

**RESOLUTION 16-147**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ESTABLISHING A TEMPORARY CESSATION OF ACCEPTANCE OF RIGHT-OF-WAY PERMIT APPLICATIONS FOR INSTALLATION OF SMALL CELL AND DISTRIBUTED ANTENNA SYSTEM (DAS) STRUCTURES PENDING REVISION OF THE COUNTY'S CODE TO PROPERLY ADDRESS THE SITING AND INSTALLATION OF THESE STRUCTURES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, Manatee County owns and/or controls, and manages lands designated as rights-of-way; and

**WHEREAS**, traditionally governmental rights-of-way have been utilized for, among other uses, the placement of public and private utility systems and structures so as to facilitate the delivery of utility services and maintenance of utility systems; and

**WHEREAS**, Manatee County Code § 2-28-21 et seq. contains the County's current Rights-of-Way Management Code; and

**WHEREAS**, this regulatory structure has not been revised since its adoption in 2008, a period where wireless communications services were provided to consumers via large cell towers; and

**WHEREAS**, since that time, industry and technological changes and advances have resulted in an alternative method of delivery of wireless communications services generally known as "small cell" and "distributed antennae systems" (DAS) which involve the placement of much shorter, but more numerous poles and related infrastructure, to provide such services to residential and other areas where tower placement is not feasible due to regulatory or other restrictions; and

**WHEREAS**, the Board of County Commissioners for Manatee County (the Commission) finds that the County's rights-of-way are a limited resource, already facing crowding in certain areas, and that this vital resource must be properly managed both for current utility needs and for planned or expected future utility expansion, maintenance and safety needs; and

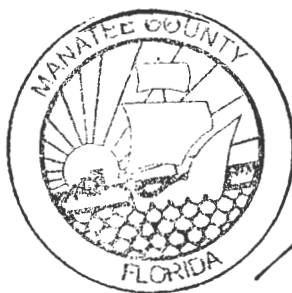
**WHEREAS**, the Commission finds that its current Rights-of-Way Management Code does not sufficiently address this new technology and that until the Code is revised so as to properly create regulations and standards to address applications to utilize the

County's rights-of-way for the installation of small cell and DAS facilities, the County should not accept right-of-way applications for such uses.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Manatee County, Florida:

1. The County's Rights-of-Way Management Division shall cease acceptance of applications for right-of-way permits to construct or install in the County's rights-of-way any wireless small cell or DAS communications system until the County Commission adopts amendments to the County Code to adequately regulate the standards which will apply to such facilities, or until midnight Friday, February 10, 2017, or until the Commission otherwise rescinds this Resolution, whichever of these earliest occurs.
2. The County Administrator and County Attorney are hereby directed to work diligently to develop such ordinances as may be required to ensure that the Manatee County Code properly regulates small cell and DAS facilities, including application, installation, maintenance and removal requirements, so as to facilitate the provision of effective wireless communications services to the County's citizens and businesses, while also ensuring the safety, aesthetic, financial and infrastructure planning needs of the County.
3. If any section, subsection, sentence, clause or provision of this Resolution is held invalid, same shall be severable and the remainder of this Resolution shall not be affected by such invalidity, such that any remainder of the Resolution shall withstand any severed provision.
4. This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** with a quorum present and voting this 13<sup>th</sup> day of September, 2016.



**BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA**

By: \_\_\_\_\_

Chairperson

ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: \_\_\_\_\_

Deputy Clerk

9/13/16

REVISED September 13, 2016 - Regular Meeting  
Agenda Item #41

Subject

Temporary Cessation of Receipt of Certain Right-of-Way Permit Applications

Briefings

All

Contact and/or Presenter Information

Robert Eschenfelder, Chief Assistant County Attorney, ext. 3750  
Sia Mollanazar, Deputy Public Works Director, ext. 7487

Action Requested

Motion to adopt Resolution 16-147

Enabling/Regulating Authority

Florida Statutes 125.01 and 337.401

Background Discussion

Manatee County owns and/or controls, and manages lands designated as rights-of-way. Traditionally, governmental rights-of-way have been utilized for, among other uses, the placement of public and private utility systems and structures so as to facilitate the delivery of utility services and maintenance of utility systems.

Manatee County Code § 2-28-21 et seq. contains the County's current Rights-of-Way Management Code. This regulatory structure has not been revised since its adoption in 2008, a period where wireless communications services were provided to consumers via large cell towers.

Since that time, industry and technological changes and advances have resulted in an alternative method of delivery of wireless communications services generally known as "small cell" and "distributed antennae systems" (DAS) which involve the placement of much shorter, but more numerous poles and related infrastructure, to provide such services to residential and other areas where tower placement is not feasible due to regulatory or other restrictions.

It is undisputed that the County's rights-of-way are a limited resource, already facing crowding in certain areas, and that this vital resource must be properly managed both for current utility needs and for planned or expected future utility expansion, maintenance and safety needs.

Upon examination of the current County Code in light of recent permitting activity around the State and inquiries within the County, the County's Public Works staff and County Attorney's Office have found that the current Rights-of-Way Management Code does not sufficiently address this new technology and that until the Code is revised so as to properly create regulations and standards to address applications to utilize the County's rights-of-way for the installation of small cell and DAS facilities, the County should not accept right-of-way applications for such uses.

Therefore, a brief (no more than six months) suspension of acceptance of new permit applications for these kinds of systems is recommended until the County, working with the industry and experts, can develop regulatory changes to present to the Board.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

Chief Assistant County Attorney Eschenfelder has assisted with this matter pursuant to CAO Matter No. 2016-558.

Reviewing Attorney

Eschenfelder

Emailed 9/14/16

Instructions to Board Records

If adopted, please provide an executed copy of the resolution to Chief Assistant County Attorney Robert Eschenfelder and to Public Works Deputy Director Sia Mollanazar.

Cost and Funds Source Account Number and Name

n/a

Amount and Frequency of Recurring Costs

n/a

Attachment: Right of Way DAS Permit App Suspend Resolution.pdf