REPORT TO THE VOTERS

for the

Town Meeting

Monday, November 9, 2015

King Philip High School
Wrentham, Massachusetts
Overview

This report provides a summary of the motions, recommendations and a brief explanation of the articles of business for the November 9, 2015 Town Meeting.

Presented By:

Board of Selectmen
Charles Kennedy, Deborah Torchia
Jerome McGovern, Joseph Botaish, Gail Pratt

Finance Committee
Andrea Sweed, Dwayne Hancock, Marjorie Immonen
Arthur Robison, Michael Savage, Kelly Williams

General ByLaw Review Committee
Michael Carroll, John Caruso, Dwayne Hancock,
George Smith, Cindy Thompson, Deborah Torchia

Capital Budget Planning Committee
Joseph Botaish, Eric Greenberg, James Killion, Jr.,
Michael McKnight, Maureen Osohnik, Arthur Robison
Articles 1 and 2 are to be Moved by the Board of Selectmen

Article 1
Move to recognize the Town of Wrentham 2015 Volunteers of the Year

Article 2
Move to consider the reports of the Town officers, of any committee or commission and to act thereon.

Articles 3 through 11 are to be Moved by the Finance Committee

Article 3
Move that the Town vote to raise and appropriate the sum of $3038.28 for the payment of unpaid bills from prior fiscal year 2015. Such funds to be distributed as follows:

- To DPW Expenses $1127.28
- To Communications Expenses $1911.00

Discussion: Unpaid bills are bills from the previous fiscal year and did not arrive until after the fiscal year close out on June 30, 2015:

Aggregate Industries is for asphalt and emulsion
Crowley’s for arm, gauge wheel kit and belt
Dell for communications equipment

The Finance Committee recommends that the Town vote to approve Article 3.

Article 4
Move that the Town vote to raise and appropriate or appropriate by transfer from Unappropriated Funds in the Treasury, as indicated below, the sum of $157,464 to supplement the current Fiscal Year 2016 operating budgets and to be sourced and distributed as follows:

<table>
<thead>
<tr>
<th>Source</th>
<th>Expense</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Retained earnings</td>
<td>Water Enterprise Personnel</td>
<td>$ 2,000</td>
</tr>
<tr>
<td>Raise and Appropriate</td>
<td>Public Works General Fund Personnel</td>
<td>$10,500</td>
</tr>
<tr>
<td>Raise and Appropriate</td>
<td>Central Motors Expense</td>
<td>$ 5,700</td>
</tr>
<tr>
<td>Raise and Appropriate</td>
<td>Technology Expense</td>
<td>$12,000</td>
</tr>
<tr>
<td>Unappropriated Funds in the Treasury</td>
<td>Police Personnel</td>
<td>$44,264</td>
</tr>
</tbody>
</table>
### Source

<table>
<thead>
<tr>
<th>Source</th>
<th>Expense</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated Funds in the Treasury</td>
<td>Fire Personnel</td>
<td>$37,000</td>
</tr>
<tr>
<td>Unappropriated Funds in the Treasury</td>
<td>Public Works Building Expenses</td>
<td>$21,000</td>
</tr>
<tr>
<td>Unappropriated Funds in the Treasury</td>
<td>Planning/Zoning Personnel</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

### Discussion:

<table>
<thead>
<tr>
<th>Rationale/Use</th>
<th>Expense</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covers stipends for required certifications of DPW personnel</td>
<td>Water Enterprise Personnel</td>
<td>$2,000</td>
</tr>
<tr>
<td>Covers stipends for required certifications of DPW personnel</td>
<td>Public Works General Fund Personnel</td>
<td>$10,500</td>
</tr>
<tr>
<td>Purchase incremental parts inventory for DPW mechanics</td>
<td>Central Motors Expense</td>
<td>$5,700</td>
</tr>
<tr>
<td>Purchase diagnostic system for DPW mechanics</td>
<td>Technology Expense</td>
<td>$12,000</td>
</tr>
<tr>
<td>Restores previously approved Police position removed from FY 2016 budget</td>
<td>Police Personnel</td>
<td>$44,264</td>
</tr>
<tr>
<td>Restores previous approved fire position removed from FY2016 budget</td>
<td>Fire Personnel</td>
<td>$37,000</td>
</tr>
<tr>
<td>Replaces old fixtures and converts to LED to public buildings-Public Works, Fiske Library, Old Fiske, Town Hall and Public Safety</td>
<td>Public Works Building Expenses</td>
<td>$21,000</td>
</tr>
<tr>
<td>Incremental hours for Town Planner and administrative assistant positions</td>
<td>Personnel Expenses</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

In looking at supplemental expenditures, the Finance Committee prioritized items that were needed to meet contractual obligations or would address Town health and safety.

Providing stipends to cover DPW personnel certifications for particular tasks as needed is contractual and allows the department to keep work in house and done when needed. Examples of needed certifications are pesticide application and roadside mowing.

The DPW has two mechanics in place and the diagnostic scanner allows them to work more efficiently and to better perform routine maintenance to return to or keep equipment in service. This is particularly important during the snow and ice season.
The incremental inventory addresses the need to keep equipment in use and also anticipates more parts needed since work is now being done in house or with the scanner in place, preventive issues will be more readily discovered.

