

RESOLUTION 17-18

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, EXTENDING RESOLUTION 16-147 TWENTY-NINE DAYS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 13, 2016, Manatee County adopted Resolution 16-147, 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 Manatee County's Code of Ordinances to properly address the siting and installation of these structures; and

WHEREAS, Resolution 16-147 compelled the County's Right-of-Way Management Division to cease accepting applications for right-of-way permits to construct or install in the County's right-of-way any wireless small cell or DAS communications system until adoption of amendments to the County Code applicable to such facilities, until Friday, February 17, 2017, or until the rescission of Resolution 16-147, whichever occurred first; and

WHEREAS, additional time is needed to accomplish the objectives of Resolution 16-147.

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

1. Resolution 16-147 is hereby extended twenty-nine (29) days.
2. Accordingly, the County's Right-of-Way Management Division shall continue to cease accepting applications for right-of-way permits to construct or install in the County's right-of-way any wireless small cell or DAS communications system until the Board adopts amendments to the Code to adequately regulate the standards which will apply to such facilities, or until midnight on Saturday, March 11, 2017, or until the Commission otherwise rescinds Resolutions 16-147 and 17-18, whichever occurs first.
3. All other provisions of Resolution 16-147 that are not inconsistent with Resolution 17-18 shall remain in full force and effect.
4. This Resolution shall take effect immediately upon its adoption.

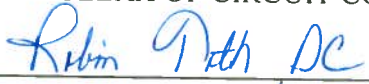
DULY ADOPTED with a quorum present and voting, this 24th day of January, 2017.



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

By: 
Chairperson **Betsy Benac**

ATTEST: ANGELINA COLONNESO
CLERK OF CIRCUIT COURT AND COMPTROLLER

By: 
Deputy Clerk

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - January 24, 2017

January 24, 2017 - Regular Meeting
Agenda Item #17

Approved in Open Session 1/24/17,
Manatee County
Board of County Commissioners

Subject

Extension of the Temporary Cessation of Acceptance of Right-Of Way Permit Applications

Briefings

Briefing Provided Upon Request

Contact and/or Presenter Information

Sia Mollanazar, P.E., Deputy Director, Engineering Services - x7487

Action Requested

Motion to adopt Resolution 17-18.

Enabling/Regulating Authority

Sections 125.01 and 337.401, Florida Statutes

Background Discussion

On September 13, 2016, the Board adopted Resolution 16-147 (Temporary Cessation Resolution) establishing a temporary cessation of acceptance of right-of-way permit applications for certain installations and structures. One of the purposes of this Temporary Cessation Resolution was to give staff adequate time to revise the County's Right-of-Way Management Code. When the Temporary Cessation Resolution was presented to the Board, staff expected that the necessary revisions could be accomplished prior to Friday, February 10, 2017. Due to the complexity of the endeavor, more time is needed to complete these revisions. Adoption of Resolution 17-18 would extend the temporary Cessation Resolution twenty-nine (29) days to provide the additional time needed.

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

Assistant County Attorneys Pamela J. D'Agostino and Anne M. Morris are actively assisting with this matter pursuant to CAO Matter No. 2016-0641.

Reviewing Attorney

D'Agostino

Instructions to Board Records

Upon Board acceptance, please e-mail an approved copy of this agenda item to each of the following:

Ron Schulhofer, Director, Public works Department, ron.schulhofer@mymanatee.org

Sia Mollanazar, P.E., Deputy Director of Engineering Services, sia.mollanazar@mymanatee.org

Pamela J. D'Agostino, Assistant County Attorney, Pamela.dagostino@mymanatee.org

Anne M. Morris, Assistant County Attorney, anne.morris@mymanatee.org

Alica M. Stull, Paralegal, Alicia.stull@mymanatee.org

Distributed 1/25/17, RT

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

N/A

Attachment: [R-17-18.pdf](#)

Attachment: [R-16-147.pdf](#)

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

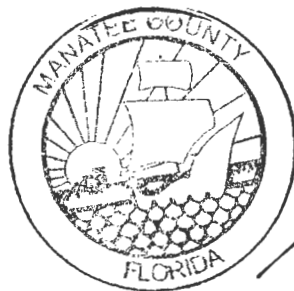
WHEREAS, the Commission finds that its current Rights-of-Way Management Code does not sufficiently address this new technology and that until the Code is revised so as to properly create regulations and standards to address applications to utilize the

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 13th 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: Amanda L. Colonnese
Deputy Clerk