

From: **Jason Richmond** <jasonr@megameeting.com>
Date: Tue, Sep 4, 2012 at 1:41 PM
Subject: RE: City Attorney Final Report on Placement of Cell Towers and Related Equipment CF [09-2645](#)
To: "june.lagmay@lacity.org" <june.lagmay@lacity.org>
Cc: "patrice.lattimore@lacity.org" <patrice.lattimore@lacity.org>

PRESIDENT HERB WESSON and Honorable Council Members:

I strongly support revision of the City's Above Ground Facilities Ordinance, as recommended by the City Attorney to the PLUM and Public Works Committees in Council File 09-2645 . Just last year we fought a tough battle with T-Mobile as they attempted to sneak an unneeded cellular tower on a small residential building next door to my home. I cannot stress enough how we need more protection, oversight and review of where these towers can be permitted. In my case we were lucky in that we won at appeals but the dirty tactics the cellular companies took to say the least were shocking and disgusting. Then falsely mocked up images and provided untrue evidence that if it had not been for a diligent job by the council members they may have succeeded. Without oversight this will happen in the future. Again I strongly support revision of the City's Above Ground Facilities Ordinance, Council File 09-2645 and feel without it the neighborhood will decline.

Sincerely,

Jason Richmond

VP Sales - Internet MegaMeeting, LLC

Phone: [\(877\) 634-6342 x 107](tel:(877)634-6342x107) - US and Canada

[\(818\) 783-4311 x 107](tel:(818)783-4311x107) - International

Email: jasonr@MegaMeeting.com

Website: www.MegaMeeting.com

Follow Me On:

From: **Pacific Palisades Community Council**<pacpalicc@aol.com>

Date: Tue, Sep 4, 2012 at 3:49 PM

Subject: CF09-2645/AGF Ordinance Amendments--Council meeting agenda 9/11

To: councilmember.reyes@lacity.org,councilmember.englander@lacity.org,councilmember.hui@lacity.org,councilmember.buscaino@lacity.org, paul.kortez@lacity.org,bill.rosendahl@lacity.org, councilmember.labonge@lacity.org,councilmember.krekorian@lacity.org,councilmember.wesson@lacity.org,councilmember.perry@lacity.org,councilmember.koretz@lacity.org,councilmember.garcetti@lacity.org,councilmember.alarcon@lacity.org,councilmember.cardenas@lacity.org,councilmember.zine@lacity.org,councilmember.parks@lacity.org

Cc: ted.jordan@lacity.org, june.lagmay@lacity.org,norman.kulla@lacity.org, joaquin.macias@lacity.org,mike.bonin@lacity.org

RE: Council File No. 09-2645

Honorable Councilmembers:

Attached is a letter from Pacific Palisades Community Council (PPCC), along with supporting documents, in reference to the above-referenced Council file pertaining to amendments to the City's Above Ground Facilities (AGF) Ordinance (to be set on the Council meeting agenda for 9/11). PPCC:

- supports the proposed amendments to the AGF Ordinance as set forth in the reports to the Council from the Public Works and PLUM committees;
- requests additional, reasonable amendments to the AGF Ordinance as set forth in the attached letter; and
- requests enactment of an Interim Control Ordinance (ICO) that would impose a temporary moratorium for a specific period of time on applications for permits and installation of wireless facilities in the public right of way while the Ordinance amendments are being drafted.

PPCC requests that this letter be filed in Council File No. 09-2645.

Thank you.