The Police and Fire positions were previously approved but at the time of the Spring budget process were removed as they had yet to be filled and there was a significant shortfall in available funds to cover the budget.

The LED and fixture conversion/replacement allows us to obtain the materials and labor at a reduced price through a time limited program with National Grid. There are some energy savings for the buildings with LED and the fixtures will replace those that extremely old and are difficult to maintain.

The current part time Town Planner is leaving and the position now requires full time hours as a result of increased activity within the Town particularly as it relates to the 40B projects.

The Finance Committee recommends that the Town vote to approve Article 4.

Article 5:
Move that the Town vote to appropriate by transfer from available funds the sum of $17,000 to fund the Wrentham Municipal Clerical Employees Chapter Local 301 union contract. Such funds to be distributed as follows:

- Board of Assessors Personnel $1000
- Communications Personnel $3800
- Conservation Personnel $400
- Inspections Personnel $500
- Council on Aging Personnel $900
- Finance Personnel $3200
- Fire Dept. Personnel $1000
- Library Personnel $3000
- Public Health Nurses Personnel $2200
- Town Clerk Personnel $1000

Discussion: This amount represents the incremental amount of money needed to include in the 2016 budget to cover the negotiated increase with the clerical union. This contract was not settled in the Spring when the annual budget was approved.

The Finance Committee recommends that the Town vote to approve Article 5.

Article 6
Article 6 has two motions for capital items in order to differentiate funding approval requirements. Motion 6a requires a simple majority for approval. Motion 6b seeks to fund capital items from the Capital Stabilization fund which requires a two thirds majority vote for approval.
The Capital Budget Planning Committee (CBPC) voted to recommend the three items set forth below. The CBPC also voted to recommend an additional appropriation of $8,000 for an all-electric vehicle for the Assessors Office. The Finance Committee voted not to recommend that and instead recommend adoption of Article 9.

**Article 6a**
Move that the Town vote to raise and appropriate or transfer from unappropriated funds in the treasury, as indicated below, the sum of $23,000 to be allocated for the following items:

<table>
<thead>
<tr>
<th>Source</th>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated Funds in the Treasury</td>
<td>DPW-Public Buildings-Fiske Library Expenses</td>
<td>$18,000</td>
</tr>
<tr>
<td>Raise and appropriate</td>
<td>DPW-Public Buildings-Public Safety Expenses</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

**Article 6b**
Move that the Town appropriate by transfer from the Capital Stabilization fund the amount of $50,000 to be allocated to the purchase and installation of network infrastructure for the Public Safety Building.

**Discussion:**

Article 6a

<table>
<thead>
<tr>
<th>Amount</th>
<th>Item</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>$18,000</td>
<td>Repairs for Fiske Public Library</td>
<td>The funding is required to pay the insurance deductible and mitigation measures to address damages related to a pipe malfunction at the Fiske Public Library. Insurance covered the bulk of the expense.</td>
</tr>
<tr>
<td>$5,000</td>
<td>HVAC repairs</td>
<td>Repairs to the HVAC system in the Public Safety Building</td>
</tr>
</tbody>
</table>

Article 6b

<table>
<thead>
<tr>
<th>Amount</th>
<th>Item</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>$50,000</td>
<td>Purchase and installation of network infrastructure for the Public Safety Building</td>
<td>The funding is required to replace 5 &quot;switchers&quot; in the Public Safety building all of which have passed their useful life. Switchers are technology that support mobile police, fire and ambulance communications. The newer models have better built in redundancy to support ongoing operations in case of failure.</td>
</tr>
</tbody>
</table>

*The Finance Committee recommends that the Town vote to approve Article 6.*
Article 7
Move that the Town authorize the Board of Selectmen to appropriate by transfer from available funds or by borrowing the sum of $162,000 for the purchase and distribution of 4,000 recycling carts.

Discussion: The existing recycling contract expires in 2016 prior to the annual town meeting. There are potential cost savings for the town in a new vendor or different methodology. The carts in this article may or may not be required based on the ultimate recycling vendor or solution. In order to gain flexibility in negotiations and ability to implement potential arrangements at the time of the contract expiration without service interruption, the town needs the ability to obtain recycling materials.

The Finance Committee recommends that the Town vote to approve Article 7.

Article 8
Move that the Town will vote to appropriate by transfer from available funds or by borrowing the sum of $5,200,000 to install a new water main within Madison and East Street to Washington Street including service connections to existing houses and vacant lots along Madison Street, gate valves, curb stops, thrust blocking and all similar appurtenances and to replace 5,000 linear feet of existing 8’ water main with 12” ductile iron main located within the south bound shoulder of Route 1 from Madison Street to Thurston Street. Said Appropriation to be contingent in whole or in part on receipt of a MassWorks grant from the Commonwealth of Massachusetts.

Discussion: This allows the town to obtain a state grant to cover the expenses to perform necessary water main related work.

The Finance Committee recommends that the Town vote to approve Article 8.

