



# CITY OF POMONA COUNCIL REPORT

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June 12, 2017

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Mark J. Gluba, Deputy City Manager

Subject: **Legislative Advocacy Opposition of Senate Bill 649 – Wireless and Small Cell Telecommunications Facilities Streamlining**

## OVERVIEW

**This agenda item was continued from the regular meeting of June 5, 2017, which was adjourned to June 12, 2017.**

**Recommendation** – That the City Council approve staff's recommendation to oppose Senate Bill 649 and authorize staff to draft and disseminate letters in opposition of this proposed legislation.

**Fiscal Impact** – None with this action.

**Previous Related Action** – None.

## EXECUTIVE SUMMARY

Senate Bill (SB) 649 will remove the discretionary review of "small cell" wireless antennas including equipment collocated on existing structures or located on new poles, structures, or non-pole structures, including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that "small cells" be allowed in all zones as a use by right.

## DISCUSSION

Staff recently received communication from League of California Cities representatives alerting the City to potential negative impacts contained within SB 649 which is scheduled for legislative hearings soon. As proposed, SB 649 establishes a framework for streamlining the permitting siting process of small cell wireless facilities that meet specified requirements through the State of California. Specifically, this bill requires an administrative permit in lieu of a discretionary permit (currently City issued), requires cost-based fees (currently city calculated) in lieu of market prices, and ensures access

Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria. SB 649 would create that a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit.

SB 649 appears to pose a significant risk to the City's ability to enforce Wireless Telecommunications Facilities within the City of Pomona. The bill effectively provides a *de facto* exemption to the California Environmental Quality Act (CEQA) for the installation of such facilities and precludes consideration by the public of the aesthetic, nuisance, and environmental impacts of these facilities, all of which are of particular importance when the proposed location of facilities is within a residential zone. Although SB 649 sets limits on the size of antennae and equipment at a given site, it does not take into consideration the cumulative effects of multiple installations within a given neighborhood or area of a city. Furthermore, SB 649 unconstitutionally preempts local authority by requiring local governments to make available sites they own for the installation of "small cell" sites, thereby giving control of public property to private telecommunications companies, while also precluding local governments from leasing or licensing publicly-owned property.

The City of Pomona has adopted a Zoning Ordinance for the installation of Wireless Communication Facilities which regulates cellular companies ensuring that there are City Council approved cellular installment agreements. The City's Zoning Ordinance, Section .5809-15 Wireless Communication Facilities provides requirements and regulations "of the location and design of wireless communication facilities to promote the public health, safety, and community aesthetics consistent with the goals and objectives of the city of Pomona General Plan. The regulations are also intended to minimize visibility and the number of freestanding structures in the city, while establishing minimum guidelines and expedited processing for well-designed proposals in appropriate locations."

Should the City Council approve the recommendation above, staff will draft letters articulating the City's position for the Mayor's signature and expedite transmission to the appropriate legislators, the League of California Cities and the City's pro-bono legislative advocate in Sacramento.

Attachment:

- 1) SB 649 Legislative Text
- 2) League of CA Cities Opposition Letter
- 3) Correspondence Received from Verizon