Sincerely,

Barbara Kohn
President
Pacific Palisades Community Council



PACIFIC PALISADES COMMUNITY COUNCIL

September 4, 2012

Hon. Herb J. Wesson, Jr., President
Hon. Ed P. Reyes, President Pro Tempore
Hon. Tom LaBonge, Assistant President
Pro Tempore
Hon. Richard Alarcon
Hon. Joe Buscaino
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Hon. Paul Krekorian
Hon. Bernard C. Parks
Hon. Jan Perry
Hon. Bill Rosendahl
Hon. Dennis P. Zine

Los Angeles City Council
City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: Council File No. 09-2645/Proposed Amendments to "Above Ground Facilities" Ordinance, LAMC Sec. 63.03.2 ("AGF Ordinance") – City Council Agenda 9/11/12

Honorable Councilmembers:

Pacific Palisades Community Council ("PPCC") has been the respected voice of Pacific Palisades for 40 years.

PPCC strongly supports the reports of the PLUM and Public Works Committees ("Reports"), which recommend that the AGF Ordinance be amended in the following respects:

- Elimination of the utility pole exemption
- Expansion of the notice provisions
- Enhancement of the aesthetic provisions
- Imposition of permit duration limits

PPCC urges the Council to adopt the Reports without delay. PPCC further requests that the Council direct the following additional, reasonable amendments to the AGF Ordinance:

- Expansion of the **right of appeal to "all aggrieved persons."** Currently, appeal of AGF permits in the public right of way ("PROW") is only afforded to the limited number of owners/occupants who received notice, i.e., adjoining/abutting/across the street occupants/owners -- a highly restrictive provision which stands alone among other California cities' regulations. Expanding the right of appeal would be consistent with appeal rights granted under the Los Angeles Zoning Code for CUPs in connection with private property installations. At a minimum, appeal rights should also be granted to **all persons who request notice.**

- Provision for a **special purpose hearing prior to permit issuance, for all proposed installations in residential and other sensitive zones or areas** (e.g., all Residential Zones and areas immediately adjoining Residential Zones, Open Space Zones and areas adjoining Open Space Zones, Specific Plans, Historic Preservation Overlay Zones and areas adjoining Historic Sites, Scenic Highways, Pedestrian Oriented Districts, Community Design Overlay Districts). The purpose of such a hearing would be to conduct a "justification" analysis to determine whether there is a **significant coverage gap and a lack of feasible alternatives** to the proposed location (standards imposed by federal law).
- Requirement for the applicant to bear the expense of an **independent expert** to assist the City, as needed, with analysis of technical issues such as coverage gap claims, RF emissions and alternative location feasibility.
- Requirement for the applicant to provide an **RF emissions analysis and/or a certification of compliance with FCC requirements**.
- Requirement for the applicant to **map all existing wireless facilities and to project anticipated future needs** in the area or community served by the proposed facility.

Numerous large and/or nearby California cities include several of the above provisions in their ordinances governing PROW installations (see attached analyses of other California cities' PROW regulations, prepared in 2011 by the Los Angeles Wireless Telecommunications Facilities Working Group). More recently, in June 2012 the City of Calabasas enacted a new ordinance regulating cell towers (including PROW facilities) that includes most of the above provisions (CMC Sec. 17.12.050). To the best of our knowledge there have been no legal challenges to any of these provisions.

PPCC also urges the Council to enact a **temporary moratorium on PROW installations** (not on private property installations) while the Ordinance is being drafted (which 10 of the 15 cities surveyed also imposed while they were drafting their own ordinances, without legal challenge; the City of Calabasas also successfully imposed a temporary moratorium during the process of drafting its recent ordinance). As reflected in the numerous letters and motions on file in CF 09-2645, many other Los Angeles organizations have also called for a moratorium or ICO pending enactment of the amended AGF Ordinance. Time-specific moratoria are permissible under the law and have long been recognized, even by the telecom industry, as appropriate legislative tools while new ordinances are being drafted.

Thank you for your consideration.