Article 9
Move that the Town will vote to amend the action taken under Article 10 of the June 8, 2015 Annual Town Meeting which appropriated funds in the amount of $22,000 for an electric vehicle to allow use of these funds for the purchase of a conventional gasoline vehicle.

Discussion: The Annual Town Meeting voted these funds for the purchase of an electric vehicle for the Assessors. The amount was part of a grant opportunity that was contingent on the purchase of an electric vehicle and charging station. The Capital Budget Planning Committee has since determined that the cost for the electric car and charging station will be $8,000 greater than the $22,000 approved. They requested incremental dollars in order to fully fund the electric car.

While the green concept is appreciated, in light of town finances and impending expenses, the Finance Committee did not think expending $30,000 on a vehicle that will be used just within the Town is prudent at this time. The Finance Committee believe a serviceable, gas economic car could be obtained at or less than the currently approved funding level and these incremental dollars used to fund other more pressing needs. While we would not be eligible for the State grant the total investment to the Town is less with the gas vehicle.
Therefore we support the article to allow the $22,000 approved at the June Annual Town Meeting to be repurposed toward a gas vehicle.

*The Finance Committee recommends that the Town vote to approve Article 9.*

**Article 10**
Move to take no action on Article 10.

**Discussion:** This article was placed on the warrant in the event that there would be funds available to transfer to the Town’s stabilization accounts. Based on free cash available, receipts from the tax levy against the supplemental prioritized needs and the need to plan for ice and snow expenses; the Finance Committee does not recommend moving any funds into stabilization accounts.

*The Finance Committee recommends the Town vote to take no action on Article 10.*

**Article 11**
Move that the Town adopt Article 11 as printed.

**Discussion:** This would approve an amendment to the King Philip School District Agreement so as to change the date on which the District Committee must prepare a tentative budget and submit copies thereof to the Finance Committee of the member towns from the first regular school committee meeting in February to the second Monday in March. This provision is to take effect with fiscal year 2017 (tentative budget for that fiscal year) to be submitted on or before the second Monday in March 2016.

Moving the date for submission of a tentative budget from February to March gives the District School Committee more time to prepare the budget and reduces some of the unknowns and needs for assumptions. This should result in budgets being submitted that are more accurate and realistic. The school committee voted to support this article.

*(Please reference Appendix A)*

*The Finance Committee recommends that the Town vote to approve Article 11.*
Articles 12 through 14 are to be Moved by the General By-Law Committee

Article 12

Discussion: The intent of this amendment is to modify the membership of the Capital Budget Planning Committee from one member from each of the Board of Selectmen, Wrentham Elementary School Committee, Finance Committee, Planning Board, and King Philip School Committee, and two citizens at large; to one member from each of the Board of Selectmen, Wrentham Elementary School Committee and Finance Committee and four citizens at large. It would also remove the present prohibition of citizens at large holding a public office. This change was requested by a vote of the Capital Budget Planning Committee.

Article 13

Discussion: The intent of this amendment is to create a unified department to work with the several boards and commissions involved in land use and development issues. Each board and commission will retain its individual statutory authority.

Article 14

Discussion: The intent of this amendment is to allow the assessors to assign a street number prior to the erection of a building. This is needed as permits for site work such as septic systems require an identifying address and this work is permitted and performed prior to the erection of any building.

Article 15 is to be Moved by the Board of Selectmen

Article 15

Move to authorize the Board of Selectmen to lease a 10,000 square foot portion of the property known as the Wollomonopoag Area site, Assessors Map J-07-1-12, Block 1, Parcel 12, consisting of 200 acres, more or less, for purposes of installing a multi-carrier wireless communication monopole facility and related improvements, on such terms and conditions as the Board of Selectmen shall determine, for a term of up to 20 years, including the authorization to the Board of Selectmen to convey such non-exclusive easements as may be necessary to gain access to, and to provide electric and telephone utilities to serve, that facility, and further to authorize the Board of Selectmen to petition the General Court for approval of a special act in such form as the Board may determine, approving the lease of the said property for commercial wireless communications purposes, under Article 97 of the Massachusetts Constitution.

Discussion: The intent of this article is to allow consideration of a lease for the possible siting of a wireless communications tower to improve wireless communication along the Route 495 corridor in Wrentham.
This article will authorize the Board of Selectmen to negotiate the siting of a cell tower on a portion of a 200 acre parcel of land, familiarly known as the “DiCarlo property” and identified as J-07-1-12 on the Town tax map. Since a portion of this property has been designated as Conservation land siting may also require approval by the State legislature.

This requests originates with contacts to the Town by multiple companies seeking to site a cell tower along the Route I-495 corridor in Wrentham. Any siting will require that the Town, through its Board of Selectmen, to publicly issue a Request for Proposals and select from among the proposals received that which is the most advantageous to the Town.

There have been a number to efforts to site a cell tower along the I-495 corridor. Some have been sought to be located in close proximity to residences. Under the present federal law towers may be sited in locations contrary to local zoning if there is a demonstrable need for cell coverage. The Town allows siting under its Zoning By-Law in CRSP zoned areas. The property which is the subject of this Article is Town owned and CRSP zoned. In providing a location in its zoning for cell towers the Town is able to restrict the siting of these towers in other zones, so long as the sites which are available can equally resolve the coverage issues sought to be resolved by cell carriers.

