

RESOLUTION NO. 20-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, URGING ALL MEMBERS OF THE FLORIDA LEGISLATURE TO OPPOSE SENATE BILL 596 AND HOUSE BILL 687 PREEMPTING LOCAL GOVERNMENT CONTROL OF TAXPAYER-OWNED PUBLIC STRUCTURES AND RIGHTS-OF-WAY FOR PLACEMENT OF “SMALL” OR “MICRO” WIRELESS ANTENNAS AND EQUIPMENT BY THE WIRELESS COMMUNICATIONS INDUSTRY.

WHEREAS, Senate Bill 596 (SB 596) and House Bill 687 (HB 687) have been introduced into the Florida Legislature. If passed, these bills would preempt local government control of taxpayer-owned public structures and public rights-of-way in connection with the installation of small wireless communications infrastructure; and

WHEREAS, this legislation would bar local governments from prohibiting or regulating the placement of “small” or “micro” wireless facilities on or next to existing cell phone towers and utility poles within taxpayer-owned public structures and public rights-of-way; would prohibit local governments from requiring a permit approval process or charging fees to telecommunications companies for placing “small” wireless facilities on lines between utility poles taxpayer-owned public structures and public rights-of-way; and would prohibit local governments from imposing certain distance, size, and height restrictions on small or micro wireless facilities within taxpayer-owned public structures and public rights-of-way; and

WHEREAS, this legislation would allow an application submitted to a local government for a permit to collocate small wireless facilities to be automatically approved after 60 days if a local government does not approve or deny it in that time; and

WHEREAS, the protection of Home Rule powers is of utmost importance to the City of Delray Beach, and the City believes that Senate Bill 596 and House Bill 687 is unconstitutional and not good public policy; and

WHEREAS, adoption of Senate Bill 596 and House Bill 687 would be an unconstitutional attempt to statutorily revoke the municipal home rule powers protected in the Florida Constitution, specifically Article VIII, Section 2(b), which protects municipalities throughout Florida, including the City of Delray Beach; and

WHEREAS, the aforementioned constitutional provision establish the constitutional relationship between the State government and municipal governments, which cannot be repealed or undermined by a statute; and

WHEREAS, this bill significantly erodes municipal home rule powers as applied to regulating its rights-of-way; and

WHEREAS, the City of Delray Beach urges the State Legislature not to pass Senate Bill 596, House Bill 687, or similar legislation, as it is unconstitutional and not good public policy; and

WHEREAS, the City urges the Florida Senate not to adopt any companion bill or similar legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA:

Section 1. That the foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon the adoption.

Section 2. That the City urges the Florida House of Representatives and the Senate not to adopt Senate Bill 596, House Bill 687, or companion legislation, as it is unconstitutional and not good public policy.

Section 3. That the City Clerk is directed to send a certified copy of this resolution to Governor Rick Scott, the Florida Speaker of the House of Representatives, the Florida President of the Senate, the Palm Beach County League of Cities, and the Florida League Cities, and the Palm Beach County Legislative Delegation.

Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the City Commission of the City of Delray Beach this ____ day of March, 2017.

ATTEST:

Cary D. Glickstein, Mayor

City Clerk