

Comstock Hills Homeowners Association (CHHOA)

Nov. 12, 2009

MOTION AND RESOLUTION IN SUPPORT OF CHANGES IN THE REGULATION OF INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES

Re Los Angeles City Council File No. 09-2645

Cell tower proliferation is ongoing in or near residential areas throughout the City of Los Angeles, including many installations in public rights of way which are either unregulated or minimally regulated under the City's current regulatory scheme.

In order to preserve and protect the quality of our communities and residential neighborhoods and in light of the recent Ninth Circuit decisions in *Sprint v. County of San Diego* and *Sprint v. City of Palos Verdes Estates*, clarifying that municipalities have greater legal authority to regulate based on aesthetic considerations than had been believed at the time the City's current ordinances were adopted, the Comstock Hills Homeowners Association (CHHOA) supports changes in the method of regulating the installation of wireless telecommunications facilities (WTFs) in the City.

CHHOA supports the recent motion introduced by Councilmember Bill Rosendahl on October 27, 2009 (Council File 09-2645), calling for reconsideration of the City's regulatory scheme and for the City Attorney (who had been reviewing the City's current regulations pursuant to an earlier motion in Council File 08-2440) to report to the City Council on what new tools are available to regulate WTFs in light of the *Sprint v. San Diego* and *Sprint v. Palos Verdes* cases.

CHHOA urges the City Council to enact a comprehensive new ordinance for the regulation of WTFs, clearly and unambiguously authorizing local regulation of aesthetics to the full extent of the law in light of the recent judicial determinations. CHHOA further requests that the City Council seek guidance from the City Attorney in crafting the new ordinance and, in the interim, issue a temporary moratorium on all WTF installations until the new ordinance is passed.

The need for robust and comprehensive aesthetic regulation to protect and promote the integrity of the City's residential neighborhoods from ever-encroaching WTF installations is more pressing than ever. If the City does not act now, before the wireless industry's planned and imminent onslaught of installations, the City will again fall behind the regulatory curve – as has occurred with its attempts to regulate billboards and medical marijuana dispensaries. The City has a very narrow window of opportunity and, unless it acts immediately, it will be too late to gain regulatory control over the proliferation of WTFs.

Therefore, the Board of CHHOA endorses the following Motion and Resolution:

Motion and Resolution

Be It Resolved That

The Comstock Hills Homeowners Association requests that:

1. The City Attorney continue to review the City's current regulatory scheme and report to the City Council on what new tools are available to regulate wireless telecommunications facilities in light of recent judicial determinations clarifying the City's ability to regulate such facilities on aesthetic grounds, as directed by the motion introduced by Councilmember Rosendahl on October 27, 2009 (Council File No. 09-2645).
2. In connection with the above review the City Attorney continue to research the extent of the City's involvement in the Joint Pole Agreement and whether and to what extent it has authority to regulate wireless telecommunications facility installations involving utility poles and replacement poles notwithstanding the Joint Pole Agreement's provisions.
3. The City immediately establish a task force composed of appropriate city departments, including but not limited to Department of Water and Power, Planning, Building and Safety, Public Works and the CAO; representatives of Neighborhood Councils and other community organizations and stakeholder groups such as the Sierra Club, to assist in the development of a City policy on the siting of telecommunications facilities.
4. With the City Attorney's guidance and consistent with his recommendations, the City enact a comprehensive new ordinance with clear and consistent standards and procedures regulating all wireless telecommunications facilities in the City, authorizing regulation of aesthetics and providing protection to communities and residential neighborhoods to the full extent of the law.
5. The City immediately impose a moratorium on all wireless telecommunications facility installations in the City and/or applications for approval of such installations in the City in order to allow time for the City Attorney's review and report and the crafting of a comprehensive new ordinance as set forth above.

The Motion and Resolution Passed: Nov. 12, 2009

Jan Reichmann, President
Comstock Hills Homeowners Association