

## REPORT TO CITY COUNCIL

**DATE: DECEMBER 9, 2009**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT**

**SUBJECT: CONSIDER ADOPTION OF A RESOLUTION SUPPORTING LOCAL GOVERNMENT AUTHORITY IN WIRELESS TELECOMMUNICATIONS FACILITIES**

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At its meeting on November 10, 2009, the City Council directed staff to prepare a resolution seeking federal legislation that would provide greater local control to regulate wireless telecommunications facilities. This request was made in light of the discussion of wireless communications facilities as part of the Council's consideration of the extension of a moratorium ordinance regarding such facilities, Ordinance No. 09-370U, which was adopted by the Council.

The resolution would authorize the City to support federal and state legislation, as it is developed, to modify the Federal Telecommunications Act of 1996 to give additional authority to state and local government, including the City of Agoura Hills, to regulate the placement, construction, and modification of wireless telecommunications facilities on the basis of the health and environmental effects of these facilities, and to allow local governments greater flexibility to regulate the placement of such facilities within the road rights-of-way. Other jurisdictions, including Los Angeles County and Santa Barbara County, have adopted similar resolutions, in June 2009 and November 2009, respectively.

In particular, the resolution would allow staff to provide written and other communication-related support for changes to the Federal Telecommunications Act to allow greater local authority over wireless telecommunications facilities, and to request that the City's Congressional representative initiate and pursue legislation to repeal those sections of the Act that preempt local control.

The resolution has been reviewed and approved as to form by the City Attorney.

### **RECOMMENDATION**

Staff recommends the City Council adopt the attached resolution supporting local government authority in wireless telecommunications regulations (Resolution No. 09-1562).

Attachment: Resolution No. 09-1562

## **RESOLUTION NO. 09-1562**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, SUPPORTING LOCAL GOVERNMENT AUTHORITY IN WIRELESS TELECOMMUNICATIONS REGULATIONS**

WHEREAS, provisions of the Federal Telecommunications Act of 1996 prevent local governments, including the City of Agoura Hills, from regulating the placement of wireless telecommunications facilities on the basis of the environmental effects of radio frequency emissions, if the proposed facilities comply with Federal Communications Commission (FCC) regulations concerning such emissions; and

WHEREAS, the California Public Utilities Code also limits the authority of local governments to regulate wireless facilities in the local agency's public rights of way; and

WHEREAS, while the City of Agoura Hills recognizes the broad public interest in a system of wireless telecommunications that crosses local boundaries, the burdens arising out of the placement of wireless telecommunications facilities fall exclusively on local communities and should be subject to more control by local land use authorities; and

WHEREAS, there is ongoing debate within the scientific community regarding how thoroughly the long-term health effects of low frequency electromagnetic and radio frequency emissions are understood, and there are ongoing questions regarding how well the existing regulations established by the FCC protect more vulnerable populations, such as school-age children, and how well they protect against the cumulative effect of radio frequency emissions on people who live or work in close proximity to multiple cellular facilities; and

WHEREAS, currently the ability of local governments to consider the health and environmental effects of these facilities when deciding whether or not to approve the construction or modification of a cellular communications facility is totally pre-empted by federal law. Local governments must have expanded discretion to decide how, when and where cellular facilities will be sited in local neighborhoods and within the public rights of way due to the unique aesthetic and safety issues that these facilities raise.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Agoura Hills:

1. Supports federal legislation that would expand local governments' authority under the Telecommunications Act of 1996 to regulate the placement, construction, and modification of telecommunications towers and other wireless telecommunications facilities .

2. Urges Congress to initiate and pursue legislation to repeal those sections of the 1996 Telecommunications Act that preempt local control and prevent local

governments from considering health effects when deciding whether to approve a wireless communications facility.

3. Informs the California Public Utilities Commission (CPUC) that the City opposes the unrestricted use of rights of way for wireless telecommunications facilities. The current CPUC process of approving wireless facilities for public rights of way is an infringement upon orderly planning in communities.

4. Supports state legislation that would give local governments greater flexibility to regulate the placement of wireless communications facilities within and adjacent to the public right of way.

5. Believes that the federal and state goal of an effective wireless telecommunications network can be balanced with local concerns for aesthetics, health and safety, and sound land use planning.

PASSED, APPROVED, and ADOPTED this 9<sup>th</sup> day of December, 2009, by the following vote to wit:

AYES: (0)  
NOES: (0)  
ABSTAIN: (0)  
ABSENT: (0)

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William D. Koehler  
Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC  
City Clerk