



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
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MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney *DR*
DATE: June 13, 2017
SUBJECT: Right of Way Ordinance and Rate Resolution

BACKGROUND.

During the 2017 Florida Legislative Session, the Florida Legislature enacted the Advanced Wireless Infrastructure Deployment Act, House Bill 687 (the "Act"). Although the Governor has not signed the Act, the Act, if it becomes law, will become effective July 1, 2017.

Under the Act, local governments will have limited ability to prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way. The Act includes onerous permitting requirements on local governments, including accelerated permitting timeframes, prohibition of permitting fees for those noncharter counties, such as Indian River County (the "County"), already charging the local communications services tax at a rate of 0.24 percent, and allowing applicants to combine 30 small wireless facilities into one application. The Act limits the collocation fee for a small wireless facility on a local government utility pole to no more than \$150 per year.

The Act does allow local governments to adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, liability, or warranties. On June 6, 2017, the Indian River County Board of County Commissioners (the "Board") voted to authorize the County Attorney's Office to draft an ordinance to address several of these issues. The attached draft ordinance generally resembles the proposed language presented to the Board on June 6, 2017. There are two significant changes in the final draft. First, the proposed ordinance includes performance security under section 312.11(D), for any free standing poles in the right-of-way. Thus, in the event a free standing pole is abandoned, the County will have funds to remove such pole. Second, additional requirements for collocation have been included under section 312.14. Such additional requirements include plaques for collocations so structures or objects can be properly identified, concealment and design criteria for collocations and associated equipment and submission of structural analysis and wind load calculations for collocations.

Also, the County Attorney's Office has prepared the attached rate resolution for annual user fees and permit fees for collocations. The fee for an installation on County utility poles or other equipment or

structures in the County Right-of-Way will be \$600.00 per location, with a re-inspection fee if necessary of \$300.00. The annual fee will be \$150.00 per location.

FUNDING.

The cost of publication of the required public notice for this public hearing was \$148.78. This cost was funded from the County Attorney's Office budget within the General Fund (account number 00110214-033190). Any annual fees obtained will be deposited into General Fund/Miscellaneous/Rents & Royalties (001038-362010). Any permit fees will be deposited into Transportation Fund/Permit-Fee/Other Permits (111032-329090).

RECOMMENDATION.

The County Attorney's Office recommends that the Chair open the public hearing and take public comment and then have the Board vote to approve the proposed right-of-way ordinance and rate resolution.

ATTACHMENT(S).

Proposed Right of Way Ordinance
Proposed Rate Resolution