Since portions of the property have been devoted to Conservation use additional approval by the State legislature will be needed to authorize the location of a tower in Conservation areas. The Board of Selectmen will work with the Conservation Commission to identify a site, which will resolve the coverage issues while protecting wetland areas and neighboring residential areas.

(Please reference Appendix B)
SECTION IV - APPORTION AND PAYMENT OF COST INCURRED BY THE DISTRICT

(C) Operating costs shall include all other costs, such as salaries, wages, supplies, texts, repair and maintenance expenditures, interest on notes issued in anticipation of revenue and other costs incurred in the day-to-day operation of the school.

(D) Capital costs shall be apportioned annually in December for the ensuing year as follows: Payment of principal of and interest on notes or other obligations issued by the regional school district to finance capital costs shall be apportioned to the member towns on the basis of the equalized valuation of such towns, as set forth in Chapter 559 of the Acts of 1945 entitled “An Act Establishing the Basis of Apportionment of State and County Taxes” or any later equalized valuations enacted by the General Court of the Commonwealth of Massachusetts in effect on the date the vote authorizing such bonds or other obligations became effective. Each member town’s share shall be determined by computing to the nearest one-tenth of one percent, the ratio which its equalized valuation bears to the total of the equalized valuations of all the member towns, and the ratio shall not be changed during the period such bonds or other obligations are outstanding, except as provided in Section VII. All other capital costs shall be so apportioned to the member towns on the basis of the last such equalized valuation of such towns enacted by said General Court which is in effect on the date on which such apportionment is so determined.

(E) Operating costs shall be apportioned to the member towns annually in December for the ensuing calendar year on the basis of their respective enrollments in the regional district school. Each member town’s share of the total operating expense shall be determined by multiplying the total of the budgeted operating costs to be apportioned, by a fraction, of which that town’s pupil enrollment in the regional district school on October 1 of the year in which the apportionment is determined shall be the numerator, and the total pupil enrollment from all the member towns in the regional district school on the same date shall be the denominator; in the event that enrollment in the regional district school has not been accomplished by said date, on the basis of enrollment in grades 7 through 12 of pupils residing in each member town and receiving education at such town’s expense as of October 1 of the preceding year.

(F) The Committee shall determine the amounts necessary to be raised to maintain and operate the regional district school during the ensuing calendar year and the amount required for the payment of capital costs, including debt incurred by the District and interest thereon, shall prepare a tentative budget as provided in Section VI and submit copies thereof to the Finance Committee of each member town for their consideration on or before November 1. The Committee shall adopt an annual maintenance and operating budget on or before December 1st for the ensuing calendar year, and said Committee shall apportion the amounts necessary to be raised in order to meet the said budget in accordance with the provisions of Paragraphs (D) and (E) of this Section IV. The amounts so apportioned for each member town shall, prior to December 31 of each year preceding the calendar year to which said budgets relate, be certified by the District Treasurer to the treasurers of the member towns, and each town shall appropriate the amounts so certified.
AMENDMENT NUMBER FOUR TO AGREEMENT FOR REGIONAL SCHOOL DISTRICT, TOWNS OF NORFOLK, PLAINVILLE AND WRENTHAM

That pursuant to the provisions of Chapter 1025 of the Acts of 1973, the Agreement entered into between the Towns of Norfolk, Plainville, and Wrentham, Massachusetts, under which the King Philip Regional School District was established and now operates be hereby further amended by adding the following subsection to Section VI:

(D) Not withstanding any other provisions of this Agreement to the contrary, the annual operating and maintenance budget for the next fiscal year shall be adopted on or prior to February 14 in each year, beginning with 1975. Within thirty (30) days after the adoption of such budget, the treasurer shall certify to the treasurer of each member town the amounts of such budget apportioned to that town.

VOTED – King Philip Regional School District Committee – July 29, 1974
AMENDMENT NUMBER ONE TO AGREEMENT FOR REGIONAL SCHOOL DISTRICT, TOWNS OF NORFOLK, PLAINVILLE AND WRENTHAM

(1) To amend Section IV (B) so as to expand the existing definition of “capital costs” to include the cost of reconstructing and adding to school buildings, and the cost of remodeling and making extra-ordinary repairs to a school building or buildings and to make clearer that plans, architects, and consultants fees are also included as costs incidental to placing school buildings and addition in operating condition.

(2) To amend Section IV (D) so as to (1) to confine the existing method of apportioning capital costs to the member towns under the Agreement to capital costs incurred prior to April 1, 1962 (including payment of interest on and principal of bonds, notes and other evidences of indebtedness of the District outstanding on that date) and (2) to provide that capital costs incurred on or after April 1, 1962, shall be apportioned to the member towns proportionately on the basis that each member town’s pupil enrollment in the regional district schools on October 1 of the year next preceding the year for which the apportionment is determined bears to the total pupil enrollment from all member towns in the regional district schools on that date.

