



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: JANUARY 16, 2007

ITEM NUMBER:

**SUBJECT:** CONSIDERATION OF ABOVE-GROUND UTILITY BOXES IN THE PUBLIC RIGHT-OF-WAY

**DATE:** JANUARY 4, 2007

**FROM:** PUBLIC SERVICES DEPARTMENT, ADMINISTRATIVE DIVISION

**PRESENTATION BY:** WILLIAM J. MORRIS, DIRECTOR OF PUBLIC SERVICES

**FOR FURTHER INFORMATION CONTACT:** WILLIAM J. MORRIS AT (714) 754-5343

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## **RECOMMENDATION:**

Provide input to staff on proposed Conditions of Approval, as shown in Attachment 1, for any utility request within the public right-of-way that includes above-ground cabinets greater than 25 cubic feet in size.

## **BACKGROUND:**

At the November 14, 2006, meeting, staff presented a report (Attachment 2, without report attachments) to City Council indicating a concern with the possible size and number of new above-ground utility boxes that are being proposed in the City. This concern is due to new California State legislation, AB 2987, which goes into affect this year, and allows any utility company meeting certain State requirements to provide video service to resident/customers within the City of Costa Mesa. Previously, this was governed by City ordinance requiring a local franchise agreement.

At the November meeting, several utility company representatives spoke on the subject of cabinet size, location, and number of future, proposed cabinets. The representative from AT&T indicated that undergrounding of the new facilities was not possible, and that new smaller height cabinets (48" vs. 63" height originally proposed) can be used where desired by the City for aesthetic reasons. He also stated that the number of cabinets proposed in Costa Mesa cannot be divulged at this time for proprietary reasons. The AT&T representative indicated that their company works with the community, and with the adjacent property owners, wherever a large, above-ground cabinet is proposed. Additionally, and in order to allay any concerns about maintenance and clean-up of graffiti, stickers, etc., he indicated that the finish on the cabinets was "powder coated" for ease of clean-up. Additionally, written correspondence was received from AT&T (Attachment 3) in response to several items contained in the November 14, 2006, staff report.

At that same meeting, a representative from Southern California Edison Co. (SCE) indicated that they would like to work with staff to provide for conditions that would meet

the needs of the City, as well as the utility company, as it relates to above-ground cabinets.

Council ultimately requested that City staff meet with the utility companies to address their concerns with staff's proposed conditions, while still preserving the aesthetic appearance of the City parkways, where the majority of new above-ground utility boxes presumably will be placed (Attachment 4).

### **ANALYSIS:**

Staff has redrafted the proposed Conditions of Approval (Attachment 1) for construction of any large utility cabinets within the public right-of-way. These redrafted conditions were sent out between December 7 and 15, 2006, to AT&T and SCE, the two utilities that currently have significant above-ground physical plants in the City. Several key conditions are as follows:

- Screening/mitigation of cabinets from view to the greatest extent possible.
- Agreement with City in lieu of established company policy addressing maintenance concerns (i.e., graffiti, stickers, vandalism, etc.).
- Reduced size of cabinet (48" vs. 63" high) in or near residential neighborhoods.
- Prior notification to property owners in the area of a proposed cabinet.

Staff just received input on the proposed conditions from SCE, and AT&T has verbally requested more time to provide input. This input from SCE and request from AT&T will be conveyed to Council in a separate memo, as it was not received in time to include in this report.

It should be noted that staff also met with AT&T representatives in the field on December 14, 2006, to review two locations where plans have been previously submitted for a permit to construct large above-ground cabinets. This meeting was very productive, and showed willingness on AT&T's part to work with the City to minimize any impacts of the proposed cabinets to the area. Also, AT&T has provided to staff a section of "powder coated" metal for testing of graffiti/sticker removal. This "test" piece of metal is typical of how the proposed cabinets would be painted and protected.

### **ALTERNATIVES CONSIDERED:**

City Council could request additional technical information from the utility companies on the need for large above-ground cabinets, as opposed to placing the equipment underground in a vault.

Council could also direct that large cabinets be allowed in the public right-of-way without any special conditions or mitigations.

A third alternative is to modify the proposed Conditions of Approval as suggested by staff.

**FISCAL REVIEW:**

The proposed construction of new cabinets in the public right-of-way would not impact the City financially. However, the City may be required to expend extra maintenance hours/supplies in the future on an ongoing basis to assure that graffiti is removed as quickly as possible from any new above-ground structures within or near the public right-of-way. One of the proposed Conditions of Approval addresses this concern (Attachment 1, Condition # 5).

**LEGAL REVIEW:**

Although any utility company meeting the requirements of AB2987 can provide service within the City of Costa Mesa, the City may impose reasonable conditions, such as location, size, aesthetics, mitigations, on any proposed construction within the public right-of-way.

**CONCLUSION:**

As a follow-up to Council's direction at the November 21, 2006, meeting, staff has developed revised Conditions of Approval for construction of any new, large cabinets within the public right-of-way. These conditions have been forwarded to the electric and telecommunication companies doing business in the City, and they have not provided any feedback on the conditions that are proposed for any future permits which involve large, above-ground structures/cabinets.

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William J. Morris  
Director of Public Services

- ATTACHMENTS:
- 1 - [Proposed Conditions of Approval for Large Cabinets](#)
  - 2 - [November 14, 2006, City Council Report \(without attachments\)](#)
  - 3 - [November 14, 2006, Letter from AT&T](#)
  - 4 - [November 14, 2006, Council Meeting Action Minutes](#)

- DISTRIBUTION:
- Mr. Al Henderson, AT&T
  - Ms. Leslie Monty, AT&T
  - Mr. Eddie Marquez, SCE
  - Mr. Del Heinz, Time Warner Cable
  - City Manager
  - Assistant City Manager
  - Administrative Services Director
  - City Engineer
  - Telecommunications Manager
  - Video Production Coordinator