

Powers Agreement would have to be signed by all the cities and will come back to Council for approval.

## **6. PRESENTATION/PUBLIC HEARING**

### **6-1. Proclamation Supporting Alameda County Libraries' *Banned Books Week 2011* Celebration in the City of Albany**

Ronnie Davis, Albany Library Branch Manager, Alan Riffer, Chair of Albany Library Board, and Caryl Okeefe, President of Friends of Albany Library were there to receive the Proclamation.

Mayor Javandel presented the Proclamation and proclaimed that American Library Association of Banned Books Week is on 9/24 – 10/1/2011 this year.

### **6-2. Appeal of the Planning and Zoning Commission's Decision to Deny the Application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo**

Staff recommendation: That the City Council uphold the decision of the Planning and Zoning Commission and deny the application for Design Review and Conditional Use Permit for a Wireless Antenna at 423 San Pablo, based on the recommended findings.

Community Development Director delivered the staff report. Crown Castle for Verizon Wireless is applying for Use Permit to replace four existing antenna enclosures where four enclosures currently existing on a legal non-conforming 65-foot monopole at the rear of 423 San Pablo Ave.

City's legal consultant, Greg Stepanicich stated that the City reserve the rights to request additional info on the alternative site analysis and can deny the application if sufficient information is not received.

Joe Parker representing Crown Castle for Verizon Wireless, along with Stephano Iachella - Verizon RF Engineer, John Dome – Zoning Manager for the site, Gary Gochberg – Property Specialist for the site presented a PowerPoint presentation on the project showing the alternative solutions analysis. The applicant's evaluation of reducing the pole's height, relocating Verizon's facilities to existing buildings, constructing new monopoles, or relocating Verizon's facility to other existing sites shows that no other alternative solution is feasible. They have stated that this application is merely maintenance of a legal non-conforming site. These replacements will provide better services to Albany community. The site will not change in mass, bulk or height. And they cannot operate at lower height due to the second carrier located at the same site at that height.

The following Albany residents spoke about the project: Ed Fields, Julie Beck, Clay Larson, and Mara Duncan. A summary of the comments are: 1) City need our own independent engineer consultant to analyze this project. 2) There are no analysis to other available zones and sites such as in CMX and PF. 3) This project is not to repair site for cell phones but for other services such as TV, internet, and the new 4G LTE. 4) If City

approves this, it would set a precedent to other sites and the City should not be intimidated by legal threats. 5) Council should uphold Planning & Zoning Commission’s decision and limit the owner’s ability to expand. 6) Safety is a concern. The City should look into the effects of these antennas on children.

The Council’s comments are as follows: 1) This project is setting a different frequency and providing more service, therefore, should be considered as an upgrade. 2) City definitely need more time to obtain our own independent engineer to review and analyze the project and need more information from the applicant.

**MOTION:**

Moved by Council Member Thomsen, motion amended by Council Lieber, seconded by Council Member Wile to 1) postpone action until next meeting pending an independent review by a City selected technical advisor; 2) ask for written documentations of the actual alternative analysis conducted by the applicant.

AYES: Council Members Atkinson, Lieber, Thomsen, Wile & Mayor Javandel

NOES: None                    ABSENT: None

Motion carried and so ordered

It was noted by City legal consultant that this item will return to Council at the next meeting which is the first meeting in October. The City may need more time for consultant to review and staff would be communicating this to the applicant.

**7-1. Resolution No. 2011-47 - 2011 Pavement Rehabilitation Project**

Staff recommendation: Adopt Resolution No., 2011-47 awarding Contract No. C11-12, 2011 Pavement Rehabilitation Project to MCK Services, Inc. in the amount of \$529,507.60 and authorizing staff to negotiate a change order for the construction of Speed Humps in the 800 and 900 block of Carmel Street, and either one or two speed humps on the 950 block of Ordway.

Council Member Wile recused herself.

Community Development Director Jeff Bond delivered the staff report. This item is to award contract to MCK Services for the project to pave streets including San Gabriel, Santa Fe, Peralta, and to negotiate a change order for the construction of speed humps on Carmel and Ordway. The project would begin in October and be completed in January. When the speed hump issue last came before the Council, the Council’s direction was to authorize the construction of two speed humps subject to the confirmation for the homeowners immediately facing the humps to agree to the installation. Overall, there is a high percentage of neighbors who agreed to two speed humps. Council Member Lieber and Mayor Javandel asked staff if suitable location has been located for one speed hump and if there was a policy that resident has the veto power against the installation of the speed hump in front of their house. Transportation Planner responded that the speed hump would replace the temporary speed hump that was removed last year. Finding a new location for the second speed hump has been a problem because of the new standards and the fact that resident didn’t want it in front of their house. It wasn’t a policy for the resident to veto but it was the Council’s decision that if resident doesn’t want the speed hump in front of their house, the