

## **Pacific Palisades Residents Association**

PO Box 617

Pacific Palisades, CA 90272

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## **PPRA Concerns Re Existing City Regulations of Wireless Telecommunications Facilities (WTFs)**

### **General Concerns**

- City's regulatory framework is a patchwork of uncoordinated, often conflicting rules, policies, standards and procedures depending upon circumstances of each installation
- No specific protection for residential neighborhoods under any of the rules;
- City should act now, in light of the recent 9<sup>th</sup> Circuit decision in the Sprint case; Sprint makes it clear that cities can have comprehensive ordinances with meaningful regulation of all WTFs and protection for residential areas.

### **AGF Ordinance (public rights of way):**

- "No unifying mission statement or goals; conflicts, gaps and lack of coordination in administration and jurisdiction; inadequate notice to impacted property owners and residents; potential abuse of use of 'exempt' facilities and hardship waivers" (2004 memorandum by N. Kulla, then-chair of PPCC cell site committee)
- No required public hearings
- No protection for residential neighborhoods
- Inadequate definitions and ambiguous standards regarding utility poles, monopoles and antennas
- Inadequate standards for WTF construction, design, aesthetics or location;
- BOE state they are "mandated" by federal law to grant approvals
- BOE and Cultural Affairs apply different standards when classifying a pole (ie, monopole, utility pole)
- Unclear whether ordinance is principally limited to power cabinets
- Unclear whether monopoles and antennas are intended to be included in AGF or separately regulated under the WTF ordinance (below)
- Unclear whether AGF ordinance preempts WTF ordinance, and if so, to what extent

### **WTF Ordinance (other properties):**

- Not coordinated with AGF ordinance or other regulations and policies regarding WTFs
- No specific protection for residential neighborhoods
- Inadequate definitions of WTF equipment (ie, antennas and monopoles)
- Unclear whether WTF ordinance is preempted by the AGF ordinance, and if so, to what extent

### **Cultural Affairs Commission (CAC) Design Approval:**

- Bulk design approval issued for thousands of power cabinets at a time, without input from residents or communities
- Insufficient notice and hearing procedures
- CAC staff states that CAC is “required” by federal law to grant approvals
- BOE and Cultural Affairs apply different standards when classifying a pole (ie, monopole, utility pole)

### **Bureau of Street Lighting Policy & Procedures:**

- Notice, hearing, and Installation procedures unclear
- No specific protection for residential neighborhoods

### **Department of Building & Safety (LADBS):**

- WTF ordinance permits antennas as a matter of right on building rooftops in C and M zones
- Procedure: “20 day notice” form submitted by carrier to LADBS; notice and hearing procedures unclear

### **DWP:**

- Classification of poles is unclear
- DWP claims utility poles are exempt from regulation per Joint Pole Agreement (JPA)
- DWP states that there is no review or restriction of pole height regarding replacement poles (although in the future wind resistance analyses may be required when replacements poles are requested)
- DWP states that they can only address safety and maintenance considerations under the JPA
- Unclear if the City of Los Angeles is a party to the JPA, or whether DWP alone was the signatory; the JPA is inaccessible to the general public (PPRA has requested a copy in a Public Records request directed to DWP).

**Barbara Kohn, President  
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**July 15, 2009**

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### **Background Facts and Justification:**

In order to preserve and protect the quality of our community and residential neighborhoods, Pacific Palisades Residents Association (PPRA) supports changes in the method of regulating the installation of wireless telecommunications facilities (WTFs) in the City of Los Angeles.

While present zoning regulations pertaining to WTFs impose certain standards and procedures on the placement of all WTFs in the City, another set of standards and procedures is being applied to the placement of WTFs in public rights of way, under different regulations pertaining to above-ground facilities.

Other agencies or entities are applying differing and even conflicting rules, policies, standards and/or procedures to WTF installations in the City under varying circumstances.

The City's various regulations, rules, policies, standards and procedures regarding WTF installations were promulgated prior to the recent 9th Circuit decision in *Sprint v. County of San Diego*, at a time when City officials believed that federal law permitted no more than minimal regulation of WTFs by local governments.

The City deems WTF installations involving utility poles or replacement poles to be exempt from regulation under the Joint Pole Agreement (JPA). Such installations are now ongoing in Pacific Palisades and throughout the City. It is unclear whether and to what extent the City is entitled to regulate WTF installations on utility poles and replacement poles notwithstanding the JPA's provisions. The City Council previously passed a resolution that the City Attorney conduct research related to this issue (Council File No. 06-2415), but for unknown reasons no further action was taken and the file was closed after a lapse of two years.

It is PPRA's goal that the City enact a comprehensive new ordinance with clear and consistent standards and procedures regulating all WTFs in the City and providing protection to communities and residential neighborhoods to the fullest extent possible under the law

PPRA is concerned that unless a moratorium on ongoing WTF installations is imposed while the proposed new ordinance is being drafted, the door will be open for many more new WTF installations and/or applications for approval of such installations under existing regulations. California cities, including most

recently Glendale, Pasadena, Richmond and Goleta, have routinely imposed moratoria to allow time for study and the crafting of new regulations regarding WTF installations.

**Motion:**

PPRA requests:

- That the City Attorney be directed to review all applicable regulations, rules, policies and procedures pertaining to the installation of Wireless Telecommunication Facilities in the City in light of the decision of the 9th Circuit Court of Appeal in *Sprint v. County of San Diego*, with the goal of recommending a comprehensive new ordinance regulating the installation of all Wireless Telecommunication Facilities in the City.
- That in connection with the above review the City Attorney also be directed 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 Telecommunication Facilities installations involving utility poles and replacement poles notwithstanding the Joint Pole Agreement's provisions.
- That consistent with the City Attorney's recommendations the City enact a comprehensive new ordinance with clear and consistent standards and procedures regulating all Wireless Telecommunication Facilities in the City and providing protection to communities and residential neighborhoods to the fullest extent possible under the law.
- That the City impose a moratorium on all Wireless Telecommunication Facilities installations and/or applications for approval of Wireless Telecommunication Facilities installations in the City in order to allow time for the City Attorney's review and research and the crafting of a comprehensive new ordinance as set forth above.