

Recent Developments Re Los Angeles WTF Proliferation/Regulation

New installations

- Wireless telecommunication facilities (WTFs) have been proliferating throughout the city in areas where they have not typically been found, *e.g.*, in residential neighborhoods and near homes and schools; obtrusive cell towers are suddenly being erected in public rights of way (PROWs), with little or no notice or regulation, sometimes overnight and often where cell reception for voice calls is already good and additional towers or antennas are not wanted or even needed by nearby residents.
- The new cell towers sprouting in PROWs are primarily in the form of either *new* or *replacement utility poles* erected by telecom providers such as T-Mobile (not by DWP) to support multiple antennas. No permits are issued for most of these installations, although an AGF permit might be issued for an ancillary power cabinet, with no notice to residents that a *cell tower* is actually going to be installed. DWP's involvement in the process is unclear but appears to be limited to a cursory look at any provider's plans that may be submitted.
- According to residents, some *new* poles (which, unlike replacement poles, are installed in spaces where no pole existed before) are being installed by unknown subcontractors in unmarked vans, who apparently bootleg wires from existing poles and affix them to the new poles for the presumed purpose of achieving a regulatory exemption. Some residents state that they have awakened to find a cell tower in front of their homes, where nothing was there the day before! After installation, new or replacement poles are then owned and/or controlled by the provider rather than by DWP, which no longer has any involvement with the structures – further insulating or removing these installations from potential regulation or review.
- WTF installations, including poles and antennas causing serious concern for residents, have been erected or proposed both on private property and in PROWs in Pacific Palisades, Marina del Rey, Westwood, Carthay Circle, Hollywood, Hancock Park, Baldwin Hills, Highland Park, Silver Lake, Granada Hills, Tarzana, San Pedro and other nearby cities, including Pasadena, Glendale and Agoura. A cell tower has recently been proposed on or near school property along Mulholland Dr. in CD 11 (current status unknown).
- Many more WTFs will be required in the future as new technologies – not anticipated by the drafters of the current city ordinances – are rapidly being developed, *e.g.*, 3G/4G, world-wide roaming, enhanced Internet and video coverage, etc. Telecom providers have in fact been telling the FCC that the explosive demand for increased mobile data, via new smartphones, high speed Internet and the like, has strained infrastructure and required more spectrum capacity and/or antennas. As one industry observer explains: “*Put an iPhone [or] Blackberry in the hands of someone who previously made only voice calls and sent a few text messages, and data use skyrockets.*” www.arstechnica.com/tech-policy/news/2009
- Examples of increases in antennas: AT&T states that it is rolling out 2000 more cell towers in 2009 to meet demand; and Clearwire (a company owned 51% by Sprint) is believed to be seeking to deploy more than 1400 antennas in Southern California alone for high-speed wireless Internet services, to be “co-located” on existing sites or on new sites to be developed, at least 2 per square mile. www.cellularpcs.com

Actions by citizens and city officials

- Pacific Palisades Residents Association (PPRA) has submitted a motion to Councilman Rosendahl calling for a new comprehensive ordinance regulating all WTFs with clear and consistent standards and protection for residential neighborhoods, for review of the JPA's scope, and for a temporary moratorium on installations. PPRA's motion has also been forwarded to the Board of Public Works (BPW), the Council Public Works Committee (PWC) and several other Councilmembers.
- Brentwood Community Council recently passed a similar motion calling for a comprehensive new ordinance and temporary moratorium. Pacific Palisades Community Council has also submitted a motion to Councilman Rosendahl, calling for changes in the regulation of WTFs in PROWs and a moratorium.
- Other neighborhood councils have also weighed in, calling for the BPW to investigate ongoing un-permitted WTFs in PROWs near homes (Tarzana NC) or calling for the PWC to consider new city-wide regulation of WTFs and protection for residential neighborhoods (Silver Lake NC); still other neighborhood councils and homeowner associations have indicated that they are reviewing the matter and may be voting soon on motions calling for new regulation of WTFs.
- As immediate past-chair of the PWC, Councilman Rosendahl directed the City Attorney to review the AGF ordinance and WTF regulations in light of *Sprint*; the not-yet-completed report is expected to be taken up by new PWC members Huizar, Smith and Alarcon at a future meeting (date unknown; Council File No. 08-2440).
- PPRA has been working with Councilman Rosendahl's staff on this matter and has also forwarded its motion and concerns related to the current regulations to Ted Jordan, the Deputy City Attorney who is working on the report. Senior Counsel Norman Kulla has stated that the Councilman is committed to the process and will remain involved.
- Having also experienced cell tower proliferation, several months ago the city of Glendale imposed a temporary moratorium on WTF installations and is expected to release a draft of its own comprehensive new ordinance in mid-October.

Related matter (FIOS boxes)

- Over 270 large, low-hung, pole-mounted boxes for Verizon's new FIOS (fiber optic) television network service were installed over the past several months in PROWs throughout the S.F. Valley, with some in Brentwood and Venice, *without notice or permits* and at a height unsafe for the sight-impaired and other pedestrians.
- Granada Hills South NC (GHSNC) and a coalition of other neighborhood councils, sight-impaired organizations, the Bureau of Engineering and Councilman Smith opposed these unsafe installations but were unable to reach agreement with Verizon after several attempts.
- Verizon asserted that federal and state law and/or the JPA completely preempt local regulation; that its "franchise right" in the PROW and/or other PUC rules gave it carte blanche to install these boxes on poles as it wished; that utility poles are exempt under local regulations and the JPA; that moving the boxes would be too costly; and that they were not "unsafe" as installed in any event.

- A BPW staff report disagreed and recommended that Verizon be ordered to remove the boxes for safety reasons. In the face of strong opposition, critical media coverage and the BPW staff report/recommendations, Verizon backed down and finally agreed to an incremental one-year plan to move all the boxes above 8 feet on the poles (as Councilman Smith had requested) or to seek permission to install them as AGFs – and to do the same with its 200+ expected future FIOS installations; this plan was approved by BPW commissioners at a 9/25 public meeting.
- Another provider (name unknown) has also applied for permission under the AGF ordinance to install over 2000 free-standing power cabinets for another fiber-optic TV network.
- Although the FIOS boxes are not components of a “wireless” service or facility – and the use of fiber-optics has many benefits – their installation nonetheless illustrates problems in current regulation (or lack thereof) of proliferating telecommunication operations in PROWs. As GHSNC explained in a recent message about the FIOS box matter: *“Telephone poles were originally only good for running wires, but new technologies have turned the space on these poles into valuable real estate. Poles are being festooned with antennas, distribution amplifiers, wiring hubs and other implements of our connected society.”*
- The BPW staff report on the FIOS box matter specifically cited to the City Attorney’s ongoing review of the AGF ordinance and expressed an interest in the report’s eventual findings as to the scope and impact of the JPA on the city’s ability to regulate telecommunication installations involving poles in PROWs.

– Christina Spitz, Vice-President
Barbara Kohn, President
Pacific Palisades Residents Association
October 6, 2009