(3) To amend the first sentence in Section IV (F) so as to change from November 1 to November 15, the date on or before which the District committee shall prepare a tentative budget and submitting copies thereof to the Finance Committee of the member towns.

(4) To amend Section IX (A) so as to add the following two sentences to said subsection—namely:

“The withdrawing town’s annual share of any future installment of principal of an interest on bonds, notes, or other obligations outstanding on the effective date of its withdrawal shall be fixed at the percentage prevailing for such town at the last annual apportionment made next prior to such effective date. The remainder of any such installment after subtracting the share of any towns which have withdrawn shall be apportioned to the remaining member towns in the manner provided in subsection IV (D).” (Petition – Regional District School Committee).

Voted: Norfolk – March 19, 1962
Plainville - March 26, 1962
Wrentham – March 12, 1962
AMENDMENT NUMBER FIVE TO AGREEMENT FOR REGIONAL SCHOOL DISTRICT, TOWNS OF NORFOLK, PLAINVILLE AND WRENTHAM

That pursuant to the provisions of Chapter 1025 of the Acts of 1973, the Agreement entered into between the Towns of Norfolk, Plainville and Wrentham, Massachusetts, under which the King Philip Regional School District was established and now operates be hereby further amended as follows:

(1) To amend Section IV(F) and Amendment #1(3) so as to change from November 15 to the following January 2, the date on or before which the District Committee shall prepare a tentative budget and submitting copies thereof to the Finance Committee of the member Towns. This provision is to take effect with fiscal year 1979 (tentative budget for that fiscal year to be submitted on or before January 2, 1978).

(2) To amend Section IV(F) and Section VI(B) by striking out all references to “calendar year” and inserting in place thereof the words “fiscal year”.

VOTED – King Philip Regional School District Committee – January 3, 1977
AMENDMENT NUMBER SIX TO AGREEMENT FOR REGIONAL SCHOOL DISTRICT,
TOWNS OF NORFOLK, PLAINVILLE AND WRENTHAM

That pursuant to the provisions of Chapter 1025 of the Acts of 1973, the Agreement entered into between the Towns of Norfolk, Plainville and Wrentham, Massachusetts, under the King Philip Regional District was established and now operates, be hereby further amended as follows:

(1) To amend Section IV(F) and Amendment #5(1) so as to change from January 2 to the first regular school committee meeting in February, the date on or before which the District Committee shall prepare a tentative budget and submitting copies thereof to the Finance Committee of the member Towns. This provision is to take effect with fiscal year 1990 (tentative budget for that fiscal year to be submitted on the first regular meeting in February 1989).

VOTED – King Philip Regional School District Committee – December 5, 1988
NEW NATIONAL WIRELESS TOWER SITING POLICIES

The Telecommunications Act of 1996 contains important provisions concerning the placement of towers and other facilities for use in providing personal wireless services. Most state and local communities have worked closely with cellular and other wireless service providers on such placement plans, but this new law establishes new responsibilities for communities and for the Federal Communications Commission (FCC). The rapid expansion in the wireless industry makes these issues even more important.

This fact sheet is intended to explain the new provisions and to help state and local governments as they deal with the complex issues of facilities siting in their local communities. At the end of this fact sheet, you will find names of contacts for additional information about this area and other issues before the FCC.

Section 704 of the Telecommunications Act of 1996 (the "1996 Act") governs federal, state and local government oversight of siting of "personal wireless service" facilities. The 1996 Act establishes a comprehensive framework for the exercise of jurisdiction by state and local zoning authorities over the construction, modification and placement of facilities such as towers for cellular, personal communications service (PCS), and specialized mobile radio (SMR) transmitters:

- The new law preserves local zoning authority, but clarifies when the exercise of local zoning authority may be preempted by the FCC.

- Section 704 prohibits any action that would discriminate between different providers of personal wireless services, such as cellular, wide-area SMR and broadband PCS. It also prohibits any action that would ban altogether the construction, modification or placement of these kinds of facilities in a particular area.

- The law also specifies procedures which must be followed for acting on a request to place these kinds of facilities, and provides for review in the courts or the FCC of any decision by a zoning authority that is inconsistent with Section 704.
Finally, Section 704 requires the federal government to take steps to help licensees in spectrum-based services, such as PCS and cellular, get access to preferred sites for their facilities. Federal agencies and departments will work directly with licensees to make federal property available for this purpose, and the FCC is directed to work with the states to find ways for states to accommodate licensees who wish to erect towers on state property, or use state easements and rights-of-way.

The attachments to this fact sheet seek to provide information concerning tower siting for personal wireless communications services. They include a summary of the provisions of Section 704 of the 1996 Act, the actual text of Section 704, and a technical information summary that describes the cellular, wide-area SMR and broadband PCS technologies that underlie the majority of requests for new tower sites.

Questions about the Telecommunications Act of 1996 generally may be addressed to Sheryl Wilkerson in the FCC's Office of Legislative and Intergovernmental Affairs, 202-418-1902 (e-mail: swilkers@fcc.gov). Questions about tower siting, licensing issues or technical matters may be addressed to Steve Markendorff, Deputy Chief, Commercial Wireless Division in the Wireless Telecommunications Bureau, 202-418-0620, (e-mail: smarkend@fcc.gov).

