

California Wireless Association Official Newsletter

CalWA Proudly Supports



Message from the President



By Jon Dohm

“Staying in Touch”

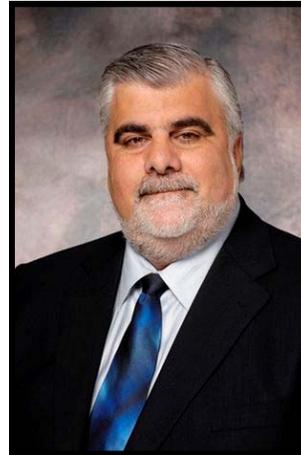
There’s certainly no excuse for not staying in touch these days. Every week it seems like there’s something else out there to “help” us stay in touch (I use the word “help” loosely here). Right when I think I’m pretty up to speed, someone tells me about some other way to communicate—usually it’s my kids! There’s also no excuse for not staying in touch with you, CalWA’s members. But how much communication is appropriate or necessary? We have so much going on right now that we know you cannot possibly be aware of everything. For example, did you know:

That CalWA’s member is now over 900 members?

That CalWA’s Public Relations Committee’s recent Press Release on the T-Mobile v.

Advisory Board Focus on Bill D’Agostino, Verizon Wireless

“The pendulum swing of wireless is traveling from an elite business application to an absolute necessity for everyone.”



CalWA Advisory Board Member Bill D’Agostino, Executive Director, Verizon Wireless. See story on page 2.

City of Anacortes case was published in AGL Magazine?

That CalWA has a new Board member—Mike MacPherson of TowerCo?

That CalWA’s Regulatory Committee meets every two weeks and is looking for additional help?

That CalWA has been provided a seat at the City of San Diego’s Mayor’s Wireless Task Force?

That CalWA has initiated a project to produce educational videos for use by members?

There’s a lot more going on too. Frankly, we could email “blast” our membership several times a week with news, but we want to be careful and selective. We also respect your work time and do not want to be a disruption. So, what’s the best solution? One obvious solution is to make better use of CalWA’s website as a resource for our membership. Candidly, while our website has served us well for these first couple of years, it has not proven to be conducive to change. The mechanics of how it was initially set-up makes it difficult to update, amend, make changes to, etc.

I’m happy to report that this is all about to change. We’re excited to report that we are nearing completion of a re-vamped website. While we’ve maintained the things we’ve liked about our website, the new website will greatly enhance our “communication” to our membership. When the new site is completed, CalWA’s new website will feature numerous enhanced capabilities, including the following:

News Events and important issues can be routinely posted in a timely manner

(cont. on p. 6)

SAVE THE DATES

PCIA
SEPTEMBER 21-24,
2009

3RD ANNUAL GOLF
TOURNAMENT
OCTOBER 15, 2009

Mixing It Up in San Ramon; CalWA Action in Northern California

Day 1: CalWA members mixed and mingled in the summer evening air of the San Ramon Marriott garden patio during the kickoff mixer on Wednesday. Strong networking and relationship building was accompanied by cocktails and mouth-watering appetizers. Attendees shared resources, information, ideas and advice to expand business activity.

The Women's Wireless Leadership Forum (-aka- WWLFF) had a presence at the mixer and was busy passing out WWLFF mints and making contacts with the Bay Area women. Everyone commented on how enjoyable the entire event was as the evening wrapped up with various client and colleague dinners throughout the area.

Day 2: Thursday morning began with a hearty and delicious breakfast buffet before we launched into heated discussions by a panel of experts in the area of wireless telecommunications. Our panelists included Paul Albritton, Telecommunications Attorney; Jonathan Kramer, Attorney and Municipal Consultant; Bill Sanders, San

Francisco City Attorney; Michael Shonafeld - Land Use Attorney, and Susan E Walters, Senior Vice President of California Emerging Technology Fund (CETF).

Some discussion items for the panel were the statewide impacts of local ordinance revisions, and how to most effectively create the true regulatory change that is so important to the future of the wireless industry at the local and state levels. CalWA members in the audience peppered the panel with excellent questions and points which made the experience interactive and lively.

The audience and panelists engaged in fervent discussions on the most pressing and penetrating regulatory challenges we face today. Exceeding our allotted time, we wrapped up the session by noon with key takeaways and the intention of continuing these discussions beyond this conference.

The success of these two days depended entirely on our Members, our Panelists and our Board of Directors. They all sacrificed their time and effort to participate in these events, and we truly thank them for their dedication to CalWA. For everyone who was not able to attend, I highly suggest you mark your calendars now for next year!

