

BOARD OF PUBLIC WORKS AND SAFETY

Special Meeting

April 28, 2017


A special meeting of the Board of Public Works and Safety of the City of Shelbyville, Indiana, was held in the Council Chambers of City Hall on Friday, April 28, 2017, at 1:30 P.M. Mr. Williams was absent, and Mayor DeBaun presided.

Because it was a special meeting, no minutes were approved, nor were any claims presented for approval.

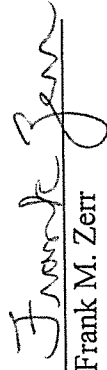
There was no old business.

Under new business, City Attorney Trent Meltzer said the Board had in front of them Resolution No. 2017-2, which is being brought up because of Senate Enrolled Act 213. Action needed to be taken by communities throughout the State by May 1, 2017. Trent said wireless utilities wanted greater and easier access to City right-of-ways. With the impending deadline, Trent said cities had to designate certain right-of-ways within the City as being only for underground or buried utilities. Mayor DeBaun had some comments he wanted to make on this issue. He thought, first of all, that this legislation handed down from the State is bad legislation. He said that any time you remove the local authority, wherein the local authority knows what is best for its citizens, for its situation, and for the things it's trying to accomplish as a community, any time you take away that opportunity for those things to be handled in the purest form of democracy, he said it's bad legislation. He thinks it is an unfortunate over-reach by state legislation as well. In this case, it's removing local authority for private gain, which he thinks is wrong as well. In addition, he feels the legislation contains burdensome regulations for the local homeowners associations. They are now going to be required to provide some sort of service and structure, which they normally do not have to provide. For many years, he said the Plan Commission has worked very hard to regulate the aesthetics in the community. Now, he said, we have a group of state legislators who have tossed all the work the City has done, and thrown it all to the wind. What concerns the Mayor is that the City is preparing to spend a significant amount of money in our downtown, which would be public right-of-way, just conceivably, so it could be dotted with micro cell towers, which is exactly what the City doesn't want to happen. He wanted to thank Representative Everhart and Senator Crider for voting against this at the Statehouse, and AIM for bringing this to our attention to do something before the May 1 deadline, and being our advocates. In his over twenty some years in government, Mayor DeBaun sees this as a trend of removing local authority that he finds to be concerning. He thinks it's incumbent among all of us to pay better attention to what's happening at the State and Federal level, because the scuttlebutt is that if the states can't get this accomplished, then it will be overridden at the federal level through the FCC regulations. He thinks it's extremely bad policy to set. Mr. Finkel moved to approve Resolution No. 2017-2 as presented, with kudos to our staff for making sure that we beat the May 1 deadline, and showing how nimble our City government actually is. Mayor DeBaun appreciated that, and seconded the motion. The motion was carried on a 2-0 voice vote.

There being no further business, Mr. Finkel moved to adjourn.


Thomas D. DeBaun
Mayor

ATTEST:


Frank M. Zerr
Clerk-Treasurer

RESOLUTION NO. 2017-2

**RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY
OF THE CITY OF SHELBYVILLE, INDIANA**

**DESIGNATING RIGHT-OF-WAY
AS STRICTLY FOR UNDERGROUND OR BURIED UTILITIES**

WHEREAS, pursuant to Indiana Code 8-1-32.3-15 as added by Senate Enrolled Act 213, the City of Shelbyville may designate right-of-way as strictly for underground or buried utilities;

WHEREAS, the City's Unified Development Ordinance (UDO) Section 5.76 requires all utility services to be provided to primary structures via underground lines;

WHEREAS, the requirements of UDO 5.71 prevent the installation of new telecommunication facilities, including towers and antennas, in right-of-way;

WHEREAS, City of Shelbyville Code of Ordinances § 95.35 through § 95.43 govern the procedures for excavations in the City's right-of-way;

WHEREAS, pursuant to IC 36-9-6-2, this Board shall supervise the streets, alleys, sewers, public grounds, and other property of the City; and

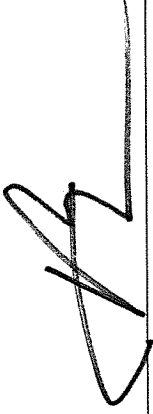
WHEREAS, pursuant to IC 36-9-6-3, this Board has custody of and may maintain all real and personal property of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF SHELBYVILLE AS FOLLOWS:

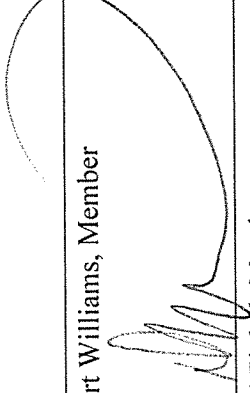
1. That pursuant to Indiana Code 8-1-32.3-15 as added by Senate Enrolled Act 213, the City of Shelbyville hereby designates all right-of-way within its corporate limits, or within its street system, or otherwise under its ownership or control, as strictly for underground or buried utilities.
2. That the collocation of small cell facilities on existing utility poles and wireless support structures is allowed within the City's right-of-way.
3. That the replacement of existing utility poles and wireless support structures is allowed within the City's right-of-way.
4. That requests to install new utility poles or new wireless support structures within the City's right-of-way shall be handled in accordance with the City's Unified Development Ordinance, City Code of Ordinances § 95.35 through § 95.43, and any other applicable federal, state, or local law . Pursuant to § 95.39, the City Engineer shall submit applications for new utility poles and new wireless support structures to the Board of Public Works and Safety for approval.
5. That upon receipt of an application for the construction, placement, or use of a small cell facility on one (1) or more new utility poles or one (1) or more new wireless support structures in the

City's right-of-way, the City shall post notice of the application on its Internet web site. The notice must include a statement indicating that the application is available to the public upon request.

Adopted this 28th day of April, 2017, by the City of Shelbyville, Indiana by and through its Board of Public Works and Safety.



Tom DeBaun, Mayor



Robert Williams, Member



David Finkel, Member

Attest:



Frank Zert, Clerk-Treasurer