This Fact Sheet is available on our fax-on-demand system. The telephone number for fax-on-demand is 202-418-2330. The Fact Sheet may also be found on the World Wide Web at http://www.fcc.gov/wtb/wirehome.html.
SUMMARY OF SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996

The following is a summary of key provisions. The text of Section 704 is reproduced in its entirety as an attachment to this summary.

1. **Local Zoning Authority Preserved**
   Section 704(a) of the 1996 Act amends Section 332(c) of the Communications Act ("Mobile Services") by adding a new paragraph (7). It preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of personal wireless service facilities, except as provided in the new paragraph (7).

2. **Exceptions**
   a. **States and Localities May Not Take Discriminatory or Prohibiting Actions**
      Section 704(a) of the 1996 Act states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. §332(c)(7)(B)(i).
      
      **Review:** Any person that is adversely affected by a state or local government's action or failure to act that is inconsistent with Section 332(c)(7) may seek expedited review in the courts. 47 U.S.C. §332(c)(7)(B)(v).
   b. **Procedures for Ruling on Requests to Place, Construct or Modify Personal Wireless Service Facilities**
      Section 704(a) also requires a State or local government to act upon a request for authorization to place, construct, or modify personal wireless service facilities within a reasonable time. Any decision to deny a request must be made in writing and be supported by substantial evidence contained in a written record. 47 U.S.C. §332(c)(7)(B)(ii), (iii).
   c. **Regulations Based On Environmental Effects of RF Emissions Preempted**
      Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).
      
      **Review:** Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. § 332(c)(7)(B)(v).

3. **Federal Guidelines Concerning RF Emissions**
Section 704(b) requires the FCC to prescribe and make effective new rules regarding the environmental effects of radio frequency emissions, which are under consideration in ET Docket 93-62, within 180 days of enactment of the 1996 Act.

NOTE: The pendency of this proceeding before the FCC does not affect the rules which currently are in effect governing the environmental effects of radio frequency emissions. Section 704(b) gives preemptive effect to these existing rules. See related attachments to the Fact Sheet.

4. Use of Federal or State Government Property

a. Federal Property

Section 704(c) of the 1996 Act requires the President (or his designee) to prescribe procedures by which the federal government may make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control, for the placement of new spectrum-based telecommunications services.

b. State Property

With respect to facilities siting on state property, Section 704(c) of the 1996 Act requires the FCC to provide technical support to States to encourage them to make property, rights-of-way and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services.

NOTE: Information concerning technical support for tower siting which the FCC is making available to state and local governments is attached to the Fact Sheet.

5. Definitions

"Personal wireless services" include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 U.S.C. §332(c)(7)(C)(i).

"Commercial mobile services" are defined in Section 332 of the Communications Act and the FCC's rules, and include cellular telephone services regulated under Part 22 of the FCC's rules, SMR services regulated under Part 90 of the FCC's rules, and PCS regulated under Part 24 of the FCC's rules. 47 C.F.R. §20.9.
"Unlicensed wireless services" are defined as the offering of telecommunications services using duly authorized devices which do not require individual licenses; direct-to-home satellite services are excluded from this definition. 47 U.S.C. §332(c)(7)(C)(iii).
SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

'(7) PRESERVATION OF LOCAL ZONING AUTHORITY -

'(A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

'(B) LIMITATIONS -

'(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

'(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

'(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

'(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

'(iii) Any decision by a State or local government or place,

construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

'(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

'(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any
court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

'(C) DEFINITIONS- For purposes of this paragraph--

'(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

'(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

'(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.
TECHNICAL INFORMATION CONCERNING CELLULAR, SPECIALIZED MOBILE RADIO AND PERSONAL COMMUNICATIONS SERVICES

April 1996

Cellular Information

The FCC established rules and procedures for licensing cellular systems in the United States and its Possessions and Territories. These rules designated 306 Metropolitan Statistical Areas and 428 Rural Service Areas for a total of 734 cellular markets and spectrum was allocated to license 2 systems in each market. Cellular is allocated spectrum in the 824-849 and 869-894 MHz ranges. Cellular licensees are generally required to license only the tower locations that make up their outer service contour. Licensees desiring to add or modify any tower locations that are within an already approved and licensed service area do not have to submit an application for that location to be added to their cellular license, although they may need FCC approval if the antenna would constitute a major environmental action (See question 2, below) or would exceed the criteria specified in Part 17 of the FCC's Rules ("Construction, Marking and Lighting of Antenna Structures"). Part 17 includes criteria for determining when construction or placement of a tower would require prior notification to the Federal Aviation Administration (FAA). (See question 3, below.)

A cellular system operates by dividing a large geographical service area into cells and assigning the same frequencies to multiple, non-adjacent cells. This is known in the industry as frequency reuse. As a subscriber travels across the service area the call is transferred (handed-off) from one cell to another without noticeable interruption. All the cells in a cellular system are connected to a Mobile Telephone Switching Office (MTSO) by landline or microwave links. The MTSO controls the switching between the Public Switched Telephone Network (PSTN) and the cell site for all wireline-to-mobile and mobile-to-wireline calls.

