

RESOLUTION NO. 85 -2016

Offered by

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 and eliminate the local planning and zoning and other regulatory authority of Ohio municipalities with respect to 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 wireless internet companies and financial speculators 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 proposal 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 Richfield, Summit County, State of Ohio, that:

SECTION 1. The Village of Richfield 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. The Village of Richfield urges members of the Ohio Legislature to oppose any such legislation that unconstitutionally impinges upon the City's home rule authority.

SECTION 3. The Clerk of Council is hereby directed to serve a certified copy of this Resolution by certified mail or commercial carrier (i.e., Fed Ex) and by electronic means on Governor John Kasich and Senator LaRose and Representative Slaby.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees or subcommittees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 5. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is necessary to communicate the Village's opposition to the legislation referenced herein at the earliest possible time in order to impact the Ohio Legislature's consideration of it during its lame duck session; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 12-6-16

Ray A. Sims
President of Council

Bobbie Bashara
Mayor

ATTEST:

Carolyn E. Sullivan
Clerk of Council

Dated: 12-6-16