used for traffic control, and Mr. Lillich said it would be in a roundabout sort of way.

Mr. Bargerstock asked if they are limited on the type of equipment they can use, and Mr. Lillich said they would be required to keep the separation limits. He said they must also guarantee that they will not interfere with their communications. Mr. Bargerstock asked if they could use it for internet purposes, and Mr. Lillich said possibly, but they would need a technical opinion.

Mr. Hawksley commented that the co-locations would generate \$3000 annually, and asked if that price escalates. Mr. Lillich said he does not remember it written that way, but would address it if they wished to include it as part of their response.

Chair Wilson called for audience comment. Hearing none, he returned to the Committee.

**MOTION TO AUTHORIZE THE LEASE EXTENSION WITH A COST OF LIVING REVIEW PROCESS THAT IS NEGOTIABLE.**

Motion made by Mr. Bargerstock, and died for want of a second.

**MOTION TO REFER THE LEASE BACK TO THE ADMINISTRATION TO SHARE THE ISSUES RAISED AT THIS MEETING WITH THE LYLE COMPANY.**

Motion made by Ms. Gavriloff, seconded by Mr. Hawksley, and carried by a voice vote of 7-0-1, with Mr. Wilson abstaining.

Chair Wilson said the next item on their agenda dealt with the final amendment to the 2007 appropriations ordinance.

Mr. Ruller said Ms. Rissland has some changes that need to be made, and has detected some errors in the 2008 appropriations ordinance.

**Barb Rissland, Budget & Finance Director**, said she would review the appropriations amendments first. She said they need to increase the appropriations in the General Fund by \$15,000 for a citywide appraisal. She said this was last done about twenty years earlier, and it has been requested by their property insurance agent. She said this would protect the City in case they have a claim, to ensure they have a proper value on property and contents.

Ms. Rissland requested an increase of \$40,000 in the SCMR Fund for fuel. She said there is an adjustment for the Income Tax Fund. She said one is an increased contribution to the Managed Reserve, of \$18,359.36, which represents the actual interest earned in 2006. She said they will satisfy a Charter requirement with \$44,404 transferred to Income Tax Safety and the Fire & EMS account.

Ms. Rissland said the CDBG Fund is an expenditure driven grant fund, and they must spend the monies before they apply for reimbursement. She said most of the projects span multiple years, adding they are recommending additional appropriations for \$50,000 to cover year end encumbrances.

Ms. Rissland said that after she completed her memo, two additional items came up. She said the first is an increase of \$15,000 for utilities at the Water Treatment Plant. She said they experienced some problems with the change from natural gas driven pumps to the electric pumps. She said this has since been corrected, adding it generated higher utility bills. Ms. Rissland said that increased their peak load fact, adding they were paying more than originally anticipated for any given month.

Ms. Rissland said there is an increase to Fund 201, which is the first half loan payment for the Franklin Hills water line, which is due Jan. 1. She said it would facilitate things to pay it in Dec 2007, so there is no problem getting the money to the County by January 2, 2008. She said this is supported by the special assessments on the water line, adding they will receive it back from the County.

Ms. Rissland said she noticed on the appropriations ordinance that on the first page of the attachment, part of the page was truncated when converted. She said she discovered this when she made the PDF file. Ms. Rissland said the items are reflected on the printed page, but do not total what was shown. She said the two funds that are missing are the Food Service Fund and the Income Tax Fund. She said that \$60,550 should be shown for the Food Service Fund, with \$699,658 for the Income Tax Fund.

Ms. Rissland said another correction is needed in the 2007 Position Allocation Ordinance. She said as she prepared the 2008 ordinance, it was discovered that the number of Engineering Aides should be listed as two aides. She said the 2007 budget showed how two were approved, adding there were two in 2006. She said it was a "typo", and deferred to the Law Director on the best way to correct these items. She requested this be retroactive to January 1, 2007.

Ms. Rissland said they have the wrong date listed in the AFSCME contract for the annual pay increases.

She said it shows an effective date of Dec. 27, 2007, when it should be Dec. 24, 2007. She deferred to the Law Director on the best way to correct these items.

Ms. Oswitch asked the amount for the Franklin Hills water line, and Ms. Rissland said it would be approximately \$8700.

Ms. Oswitch asked Mr. Silver how to correct the errors, and Mr. Silver said that two were "typos" and could be corrected administratively, but he would request they authorize an amendment to the AFSCME contract to reflect the proper date.