Specialized Mobile Radio (SMR) Information

Specialized Mobile Radio (SMR) service licensees provide land mobile communications on a commercial (i.e., for profit) or private basis. A traditional SMR system consists of one or more base station transmitters, one or more antennas and end user radio equipment which often consists of a mobile radio unit either provided by the end user or obtained from the SMR operator. The base station receives either telephone transmissions from end users or low power signals from end user mobile radios.

SMR systems operate in two distinct frequency ranges: 806-821/851-866 MHz (800 MHz) and 896-901/935-940 MHz (900 MHz). 800 MHz SMR services have been licensed by the FCC on a site-by-site basis, so that the SMR provider must approach the FCC and receive a license for each and every tower/base site. In the future the FCC will license this band on a wide-area market approach. 900 MHz SMR was originally licensed in 46 Designated Filing Areas (DFAs) comprised of only the top 50 markets in the country. The Commission is in the process of auctioning the remainder of the United States and its Possessions and Territories in the Rand McNally defined 51 Major Trading Areas.
PCS Information

Broadband PCS systems are very similar to the cellular systems but operate in a higher frequency band, in the 1850-1990 MHz range. One other difference is that the FCC used different market areas for licensing purposes. The FCC used the Rand McNally definitions for 51 Major Trading Areas (MTAs) and 493 Basic Trading Areas (BTAs). PCS was allocated spectrum for six Broadband PCS systems and 26 Narrowband systems. The six Broadband PCS systems will be licensed as follows: two Broadband PCS licenses will be issued for each of the 51 MTAs and four for each of the 493 BTAs. The 26 Narrowband systems will be licensed as follows: eleven Narrowband PCS licenses will be issued for nationwide systems, six for each of five regional areas, seven for each of the 51 MTAs and two for each of the 493 BTAs.

PCS licensees are issued a blanket license for their entire market area and are not required to submit applications to license individual cell sites unless construction of the facility would be a major environmental action or would require FAA notification. Major environmental actions are defined by the National Environmental Policy Act of 1969 that is discussed in question 2, below. Therefore, the FCC has no technical information on file concerning PCS base stations.

Frequently asked questions concerning tower siting for personal wireless services.

1. Do local zoning authorities have any authority to deny a request for tower siting?

Answer: Yes. The Telecommunications Act of 1996 specifically leaves in place the authority that local zoning authorities have over the placement of personal wireless facilities. It does prohibit the denial of facilities siting based on RF emissions if the licensee has complied with the FCC's regulations concerning RF emissions. It also requires that denials be based on a reasoned approach, and prohibits discrimination and outright bans on construction, placement and modification of personal wireless facilities.

2. What requirements do personal wireless communications licensees have to determine whether a site is in a flood plain? A historical sites must also comply with the National Environmental Policy Act of 1969 (NEPA), as well as other mandatory federal environmental statutes. The FCC's rules that implement the federal environmental statutory provisions are contained in sections 1.1301-1.1319. The FCC's environmental rules place the responsibility on each applicant to investigate all the potential environmental effects, and disclose any significant effects on the environment in an Environmental Assessment (EA), as outlined in section 1.1311, prior to constructing a tower. The applicant is required to consult section 1.1307 to determine if its proposed antenna structure will fall under any of the listed categories that may significantly affect the environment. If it does, the applicant must provide an EA prior to proceeding with the tower construction and, under section 1.1312, must await FCC approval before commencing any such construction even if FCC approval is not otherwise required for such construction. The FCC places all proposals that may significantly impact the environment on public notice for a period of 30 days, seeking any public comments on the proposed structures.

The categories set forth in section 1.1307 include:
Wilderness Area
Wildlife Preserve
Endangered Species
Historical Site
Indian Religious Site
Flood Plain
Wetlands
High Intensity White Lights in Residential Neighborhoods
Excessive Radiofrequency Radiation Exposure

3. Are there any FCC regulations that govern where towers can or cannot be placed?

**Answer:** The FCC mandates that personal wireless companies build out their systems so that adequate service is provided to the public. In addition, all antenna structures used for communications must be approved by the FCC in accordance with Part 17 of the FCC Rules. The FCC must determine if there is a reasonable possibility that the structure may constitute a menace to air navigation. The tower height and its proximity to an airport or flight path will be considered when making this determination. If such a determination is made the FCC will specify appropriate painting and lighting requirements. Thus, the FCC does not mandate where towers must be placed, but it may prohibit the placement of a tower in a particular location without adequate lighting and marking.

4. Does the FCC maintain any records on tower sites throughout the United States? How does the public get this information (if any)?