Sincerely,

Barbara Kohn
President, Pacific Palisades Community Council

cc: Ted Jordan, Assistant City Attorney
June Lagmay, City Clerk

Comparison of WTF Governance by California Cities in the Public-Right-of-Way (Residential Districts)

15 large and/or nearby cities (other than Los Angeles):

15 of the 15 require or provide for

- regulation of all WTF, including monopoles, antennas and utility pole installations
- design, installation or development standards (e.g., height, scale, color, finish, camouflage, antenna placement/number, landscaping, setbacks, ID and/or accessory equipment requirements)
- visual/aesthetic impact and public welfare/safety analysis/consideration

12 of the 15 require or provide for

- notice to property owners/occupants within a distance of 300/500 ft.
- public comments or hearings prior to permit issuance
- authority to impose conditions prior to permit issuance
- appeals by any interested/aggrieved persons
- RF emissions analysis and/or certification of compliance with FCC requirements

11 of the 15 require or provide for

- a justification/prohibition analysis or hearing for all WTF (e.g., alternative sites, coverage gap)

9 of the 15 require or provide for

- permit duration limits and/or periodic review/monitoring

9 of the 15 imposed

- a **temporary moratorium**/hold on applications during the ordinance drafting process

8 of the 15 require or provide for

- tiered support structure preferences (e.g., co-location, existing poles, streetlights)

7 of the 15 require or provide for

- noise, acoustical, wind/load consideration or analysis
- expanded notice (e.g., on-site posting, notice to any others requesting notice)

6 of the 15 require or provide for

- tiered location preferences or discouragement of residential siting
- concentration/distance limits on residential siting

Los Angeles:

In contrast, Los Angeles **does NOT** require or provide for

- regulation of all WTF, including antennas, pole-mounted and/or utility pole installations¹
- design/development standards and visual impact or public welfare/safety analyses specific to poles/antennas (most standards pertain to *cabinets*, e.g., 5 ½ ft. height limit; cabinet volume/treatment limits)
- hearings or public comment prior to permit issuance
- notice to owners/occupants within a distance of 300/500 ft., on-site posting or other expanded notice
- appeal by any interested persons, i.e., by other than adjoining/abutting owners/occupants
- authority to impose conditions prior to permit issuance
- RF emissions analysis or certification
- a justification/prohibition analysis for poles/antennas sited in or near residential districts
- permit duration limits and/or periodic review/monitoring
- tiered support structure or location preferences or discouragement of residential siting
- noise, acoustical, wind/load consideration or analysis
- concentration/distance limits on residential siting specific to poles/antennas

Los Angeles WTF Working Group, 6/13/11

¹ The City's AGF ordinance on its face regulates cabinets, not poles/antennas; pole-mounted and utility pole installations are *expressly exempt*, but in practice, AGF permits are required for monopoles (height variances routinely granted).

**Wireless Telecommunication Facilities (WTF) Governance by California Cities –
Discretionary Permits in the Public Right-of-Way (Residential Districts)¹**

1. Large and/or nearby cities with discretionary permitting requirements:

- San Francisco (SF; Muni. Code §25.1500)
- Richmond (R; Muni. Code §15.04.890)
- Oakland (O; Muni. Code §17.128)
- San Diego (SD; Muni. Code §141.0420)
- Malibu (M; Muni. Code §§17.46, 17.08.040)
- Pasadena (P; Muni. Code §12.22)
- Norwalk (N; Muni. Code §§17.04.240, 17.02.295)
- Inglewood (I; Muni. Code §10-230)
- Santa Monica (SM; Muni. Code §7.06 -- new poles, over-height poles)

2. Common key provisions:

- Notice of installation and/or hearing to nearby/affected property owners/occupants (300 ft./500 ft.)
- Public comments and/or hearing prior to permit issuance²
- Design, installation and/or development standards (e.g., height, scale, color, finish, camouflage, antenna placement/number, landscaping, setbacks, ID and/or accessory equipment requirements)
- Visual/aesthetic impact and public welfare/safety considerations
- No exemption for pole-mounted or utility pole installations
- Conditions may be imposed by reviewing authority
- Appeals by any interested/aggrieved persons
- Procedures for permit revocation/termination and/or facility removal

