



To: Cell Tower Right-of-Way Task Force Members

From: David G. Shields, Chair, Cell Tower Right-of-Way Task Force

Date: October 3, 2016

Subject: Follow up to September 26, 2016 Task Force Conference Call

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This memorandum summarizes and extends the discussion held on the September 26, 2016 Task Force Conference call.

The meeting opened with a discussion of recent developments. David G. Shields, Chairman and Assistant County Attorney for Seminole County discussed his recent legal research concerning the authority of local governments to regulate the right-of-way under the Federal Telecommunications Act. He will provide case law on this matter for the FACA website.

David Pearce, Assistant County Attorney for Sarasota County, discussed nuisance law as a way to address cell towers in the right-of-way.

Paul Chipok, Assistant County Attorney for Seminole County, discussed Seminole County's requirements for telecommunications utilities to be placed underground. Roberta Alphonso, Assistant County Attorney for Orange County, discussed how this requirement operates in Orange County.

There followed a discussion of the different attorneys who have been representing Mobilitie, LLC around the state.

It was agreed the following members would research or perform the following:

- Jessica Icerman, Assistant County Attorney for Leon County, will research the advisability of using a moratorium to respond to requests for cell towers in the right-of-way.

- Diana Johnson, Vice-Chairman and Assistant County Attorney for Lake County, will report on the Florida Department of Transportation's response to requests for cell towers in the state right-of-way.
- Heidi Ashton-Cicko, Assistant County Attorney for Collier County, will contact legal counsel for the Federal Communications Commission (FCC) and report on the FCC's position on cell towers in the right-of-way.
- Ginger Delegal, General County for FACA, will research and report on the legislative history of Section 337.401 and Section 362.01, Florida Statutes (2016), to determine if any legislative staff reports address the authority of local governments to regulate all towers in the right-of-way.
- Paul Chipok, Assistant County Attorney for Seminole County, will survey the seven cities in Seminole County to determine how they are responding to this issue.
- David G. Shields will continue to research and report on cases and FCC orders under possibly applicable provisions of the Telecommunications Act, including 47 U.S.C. §253, 47 U.S.C. § 224, and 47 U.S.C. § 257.

It was agreed to have another telephone conference in mid-October with the aim of completing a report by the end of October to have ready for use when legislative committees begin to meet in November.

DGS/dre