**Answer:** The FCC maintains a general tower database on the following structures: (1) any towers over 200 feet, (2) any towers over 20 feet on an existing structure (such as a building, water tower, etc.) and (3) towers that are close to airports that may cause potential hazards to air navigation. The FCC's licensing databases contain some base site information for Cellular and SMR systems. The general tower database and the Cellular and SMR data that may be on file with the FCC is available in three places:

1. Cellular licensing information is available in the Public Reference Room of the Wireless Telecommunications Bureau's Commercial Wireless Division. The Public Reference Room is located on the fifth floor of 2025 M Street, NW, Washington, DC 20554, telephone (202)418-1350. On-line database searches of cellular licensing information along with queries of the FCC's general tower database can also be accomplished at the Public Reference Room.

2. People who would like to obtain general tower information through an on-line public access database should call or write Interactive Systems, Inc., 1601 North Kent St., Suite 1103, Arlington, VA 22209, telephone 703-812-8270.
(3) The FCC does not duplicate these records, but has contracted with International Transcription Service, Inc. to provide this service. Requests for copies of information should be addressed to International Transcription Service, Inc. (ITS, Inc.), 2100 M St., NW, Suite 140, Washington, DC 20037, telephone 202-857-3800.

5. Why do Cellular and PCS providers require so many tower sites?

Answer: Low powered transmitters are an inherent characteristic of Cellular Radio and Broadband PCS. As these systems mature and more subscribers are added, the effective radiated power of the cell site transmitters is reduced so frequencies can be reused at closer intervals thereby increasing subscriber capacity. There are over 30 million mobile/ portable cellular units and more than 22 thousand cell sites operating within the United States and its Possessions and Territories. PCS is just beginning to be offered around the country. Due to the fact that Broadband PCS is located in a higher frequency range, PCS operators will require more tower sites as they build their systems to provide coverage in their service areas as compared to existing Cellular carriers. Therefore, due to the nature of frequency reuse and the consumer demand for services, Cellular and PCS providers must build numerous base sites.

6. Can Cellular, SMR and PCS providers share tower structures?

Answer: Yes, it is technologically possible for these entities to share tower structures. However, there are limits to how many base station transmitters a single tower can hold and different tower structures have different limits. Moreover, these providers are competitors in a more and more competitive marketplace and may not be willing to share tower space with each other. Local zoning authorities may wish to retain a consulting engineer to evaluate the proposals submitted by wireless communications licensees. The consulting engineer may be able to determine if there is some flexibility as to the geographic location of the tower.

7. Is the Federal government helping to find ways to accommodate multiple licensees of personal wireless services?

Answer: Yes. The FCC has designated Steve Markendorff, Chief, Broadband Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, FCC to as and respond to questions concerning tower siting issues. His telephone number is 202-418-0620. Also, President Clinton issued an Executive Memorandum on August 10, 1995 directing the Administrator of General Services (GSA), in coordination with other Government departments and agencies, to develop procedures to facilitate appropriate access to Federal property for the siting of mobile services antennas. GSA recently released "Government-Wide Procedures for Placing Commercial Antennas," 61 Fed Reg 14,100 (March 29, 1996). For further information contact James Herbert, Office of Property Acquisition and Realty Services, Public Building Service, General Services Administration, 18th & F Streets, NW, Washington, DC 20405, telephone 202-501-0376.
8. Have any studies been completed on potential hazards of locating a tower/base site close to residential communities?

Answer: In connection with its responsibilities under NEPA, the FCC considers the potential effects of radiofrequency (RF) emissions from FCC-regulated transmitters on human health and safety. Since the FCC is not the expert agency in this area, it uses standards and guidelines developed by those with the appropriate expertise. For example, in the absence of a uniform federal standard on RF exposure, the FCC has relied since 1985 on the RF exposure guidelines issued in 1982 by the American National Standards Institute (ANSI C95.1-1982). In 1991, the Institute of Electrical and Electronic Engineers (IEEE) issued guidelines designed to replace the RF ANSI exposure guidelines. These guidelines (ANSI/IEEE C95.1-1992) were adopted by ANSI. The Telecommunications Act of 1996 mandates that the FCC complete its proceeding in ET Docket 93-62, in which it is considering updating the RF exposure guidelines, no later than early August 1996. Copies of this proceeding can be obtained from the International Transcription Service, Inc. (ITS), telephone 202-857-3800. Presently, RF emission requirements are contained in Section 1.1307(b) of the FCC’s rules, 47 C.F.R. §1.1307(b), for all services. PCS has service specific RF emission provisions in Section 24.52 of the FCC’s rules, 47 C.F.R. § 24.52.

Additional information concerning RF emission hazards can be obtained through a variety of sources:

(1) Information concerning RF hazards can be obtained on the World Wide Web at http://www.fcc.gov/oet/qa. RF safety questions are answered and further RF documents and information are contained under the Cellular Telephony Section.

(2) OET Bulletins 56 and 65 concerning effects and potential RF hazards can be requested through the Radiofrequency Safety Program at 202-418-2464. Additionally, any specific questions concerning RF hazards can be answered by contacting the FCC at this phone number.

The FCC maintains a Communications and Crisis Management Center which is staffed 24 hours a day, seven days a week. In the event of an emergency, such as a radiofrequency hazard threatening public safety or health, you may call 202-632-6975. The watch officer who answers at that number can contact our compliance personnel in your area and dispatch them within a matter of hours.