

RESOLUTION NO. R-6-16

A RESOLUTION OPPOSING A LEGISLATIVE PROPOSAL PRESENTED TO THE GENERAL ASSEMBLY CONCERNING SMALL CELL WIRELESS FACILITIES WHICH WOULD REMOVE LOCAL CONTROL OF THE PUBLIC RIGHT OF WAY AND MUNICIPAL INFRASTRUCTURE, AND DECLARING AN EMERGENCY

WHEREAS, telecommunications companies have proposed legislation which seeks to amend Ohio Revised Code Chapter 4939 to effectively eliminate the authority of municipalities to regulate small cell wireless facilities and related equipment on public property and in public rights of way ("ROW"); and

WHEREAS, it is expected that the legislative proposal will be brought before the General Assembly before the close of the current Session; and

WHEREAS, the proposal is extremely broad and would give telecommunications companies and financial speculators nearly unrestricted access to any municipal structure that can support a wireless antenna – street lights, stop signs, water towers, public right of way, utility poles, etc. – and prohibit municipalities from recovering their costs in many cases; and

WHEREAS, the proposal raises serious safety and security concerns for Ohio municipalities and will result in the proliferation of new utility poles within the public ROW; and

WHEREAS, the legislation would apply only to municipalities and not townships, counties, the State of Ohio, or any other political subdivision and would not apply to investor-owned utilities; and

WHEREAS, adoption of the legislative proposal would take decisions about the safety and aesthetics of municipal ROW and public properties out of the hands of local officials who answer directly to residents, and instead allow such decisions to be made by entities with no local ties; and

WHEREAS, the legislative proposal is unconstitutional because it violates the home rule amendment to the Ohio Constitution set forth in Article XVIII, Section 3; and

WHEREAS, this Council strongly opposes the legislative proposal and urges the members of the Ohio Legislature to stop this measure or at least fully and carefully vet it through a legislative hearing process so that stakeholders have a reasonable opportunity to express their concerns.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Spencer, Ohio, three-fourths (3/4) of its members concurring herein as follows:

Section 1. That it is hereby declared that this Council is opposed to any state legislation that would preempt local planning and zoning and other regulatory authority of Ohio municipalities with respect to small cell wireless facilities and related equipment in the public right of way and on public properties.

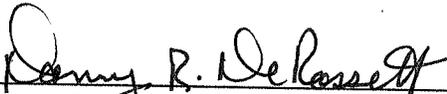
Section 2. That this Council urges members of the Ohio Legislature to oppose any such legislation that unconstitutionally impinges upon the Village's home rule authority.

Section 3. That the Village Fiscal Officer is hereby directed to serve a certified copy of this Resolution by certified mail or commercial carrier (i.e., Fed Ex) as well as by electronic means on Governor John Kasich, State Representatives Stephen D. Hambley, Marilyn Slaby, Terry Boose, and David Hall, and State Senator Larry Obhof.

Section 4. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

Section 5. That this Resolution shall be considered an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and for the further reason that in order to discourage legislative action that would destroy the authority of the Village to regulate small cells and similar wireless equipment in the public right of way and on public facilities, and this Resolution shall be in full force and effect from and immediately upon its passage.

PASSED: December 20, 2016


DAN DeROSSETT, Mayor

ATTEST:


SHERI RAMEY, Village Fiscal Officer

CLERK'S CERTIFICATE

The undersigned Spencer Village Fiscal Officer does hereby certify that the foregoing is a true and correct copy of Resolution No. R-6-16 duly passed by the Council of the Village of Spencer, Ohio, at regular session on December 20, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 20th day of December, 2016, at Spencer, Ohio.



SHERI RAMEY, Village Fiscal Officer