"I attended the CalWA event last month and I had an unbelievable time. I found the time to be extremely valuable and allowed me to foster new relationships and expand my personal network." - Lisa

"It is great going to the CalWA mixers to be able to meet a wide range of people in the industry in a low-key, informal manner." - Kelli

"As a telecom attorney representing government planning agencies throughout California, CALWA's events and mixers have afforded me an outstanding opportunity to meet and get to know wireless sitting professionals in a friendly and non-controversial setting." - Jonathan

CalWA Profile: Meet Advisory Board Member Bill D'Agostino

By Patti Ringo

CalWA's Advisory Board was formed in late 2008 and is tasked with being the "Guiding Light" for the Association. They work with the Board of Directors and get updates from the Board about the committees. The committees, in turn, receive their guidance from the Advisory Board.

The purpose of CalWA is seen in your Advisory Board. One Voice for our industry. One of the voices in this chorus belongs to Bill D'Agostino of Verizon Wireless. I recently had a chance to sit with Mr. D'Agostino and ask him a few questions about himself and CalWA.

CalWA: Tell us a little about you. What has your career path been? How did you end up at Verizon Wireless?

D'Agostino: I started as a 611 Clerk at Pac-Bell in my early days. This was followed by various roles in the wireline until wireless came up. My first wireless position was with Airtouch. I was with PrimeCo and Sprint until early 2001, when I moved to the vendor side. I ended up back at a carrier in this current role as Executive Director

for Verizon Wireless in Irvine.

CalWA: What has been the biggest change you have seen in our industry in its relatively short history?

D'Agostino: The pendulum swing of wireless is traveling from an elite business application to an absolute necessity for everyone. We value communication - the desire to stay "in touch." I also think that wireless has proven itself as a time-saver and organizational tool.

CalWA: CalWA has been around just over 2 years now. What do you feel is the most visible accomplishment that CalWA has made in that short time?

D'Agostino: The organization and the membership is populated by quality people. The leadership and the dedication of the volunteers is notable. CalWA is one of the only, if not the only, State Wireless Association that has bridged the gap between being a social organization and a working one.

CalWA: What led you to decide to participate in the Advisory Board?

D'Agostino: I have 190 jurisdictions to watch. I see the value of *One Voice* and buy into it. While I feel the Advisory Board should remain a smaller group that guides,

I like the idea of all the carriers sitting together for a common goal.

CalWA: What would you like to see more of from CalWA?

D'Agostino: I would like to see CalWA implement an educational outreach program. I believe that education is the key to partnering with the jurisdictions.

CalWA: What do you think that the biggest improvement is that CalWA could make (to itself) to gain more following/credibility?

D'Agostino: Continue educational efforts and regulatory positioning.

CalWA: What is a typical day like for you?

D'Agostino: My days start early. Phone calls, e-mails, meetings, etc. I make it a point to get out into the field each Wednesday. It keeps me in touch with my team in a way meetings, calls and e-mails cannot. The biggest challenge is balance. Work balance, life balance. I like to be outside in my downtime, so weekends are spent by the pool, BBQing, golfing. That sort of thing.

Stop by at the next CalWA event and say hi to Bill. You will be glad you did. ‡

CalWA Regulatory Update: Ninth Circuit Clarifies Test for “Effective Prohibition”

On July 20, 2009, the U.S. Court of Appeals for the Ninth Circuit issued a decision in the case *T-Mobile USA Inc. v. City of Anacortes*, App. Case No. 08-35493, Slip Op. (July 20, 2009). The case, *Anacortes*, is the court’s first decision on the application of federal laws to local permitting of wireless facilities since the court’s en banc reversal in *Sprint Telephony PCS, LP v. County of San Diego*, 543 F.3d 571 (9th Cir. 2008), which the U.S. Supreme Court recently decided not to review.

The *Sprint* decision was disappointing to the wireless industry, which had been fighting especially hard in the Ninth Circuit courts to contain abuses of local zoning authority resulting from open-ended wireless ordinances. *Anacortes*, which upheld a district court order to issue permits to T-Mobile for a 116-foot monopole located on church property, demonstrates that the *Sprint* decision was not as broad a grant of authority to local governments as some jurisdictions have claimed, but rather was more narrowly concerned about ensuring evidentiary support for a specific type of legal claim: “effective” prohibition of wireless services.