3. Other provisions of note:

- Expanded notice (e.g., posting on-site; notice to community groups/others requesting notice; 1000 ft. notice in rural areas) (SF, R, O, SD, N, M)
- Tiered location preferences/residential siting discouraged (e.g., commercial districts preferred over residential districts, distance prohibitions) (R, O, M, SM)
- Tiered support structure preferences (e.g., co-location, existing poles, streetlights) (SF, O, P, N, SM)³
- Concentration/distance limits (O, P, M, I, SM)
- Noise, acoustical, wind/load consideration/analysis (SF, R, N)
- Additional specific siting requirements: prohibition against installations in areas with no overhead utilities (SF) and within 500 ft. of schools, playgrounds or parks (M); height limitations for installations on existing poles (P, M, SM); pole height (O) or 100 ft. (R) set-back requirements; attachment to utility poles permitted only if surplus space available (I)
- Justification/prohibition analysis and/or hearing (coverage gap, alternative site feasibility, hardship, least intrusive means and/or needs tests) (R, SD, M, P, N, I, SM)
- RF emissions analysis and/or certification of compliance with FCC requirements (all except SD)
- Mapping of existing WTF and/or projection of anticipated future needs (N, I)
- Showing of CPUC issuance of Certificate of Public Convenience & Necessity (public utility status of applicant) (N, SM)
- Permit duration limits and/or periodic review/monitoring (SF, R, P, N, I, SM)

4. Temporary moratorium/hold on applications during drafting process: R, O, P, N, I, SM

5. Legal challenges to listed ordinances: None (as of 6/13/11)⁴

Los Angeles WTF Working Group, 6/13/11, revised 8/31/12

¹Includes cities with specific and/or extensive WTF regulations (does not include counties); sources: communications with city officials/city attorneys/text of ordinances.

²In practice, Norwalk subjects installations other than co-locations to public hearing/discretionary review (staff, Norwalk Planning Division/NMC §17.02.295(E)).

³In practice, Pasadena prefers the use of streetlights over other poles (Pasadena City Attorney/PMC §12.22.110-120).

⁴T-Mobile filed a limited legal challenge to certain of the San Francisco provisions, unrelated to the amendments under consideration for Los Angeles; to our knowledge the lawsuit is still pending (as of 8/31/12).

**Wireless Telecommunication Facilities (WTF) Governance by California Cities –
Administrative/Ministerial Permits in the Public Right-of-Way (Residential Districts)¹**

1. Large and/or nearby cities with the administrative permitting requirements:

- Glendale (G; Muni. Code §12.08.037)
- Santa Barbara (SB; Muni. Code §28.94.030.DD)
- Torrance (T; Muni. Code §92.39)
- Beverly Hills (BH; Muni. Code §§10-3-4508, 8-7-6)
- West Hollywood (WH; Muni. Code §§11.40.120, 19.36.350)
- Santa Monica (SM; Muni. Code §7.06 -- existing and replacement poles)
- Long Beach (LB; Muni. Code §21.56.010)²

2. Common key provisions:

- Design, installation and/or development standards (e.g., height, scale, color, finish, camouflage, antenna placement/number, landscaping, setbacks, ID and/or accessory equipment requirements)³
- Visual/aesthetic impact and public welfare/safety considerations
- No exemption for pole-mounted or utility pole installations