Mr. Bargerstock asked about the citywide appraisal, and whether this was for real estate and the personal property. Ms. Rissland said it is for the equipment in the buildings. Mr. Bargerstock asked if it was their property insurance for the contents, and Ms. Rissland said it included the contents and the structures. Mr. Bargerstock asked if they are covered for replacement value, and Ms. Rissland said it is replacement value, with a cost of living increase annually. Mr. Bargerstock asked which company they would be using, and Ms. Rissland said the company was recommended by the insurance agent. She said their agent has used them before, and feels they have good accuracy. Mr. Bargerstock asked if it is Beck, and Ms. Rissland said she did not believe it was Beck.

There were no audience comments at this time.

**MOTION TO AUTHORIZE THE AMENDMENT TO THE 2007 APPROPRIATIONS ORDINANCE.**

Motion made by Ms. Oswitch, seconded by Mr. DeLeone, and carried by a voice vote of 7-0-1, with Mr. Wilson abstaining.

**MOTION TO AUTHORIZE AN AMENDMENT TO THE AFSCME CONTRACT TO CORRECT THE DATE, AND TO INCLUDE THE EMERGENCY CLAUSE.**

Motion made by Ms. Oswitch, seconded by Mr. DeLeone, and carried by a voice vote of 7-0-1, with Mr. Wilson abstaining.

Mr. Wilson said they would now discuss the Hike and Bike easement. Mr. Ruller said they are seeking approval for easements on the Hike and Bike trail, in the area by Middlebury Road.

**John Idone, Director of Parks and Recreation**, said they are finalizing the plans for the Cuyahoga River segment, adding they need to have them submitted to the Ohio Department of Transportation the first week of Jan to meet the fiscal year. He said one was an easement from the Wheeling and Lake Erie railroad, adding the trail crosses the river and needs to cross underneath the railroad that crosses Middlebury Road. He said they can cross under the rail line, but need an easement to do so.

Mr. Idone said that plans have changed, also. He said they originally planned to go behind the water treatment plant, and have since determined they cannot get behind it. He said they are now recommending it goes between the plant and the railroad tracks. Mr. Wilson noted it was the water reclamation plant. Mr. Idone said they have returned to the original alignment of going behind the plant, necessitating an additional easement from the Wheeling and Lake Erie railroad to cross the area by the old trestle. He said they now need two easements from the railroad.

Mr. Idone said the railroad requires a minimum of \$2500 per easement, adding he is unsure if they will consider \$2500 for the easements since they are both in the same document. Mr. Idone said that due to the time frame, he is asking for the authority to spend up to \$5000. Mr. Idone said he has proposed \$2500, but if they want \$5000, he will have the authority. Mr. Idone requested the inclusion of the emergency clause, due to the time factor getting the process completed before the submission of the final plans.

Ms. Gavriloff asked if the railroad wants payment for two easements, if they can ask them to clean up their railroad ties. Mr. Idone said he would make that request.

At this time, there was no audience comment.

**MOTION TO AUTHORIZE BOTH EASEMENTS WITH THE WHEELING AND LAKE ERIE RAILROAD FOR A COST NOT TO EXCEED \$5,000 AND TO INCLUDE THE EMERGENCY CLAUSE.**

Motion made by Mr. Kuhar, seconded by Mr. Bargerstock, and carried by a voice vote of 7-0-1, with Mr. Wilson abstaining.

Hearing no further business before this Committee, Chair Wilson adjourned this meeting at 7:26 p.m.

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Linda M. Copley, Clerk of Council

**ACTION RECOMMENDED:**

- 1) TO REFER THE CELL TOWER LEASE BACK TO THE ADMINISTRATION TO SHARE THE ISSUES RAISED AT THIS MEETING WITH THE LYLE COMPANY.
- 2) TO AUTHORIZE AMENDMENTS TO THE 2007 APPROPRIATIONS ORDINANCE
- 3) TO AUTHORIZE AN AMENDMENT TO THE AFSCME CONTRACT, SO AS TO REFLECT THE CURRENT DATE OF DEC. 24, 2007 FOR THE ANNUAL WAGE INCREASE
- 4) TO AUTHORIZE BOTH EASEMENTS WITH THE WHEELING AND LAKE ERIE RAILROAD FOR THE HIKE AND BIKE TRAIL, FOR A COST NOT TO EXCEED \$5,000 AND TO INCLUDE THE EMERGENCY CLAUSE.