

RESOLUTION NO. 2019-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
AUTHORIZING THE MAYOR TO SIGN A LETTER ON BEHALF OF THE CITY
COUNCIL SUPPORTING S.2012 – RESTORING LOCAL CONTROL OVER PUBLIC
INFRASTRUCTURE ACT OF 2019 AND H.R.530 - ACCELERATING BROADBAND
DEVELOPMENT BY EMPOWERING LOCAL COMMUNITIES ACT OF 2019 (NOT
A PROJECT UNDER CEQA ARTICLE 20, SECTION 15378 AND UNDER
GENERAL RULE ARTICLE 5, SECTION 15061)

WHEREAS, the League of California Cities (of which the City of Monterey is a member), along with a broad coalition of California cities and local governments across the country, joined in suing the Federal Communications Commission (FCC) over their adopted regulations that limit the authority of cities and states to regulate small cell sites needed for the deployment of 5G and

WHEREAS, The FCC allowed the telecommunications industry to write regulations without sufficient input from local leaders, leading to regulations that restrict cities from requiring carriers to meet the needs of communities in which they want to operate.; and

WHEREAS, the two bills, one in the United States Senate and one in the House of Representatives, would restore the ability of local governments to help advance the deployment of wireless infrastructure in a fair and equitable manner. These bills would preserve and restore the role local governments such as the City of Marina have in managing its public right of way. Sponsored by Senator Dianne Feinstein, S.2012 would return local governments' ability to balance competing interests for the use of the public rights-of-way by overturning actions of the FCC in August and September of 2018. H.R. 530, sponsored by Congressmember Anna Eshoo and co-sponsored by Congressmember Jimmy Panetta, is the parallel bill to S. 2012.; and

WHEREAS, there are no direct fiscal implications with the City Council authorizing the Mayor to sign legislative position letters.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marina does hereby:

1. Approves authorizing the Mayor to Sign a Letter on Behalf of the City Council Supporting S.2012 – Restoring Local Control Over Public Infrastructure Act of 2019 and H.R.530 - Accelerating Broadband Development by Empowering Local Communities Act of 2019 (Not a Project Under CEQA Article 20, Section 15378 and Under General Rule Article 5, Section 15061)

PASSED AND ADOPTED by the City Council of the City of Marina at a special meeting duly held on this 20th day of August 2019 by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

116TH CONGRESS
1ST SESSION

S. 2012

To provide that certain regulatory actions by the Federal Communications Commission shall have no force or effect.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2019

Mrs. FEINSTEIN (for herself, Mr. SCHUMER, Ms. HARRIS, Mr. BENNET, Mr. WYDEN, Mr. CARDIN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide that certain regulatory actions by the Federal Communications Commission shall have no force or effect.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring Local Con-
5 trol Over Public Infrastructure Act of 2019”.

6 **SEC. 2. DEFINITION.**

7 In this Act, the term “Commission” means the Fed-
8 eral Communications Commission.

1 **SEC. 3. PRESERVATION OF RIGHTS OF STATE AND LOCAL**
2 **GOVERNMENTS.**

3 The following regulatory actions of the Commission
4 shall have no force or effect:

5 (1) The Declaratory Ruling in the “Third Re-
6 port and Order and Declaratory Ruling in the mat-
7 ter of Accelerating Wireline Broadband Deployment
8 by Removing Barriers to Infrastructure Investment
9 and Accelerating Wireless Broadband Deployment
10 by Removing Barriers to Infrastructure Investment”
11 adopted by the Commission on August 2, 2018
12 (FCC 18–111).

13 (2) The “Declaratory Ruling and Third Report
14 and Order in the matter of Accelerating Wireless
15 Broadband Deployment by Removing Barriers to In-
16 frastructure Investment and Accelerating Wireline
17 Broadband Deployment by Removing Barriers to In-
18 frastructure Investment” adopted by the Commis-
19 sion on September 26, 2018 (FCC 18–133).

20 (3) The rule adopted by the Commission enti-
21 tled “Accelerating Wireless and Wireline Broadband
22 Deployment by Removing Barriers to Infrastructure
23 Investment” (83 Fed. Reg. 51867 (October 15,
24 2018)).

