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MOTION

PUBLIC WORKS

On October 14, 2009, the Ninth U.S. Circuit Court of Appeals upheld the City of Palos Verdes Estates' rejection of two wireless construction projects on aesthetic grounds and did not violate the 1996 Telecommunications Act bar of municipalities from action that prohibited the provision of wireless services.

Like Palos Verdes Estates, San Francisco, San Diego County, La Canada Flintridge and other communities have recently won litigation against cellular companies on aesthetic grounds.

The new ruling appears to give cities and counties greater ability to even-handedly control the environment in our neighborhoods, with no exemption for wireless companies. The ruling is coupled with an earlier decision (*Sprint v. City of San Diego*) by the Ninth Circuit upon that City's Above Ground Facility (AGF) ordinance. City agencies have been analyzing the San Diego decision in order to develop more tools for the City of Los Angeles to control the placement of cell towers,

These two decisions create the potential for new municipal tools for regulating cellular installations. The developing law in this area requires reconsideration of our current regulatory scheme.

I THEREFORE MOVE that the City Attorney be requested to report to the City Council on what new tools are available to the City of Los Angeles to regulate cell towers as a result of these court decisions, and to inform the City Council on what steps have been taken in collaboration with the Department of Water and Power, Bureau of Engineering, and the Department of Planning, to better control and regulate the location and appearance of cell towers and poles.

Presented by Bill Rosendahl
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Councilmember, 11th District

Seconded by: EGH
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