3. Other provisions of note:

- Notice of installation and/or hearing to nearby/affected property owners/occupants (300 ft./500 ft.) (G, T, BH)
- Expanded notice (e.g., posting on-site; notice to others requesting notice) (G)
- Public comments and/or limited purpose hearings prior to permit issuance (G, SB, T, SM)⁴
- Conditions may be imposed by reviewing authority (G, T, BH, SM)
- Appeals by any interested/aggrieved persons (G, T, BH)
- Tiered location preferences/residential siting discouraged (e.g., commercial districts preferred over residential districts) (G, T, SM)
- Tiered support structure preferences (e.g., co-location, existing poles, streetlights) (T, BH, SM, LB)
- Justification/prohibition analysis and/or hearing (coverage gap, alternative site feasibility, hardship, least intrusive means and/or needs tests) (G, T, BH, SM, LB)
- Concentration/distance limits (SM, LB)
- Noise, acoustical, wind/load consideration/analysis (G, T, BH, LB)
- Additional specific siting requirements: prohibitions against installations in center median and in areas with no overhead utilities (LB); pole height limitation/at or near height of comparable existing infrastructure (T, LB, SM); 100 ft. separation between facility's base and dwelling (SB); potential quarterly construction delay "windows" (WH)
- RF emissions analysis and/or certification of compliance with FCC requirements (G, T, BH, SM, LB)
- Mapping of existing WTF and/or projection of anticipated future needs (G, BH)
- Showing of CPUC issuance of Certificate of Public Convenience & Necessity (public utility status of applicant) (G, WH, LB)
- Permit duration limits and/or periodic review/monitoring (G, BH, LB)
- Procedures for permit revocation/termination and/or facility removal (G, T)

4. Temporary moratorium/hold on applications during drafting process: G, T, SM, LB

5. Legal challenges to listed ordinances: None (as of 6/13/11)

Los Angeles WTF Working Group, 6/13/11

¹Includes cities with specific and/or extensive WTF regulations (does not include counties); sources: communications with city officials/city attorneys/text of ordinances.

²Enacted by LB City Council on 6/7/11 (Ord. No. 11-11-001; LB City Attorney).

³In practice, West Hollywood sets standards/considers impacts on case-by-case basis (staff, WH Planning Dept.)

⁴In practice, Santa Barbara has held public hearings for certain proposed PROW projects (e.g., city-wide microcell network) (staff, SB Architectural Board of Review/SBMC §28.94.030.DD.1.c(5)).

From: **Marcia Selz, Ph.D.** <selz@markmatrix.com>

Date: Tue, Sep 4, 2012 at 5:02 PM

Subject: CF09-2645/AGF Ordinance Amendments--Council meeting agenda 9/11

To: councilmember.reyes@lacity.org, councilmember.englander@lacity.org, councilmember.huizar@lacity.org, councilmember.buscaino@lacity.org, paul.kortez@lacity.org, bill.rosendahl@lacity.org, councilmember.labonge@lacity.org, councilmember.krekorian@lacity.org, councilmember.wesson@lacity.org, councilmember.perry@lacity.org, councilmember.koretz@lacity.org, councilmember.garcetti@lacity.org, councilmember.alarcon@lacity.org, councilmember.cardenas@lacity.org, councilmember.zine@lacity.org, councilmember.parks@lacity.org

Cc: ted.jordan@lacity.org, june.lagmay@lacity.org, norman.kulla@lacity.org, joaquin.macias@lacity.org, mike.bonin@lacity.org

Dear Honorable City Council Members;

Regarding the amendments to the City's Above Ground Facilities (AGF) Ordinance, I write you to offer my support for the proposed amendments as described in the reports to the Council from the Public Works and PLUM committees.

In addition, I request enactment of an Interim Control Ordinance (ICO) that would impose a temporary moratorium for a specific period of time on applications for permits and installation of wireless facilities in the public right of way while the Ordinance amendments are being drafted.

The community has waited a long time for these issues to come to the agenda of the City Council. I hope that swift action in accordance with community requests for limiting the invasion of cell towers in our neighborhoods will be taken. It is because of the hard work of community leaders led by Chris Spitz of Pacific Palisades that Los Angeles is finally dealing with the proliferation of cell towers. In advance, I thank City Council for taking action on this issue.

Sincerely,

Marcia Selz, Ph.D.

Founder,

Coalition of Homeowner Associations - CD 5