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116TH CONGRESS
1ST SESSION

H. R. 530

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2019

Ms. ESHOO (for herself and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide that certain actions by the Federal Communications Commission shall have no force or effect.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Accelerating
5 Broadband Development by Empowering Local Commu-
6 nities Act of 2019”.

7 **SEC. 2. PRESERVATION OF RIGHTS OF STATE AND LOCAL**
8 **GOVERNMENTS.**

9 Actions by the Federal Communications Commission
10 in “Accelerating Wireless and Wireline Broadband De-

1 ployment by Removing Barriers to Infrastructure Invest-
2 ment” (83 Fed. Reg. 51867) and the Federal Communica-
3 tions Commission’s Declaratory Ruling in “Third Report
4 and Order and Declaratory Ruling” (FCC 18–111) shall
5 have no force or effect.

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EXHIBIT B

August 21, 2019

The Honorable Jimmy Panetta
20th Congressional District of California 212
Cannon House Office Building Washington, DC
20515

Dear Congressman Panetta,

On behalf of the City of Marina and the Marina City Council, I am writing to express our appreciation for your co-sponsorship of H.R. 530, the *Accelerating Wireless Broadband Development by Empowering Local Communities Act of 2019*. H.R. 530 repeals recent harmful Federal Communications Commission (FCC) regulations limiting the ability of local governments to regulate the deployment of 5G wireless infrastructure.

We all want to ensure efficient, safe, and appropriate deployment of new broadband technology. However, this sweeping regulation is not the best approach.

You may also be aware that many citizens are concerned with the new technologies that 5G networks will utilize and the potential health impacts of this deployment. We understand that the FCC has the exclusive authority to adopt and enforce these health standards. The FCC opened a docket to update its RF health regulations in 2003, made a few changes and issued a further notice of proposed rulemaking and a notice of inquiry in 2013, and has been asked multiple times in recent years to complete that proceeding and give us new, updated rules on the health effects of radio frequency emissions related to 5G networks.

While the FCC is perfectly content to tell local governments that they must take action within 60 or 90 or 150 days, it apparently sees no problem with failing to complete a docket addressing these health issues that has now been open for over 16 years.

Completion of this docket, and updated FCC rules specifically addressing acceptable levels of human exposure from the kinds of emissions generated by 5G networks will provide local governments real, usable tools to help local jurisdictions work with our citizens to explain these issues related to 5G deployment. Thank you again for your support of H.R. 530. If you have any questions about the City of Marina's position on these issues, please contact the City Manager's Office at (831) 884-1278.

Sincerely,

Bruce C. Delgado Mayor
City of Marina

EXHIBIT B

August 21, 2019

The Honorable Dianne Feinstein United
States Senate
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Kamala Harris United States
Senate
112 Hart Senate Office Building
Washington, DC 20510

Dear Senators Feinstein and Harris:

On behalf of the City of Marina and the Marina City Council, I write to express appreciation for your sponsorship of S.2012, Restoring Local Control over Public Infrastructure Act of 2019. As you know, S.2012 would repeal harmful recently enacted Federal Communications Commission (FCC) regulations limiting the ability of local governments to regulate the deployment of 5G wireless infrastructure. All want to ensure efficient, safe, and appropriate deployment of new broadband technology. However, the FCC's new sweeping regulatory regime is not the right approach toward these ends.

As you also know, many citizens are concerned with the new technologies that 5G networks will utilize and the potential health impacts of this deployment. The City of Marina understands that the FCC has the exclusive authority to adopt and enforce these health standards. For some years, the FCC has jealously guarded this authority against local input, while simultaneously doing nothing to address citizens' concerns. The FCC opened a docket to update its radio frequency ("RF") health regulations in 2003 but made few substantive changes. It issued a further notice of proposed rulemaking and a notice of inquiry in 2013 and has been asked multiple times in recent years to complete that proceeding and provide updated rules relating to the health effects of RF emissions related to 5G networks, but again failed to implement anything of substance.

While the FCC is content to command local governments that they must take action within 60, 90, or 150 days in response to an application, it apparently perceives no problem with failing to complete a docket addressing these health issues that has now been open for over 16 years. With federal inaction, citizens have turned to local governments for direction. Completion of this docket, and updated FCC rules specifically addressing human exposure to the emissions generated by 5G networks, will provide local governments real, usable tools to address our citizens' concerns.