Anacortes holds that a zoning board’s decision to deny permits for a wireless facility may nevertheless have the effect of prohibiting wireless services in violation of the federal telecommunications act even if the decision to deny the permits is consistent with the evidentiary requirements of a lo-

cal zoning ordinance. The case also stands for the proposition that an order to issue permits is an appropriate remedy for such a violation.

The case is particularly important in that it is one of the few cases to rule that a denial constituted effective prohibition of wireless services even though the denial otherwise complied with the law. In so holding, the court provided significant guidance as to how the courts are to treat claims of effective prohibition. The case establishes that a provider must first make “a prima facie showing of effective prohibition by submitting a comprehensive application, which includes consideration of alternatives, showing the proposed [wireless communication facility] is the least intrusive means of filling a significant gap.” The burden then shifts to the local jurisdiction to “show that there are some potentially available and technologically feasible alternatives,” a showing that the provider may still dispute. The court also recognized that the “construction and operational costs that [the provider] would have to bear” is an appropriate consideration regarding the feasibility of a proposed alternative.

It is important to note that *Anacortes* in fact tried to rebut T-Mobile’s review of alternatives by offering several of its own alternatives, but the Court was not convinced and found the City’s suggestions to be unsupported, too speculative, or, with regard to the City’s effort to caste T-Mobile’s

branded in-home service technology (Hotspot Home) as a feasible alternative, irrelevant. In other words, the locality’s burden to show viable unexplored alternatives is not satisfied by merely proposing new locations. It must also provide credible and informed analysis demonstrating the alternative is both available and technically feasible.

A copy of the Ninth Circuit slip opinion is available on our website at www.calwa.org. [See the article forthcoming in AGL Magazine.]

CalWA Goes Hollywood with Video Project!

Under the direction of Patti Ringo and Jamie Hall, the California Wireless Association is putting funding together for a video project. The purpose of the video project is to create an educational and public relations tool that can readily be made available to highlight the benefits of wireless technology and to help explain to decision-makers how wireless technology works and what it takes to build a functioning network. If you have an interest in helping with this project or contributing funding for it, please call Jamie at (512) 619-4645 or Patti at (805) 404-4202. ‡

**Watch for CalWA’s new website.
Coming Soon!**

TRENDS: PEW Study Finds Wireless Internet Usage Up “Sharply”

A recent study by the PEW Center finds that wireless access to the Internet has “grown sharply” since the end of 2007. This latest study finds that 56% of Americans have connected to the Internet “at some point” through a wireless device. Although laptop access has increased, the

key variable in the study is the use of smart phones. Texting is up by 40% in the same time frame. Use of a mobile device to access the Internet “at some point” has grown from 24% to 32%, an increase of 33%. Use of a mobile device the day prior to the poll increased from 11% to 19%, an increase of 73%. ‡

Save the Date!

**THIRD ANNUAL CALWA
GOLF
TOURNAMENT
Arroyo Trabuco Golf
Course
October 15, 2009**

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California Wireless Association
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Robert Jystad — Vice President
Daniel Smith — Treasurer
Patti Ringo — Secretary
Julian Quattlebaum — Assistant Secretary

Send queries to: Info@calwa.org

California Wireless Association Mission Statement

The California Wireless Association (CalWA) is a non-profit professional association that brings a unified voice to the wireless industry as we find ourselves facing the uniquely challenging marketing, operations and regulatory terrain of our state.

In addition to providing general awareness of the wireless industry, educating consumers and public officials about the wireless industry and the critical role it plays in California, CalWA cultivates and fosters relationships among the members of the wireless industry and conducts fundraising for several charitable organizations.



California Wireless Association Presents: The 3rd Annual Charity Golf Tournament

Sponsored By:



October 15th, 2009

Arroyo Trabuco Golf Club, Mission Viejo, CA

Join Us For Lunch, Golf, Cocktails & Dinner!

Shotgun Starts at 12:30 PM.



(cont. from p. 1)

- Sponsors will be given their own, expanded Link in order to highlight their companies*
- Photo pages will be created with easy-to-use formatting for updating*
- The Membership tab will be more user friendly and will include to use update functions*
- A Forum link will be added to provide a "library" of educational and relevant information*
- A Blog will be created to allow members to discuss current events and issues*

So, we look forward to the release of our new website, and no, I'm not going to make a prediction on exactly when that will be. All I can say is that we're getting close. When we're ready to launch, this event will definitely deserve an email blast.

We hope you're enjoying the summer months. We look forward to seeing you soon at our Third Annual Charity Golf Tournament in Mission Viejo on October 15th. ‡

For sponsorship opportunities, please contact Lisa White at

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