

MEMORANDUM

Agenda Item No. 11(A)(8)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: June 4, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida Legislature to repeal the state law preemption of local government regulation of small wireless facilities, also referred to as 5G equipment, or, alternatively, to restore and/or provide local authority to: (1) determine the design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing and to allow for the regulation of the location where small wireless facilities may be installed; (2) require any companies intending to install poles or other small wireless facilities to provide notice to the public and an opportunity to comment on any intended installation of such facilities; and (3) require the removal of obsolete small wireless facilities or/and poles and the restoration of the right-of-way

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

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MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

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Gen Bonzon-Keenan
County Attorney

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(8)
6-4-24

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO REPEAL THE STATE LAW PREEMPTION OF LOCAL GOVERNMENT REGULATION OF SMALL WIRELESS FACILITIES, ALSO REFERRED TO AS 5G EQUIPMENT, OR, ALTERNATIVELY, TO RESTORE AND/OR PROVIDE LOCAL AUTHORITY TO: (1) DETERMINE THE DESIGN AND OVERALL AESTHETIC OF THE PUBLIC RIGHTS-OF-WAY AND OTHER PUBLIC SPACES THAT EACH LOCAL GOVERNMENT IS RESPONSIBLE FOR MANAGING AND TO ALLOW FOR THE REGULATION OF THE LOCATION WHERE SMALL WIRELESS FACILITIES MAY BE INSTALLED; (2) REQUIRE ANY COMPANIES INTENDING TO INSTALL POLES OR OTHER SMALL WIRELESS FACILITIES TO PROVIDE NOTICE TO THE PUBLIC AND AN OPPORTUNITY TO COMMENT ON ANY INTENDED INSTALLATION OF SUCH FACILITIES; AND (3) REQUIRE THE REMOVAL OF OBSOLETE SMALL WIRELESS FACILITIES OR/AND POLES AND THE RESTORATION OF THE RIGHT-OF-WAY

WHEREAS, during the 2017 Legislative Session, the Florida Legislature enacted Chapter 2017-136, Laws of Florida (House Bill 687), which added a new subsection (7) to section 337.401, Florida Statutes, to be cited as the “Advanced Wireless Infrastructure Deployment Act” (the “Act”); and

WHEREAS, the Act addressed the installation of wireless telecommunications infrastructure within public rights-of-way and significantly preempted local authority over regulation of small wireless facilities, also referred to as 5G equipment; and

WHEREAS, during the 2019 Legislative Session, the Florida Legislature enacted Chapter 2019-131, Laws of Florida (Senate Bill 1000), which amended the Act to significantly expand the preemption of local authority over local rights-of-way in favor of installation of 5G and other wireless telecommunications equipment; and

WHEREAS, as amended, the Act preempts local regulatory authority over new poles that are allowed in the rights-of-way and entitles wireless companies that install 5G equipment to install their own new poles at their preferred locations, without requiring collocation of multiple providers to reduce impacts to the rights-of-way; and

WHEREAS, on October 29, 2019, this Board adopted Resolution No. R-1164-19, which urged the Florida Legislature to repeal the state law preemption of local government regulation of small wireless facilities, also referred to as 5G equipment, or, alternatively, restore local authority to determine the design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing; and

WHEREAS, since 2019, numerous telecommunications providers seeking to install new poles have continued to do so with little regard to the disruption their work imposes on the businesses and residents who use those rights-of-way on a daily basis; and

WHEREAS, these companies have also been installing new poles with little regard to the aesthetics of the neighborhood in which they are installing their poles—often times towering over the homes in the neighborhood and with no notice to those living in the impacted neighborhood; and

WHEREAS, these problems are a consequence of the Act and deprive local communities of the authority to manage their rights-of-way; and

WHEREAS, rather than preempting local authority on a matter that so significantly affects the aesthetic of each of Florida’s diverse communities, the Florida Legislature should instead preserve and expand local authority to determine the location, design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to repeal the state law preemption of local government regulation of small wireless facilities, also referred to as 5G equipment, or, alternatively, to restore and/or provide local authority to: (1) determine the design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing and to allow for the regulation of the location where small wireless facilities may be installed; (2) require any companies intending to install poles or other small wireless facilities to provide notice to the public and an opportunity to comment on any intended installation of such facilities; and (3) require the removal of obsolete small wireless facilities or/and poles and the restoration of the right-of-way.

Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, Senate President, House Speaker, and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3. Directs the County’s state lobbyists to advocate for the actions described in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2025 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman
Anthony Rodríguez, Vice Chairman

Marleine Bastien
Kevin Marino Cabrera
Roberto J. Gonzalez
Danielle Cohen Higgins
Kionne L. McGhee
Micky Steinberg

Juan Carlos Bermudez
Sen. René García
Keon Hardemon
Eileen Higgins
Raquel A. Regalado

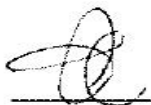
The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of June, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Annery Pulgar Alfonso