Thank you again for your support of S.2012 and for your public service. If you have any questions about the City of Marina's position on these issues, please contact the City Manager's Office at (831) 884-1278.

Sincerely,

Bruce C. Delgado Mayor
City of Marina

August 1, 2019

Item No: **8f(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of August 20, 2019

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2019-,
AUTHORIZING THE MAYOR TO SIGN A LETTER ON BEHALF OF THE CITY
COUNCIL SUPPORTING S.2012 – RESTORING LOCAL CONTROL OVER
PUBLIC INFRASTRUCTURE ACT OF 2019 AND H.R.530 - ACCELERATING
BROADBAND DEVELOPMENT BY EMPOWERING LOCAL COMMUNITIES
ACT OF 2019 (NOT A PROJECT UNDER CEQA ARTICLE 20, SECTION 15378
AND UNDER GENERAL RULE ARTICLE 5, SECTION 15061)**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2019, authorizing the Mayor to sign a letter on behalf of the City Council supporting S.2012 – Restoring Local Control Over Public Infrastructure Act of 2019 and H.R.530 - Accelerating Broadband Development by Empowering Local Communities Act of 2019 (Not a Project Under CEQA Article 20, Section 15378 and Under General Rule Article 5, Section 15061)

BACKGROUND:

Overview

Last year, the League of California Cities along with a broad coalition of California cities and local governments across the country, joined in suing the Federal Communications Commission (FCC) over their adopted regulations that limit the authority of cities and states to regulate small cell sites needed for the deployment of 5G.

FCC's Preemption of State and Local Policies

The FCC allowed the telecommunications industry to write regulations without sufficient input from local leaders, leading to regulations that restrict cities from requiring carriers to meet the needs of communities in which they want to operate. The FCC's orders in August, September, and October 2018 unnecessarily complicated existing agreements and negotiations between cities and wireless providers by imposing a one-size-fits-all preemption of existing state and local policies. The order limited the ability of local governments to charge fees for use of public property while also providing a narrow, 60-day window for cities and states to review applications, conduct necessary inspections, and authorize proposals. The FCC's limits on fees for use of publicly owned property by private companies is an extreme overreach by the federal government, forcing cities to subsidize development at the cost of other critical local services.

S.2012 and H.R. 530

Two bills, one in the United States Senate and one in the House of Representatives, would restore the ability of local governments to help advance the deployment of wireless infrastructure in a fair and equitable manner. These bills would preserve and restore the role local governments such as the City of Marina have in managing its public right of way. **“(EXHIBIT A)”**

Sponsored by Senator Dianne Feinstein, S.2012 would return local governments' ability to balance competing interests for the use of the public rights-of-way by overturning actions of the FCC in August and September of 2018. H.R. 530, sponsored by Congressman Anna Eshoo and co-sponsored by Congressman Jimmy Panetta, is the parallel bill to S. 2012.

FCC's Radio Frequency Regulations on Hold

A number of citizens are concerned with the new technologies that 5G networks will utilize and the potential health impacts of this deployment. It is understood that the FCC has the exclusive authority to adopt and enforce these health standards. The FCC opened a docket to update its RF health regulations in 2003, made a few changes, and issued a further notice of proposed rulemaking and a notice of inquiry in 2013. Since then, the FCC has been asked multiple times to complete that proceeding and issue new, updated rules on the health effects of radio frequency emissions related to 5G networks. The FCC has failed to complete a docket addressing health concerns that have been open for over 16 years. Completion of this docket, and updated FCC rules specifically addressing acceptable levels of human exposure from the kinds of emissions generated by 5G networks will provide local governments with tools to help local governments work with its constituents to better explain issues related to 5G deployment.

FISCAL IMPLICATIONS:

There are no direct fiscal implications with the City Council authorizing the Mayor to sign legislative position letters.

The letters of support would reaffirm the City's position on the issue and thank Senator Dianne Feinstein, Senator Kamala Harris, and Congressman Jimmy Panetta for their co- sponsorship of their respective bills. Furthermore, the letters would inform legislators of the need for the FCC to adopt new, updated rules on the health effects of radio frequency emissions related to 5G networks. (**'EXHIBIT B'**)

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Layne Long
City Manager
City of Marina