

FULTON COUNTY COMMISSIONERS

FRIDAY, April 28, 2017

Meeting called to order at 12:30 p.m. Present: Bryan Lewis, Steve Metzger and Auditor Christina Sriver.

This emergency meeting is called pursuant to I.C. 5-14-1.5-5 due to a threatened disruption to the County's governmental activity in managing its right-of-way's and the short time frame from the Governor's signature to May 1st, 2017.

Area Plan Director, Casi Cowles, discussed with Christina Sriver prior to the meeting that the resolution being presented only deals with road right of ways; it will still allow for cell towers on private property. Without the proposed resolution, the county will have no oversight for towers under fifty (50) feet and will still allow for permitting towers over fifty (50) feet but it is very restrictive to the county. Also, without the proposed resolution there are no restriction on tower's distance to the road, distance from each other and no restrictions on subdivisions or residential areas. Cell towers are currently allowed only in agricultural, industrial and commercially zoned areas.

Bryan read aloud the resolution:

RESOLUTION NO. 042817

RESOLUTION OF THE FULTON COUNTY BOARD OF COMMISSIONERS WHICH IDENTIFIES CERTAIN AREAS OF THE COUNTY AS AREAS DESIGNATED STRICTLY FOR UNDERGROUND OR BURIED UTILITIES

WHEREAS, the Fulton County Board of Commissioners ("Commissioners") have jurisdiction over street right-of-ways within the unincorporated areas of the County of Fulton, Indiana ("County") and is the permit authority of such municipality regarding the use of County street right-of-ways; and

WHEREAS, Senate Enrolled Act 213 has been enacted into law and amends Indiana Code § 8-1-32.3 as of April 30, 2017 to allow the use of the County's street right-of-ways for the construction, installation, and use of small cell facilities and wireless support structures; and

WHEREAS, such legislation allows the permit authority of a municipality to designate areas as strictly for underground or buried utilities, provided that such areas are so designated before May 1, 2017; and

WHEREAS, the County, through its Commissioners, desires to designate areas within the unincorporated areas of the County as strictly for underground or buried utilities in order to restrict or prohibit the construction, placement, or use of a small cell facility and the associated supporting structure within the County's street right-of-ways in such areas where investments have been made to ensure utility lines are located or buried underground.

NOW, THEREFORE, BE IT RESOLVED BY THE FULTON COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

- 1. Purpose.** The purpose of this Resolution is to adopt a local policy regarding the designation of locations within the unincorporated areas of the County as underground or buried utility areas pursuant to Indiana Code § 8-1-32.3-15(c)(1).

2. Designation. The County, through its Commissioners, hereby determines that various developers and homeowners located within the unincorporated areas of the County have previously made investments to ensure utility lines are located or buried underground and, therefore, in an effort to continue this policy, all areas, including but not limited to, subdivisions located in the unincorporated areas of the County where utility lines are currently located or buried underground are hereby designated as areas strictly for underground or buried utilities pursuant to Indiana Code § 8-1-32.3-15(c)(1).

3. Restrictions. With respect to the construction, placement, or use of a small cell facility and the associated support structure, the Commissioners hereby restrict and prohibit the placement of new utility poles or new wireless support structures in the designated areas of the County right-of-ways as outlined in Section 3, except as otherwise permitted in Section 4 of this Resolution.

4. Exceptions. Notwithstanding the restrictions and prohibitions contained in Section 3, above, the following provisions shall be met and the following exceptions are hereby permitted:

(A) Collocation of small cell facilities on existing utility poles and wireless support structures within the unincorporated areas of the County are allowed;

(B) Repair and/or replacement of existing utility poles and wireless support structures within the unincorporated areas of the County are allowed;

(C) A petition for a request to install new utility poles or new wireless support structures within the unincorporated areas of the County may be filed with the Commissioners which shall hold a public hearing on such petition within thirty (30) days of filing, and upon which a decision shall be made by the Commissioners within sixty (60) days of such filing;

(D) Upon receipt of a petition for the construction, placement, or use of a small cell facility on one (1) or more new utility poles or one (1) or more new wireless support structures in the unincorporated areas of the County, the County shall post notice of the petition on the County's Internet website with a statement that the petition is available to public upon request; and

(E) The prohibition or other restrictions with respect to the placement of new utility poles or new wireless support structures within the unincorporated areas of the County shall be applied in a nondiscriminatory manner.

5. Emergency. Due to the statutory deadline by which the Commissioners must take action, an emergency is hereby declared and this Resolution shall be binding and effective immediately upon its adoption and execution. Should Senate Enrolled Act 213 not become law for any reason, this Resolution shall not take effect.

Steve moved to read the resolution by title only for the second reading, seconded by Rick; passed 3-0. The resolution was read by title only.

Rick moved to read the resolution by title only for the third reading, seconded by Rick; passed 3-0. The resolution was read by title only.

Rick moved to close the emergency meeting at 12:39, seconded by Steve; passed 3-0.