

County Counsel

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSAL
FOR DEVELOPING A COUNTYWIDE MASTER PLAN FOR 5G NETWORK
MONOPOLES AND AUTHORIZING THE RETENTION OF AN ATTORNEY OR LAW
FIRM WITH SIGNIFICANT EXPERIENCE IN COMPLIANCE WITH FCC RULES
AND REGULATIONS RELATED TO THE PLACEMENT, DEPLOYMENT AND/OR
DISTRIBUTION OF DATA GATHERING EQUIPMENT

WHEREAS, current technology, referred to as "5G" which refers to Fifth Generation of wireless data technology, improves the capabilities beyond the generally available "4G" technology to include higher network speeds and lower latency; and

WHEREAS, constituencies within Monmouth County have raised concerns related to health and environmental impacts; and

WHEREAS, local governmental entities, including towns and counties, are significantly limited in addressing the placement, deployment or distribution of data gathering equipment under the "Telecommunications Act of 1996", 407 U.S.C. Section 151 et. seq.; and

WHEREAS, the United States Congress has determined that there is a need for data gathering equipment for purposes of encouraging competition by restricting the regulation of the placement of such data gathering equipment; and

WHEREAS, the 5G technology has been determined to be advantageous for drone surveillance and other law enforcement efforts, the use of data for spatial orientation of autonomous vehicles such as self-driving cars, trucks and buses; and

WHEREAS, Section 253 (a) of the Telecommunications Act of 1996 specifically provides that "no state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of an entity to provide any interstate or intrastate telecommunications service" and

WHEREAS, the Telecommunications Act and the congressional intent make it clear that local control of these data gathering equipment elements will not be dictated by any local entity, including, but not limited to, restricting or prohibiting the location of the equipment; and

WHEREAS, on May 10, 2023, New York SMSA limited partnership doing business as Verizon Wireless submitted nine sets of construction drawings for "small wireless facilities on Ocean Avenue in Belmar", commonly known as 5G monopoles and have taken the position that they are entitled to the placement of the facilities without input from the County; and

WHEREAS, Verizon has referenced to a County "Agreement" dated December 12, 2016 which entitles them to "occupy" the County right of way, even though the referenced Agreement only authorizes placement on "existing" poles and specifically references seven specific sites for location, none of which are in Belmar; and

WHEREAS, Verizon entered into a "Consent Judgment and Settlement Agreement" dated September 8, 2022 which, at paragraph 18 thereof, mischaracterizes the December 12, 2016 Agreement and, further, the County of Monmouth was not a party to the Consent Settlement nor involved in the underlying

litigation, nor advised that a Settlement Agreement would be entered into; and

WHEREAS, on June 29, 2023, Verizon, through counsel, forwarded a letter taking the position that the time for approval of the "application" dated May 10, 2023 would expire in 90 days pursuant to the FCC's "shot clock" even though the letter does not constitute an "application"; and

WHEREAS, the placement of 5G monopoles is a countywide concern.

NOW, THEREFORE, BE IT RESOLVED that the County Administrator is hereby directed and approved to move forward in the issuance of a Request for Proposals for an appropriate expert entity, through Purchasing, to examine and make recommendations regarding the placement, throughout the County, of data gathering equipment to best serve the entire County and all 52 towns.

BE IT FURTHER RESOLVED that County Counsel is hereby directed and approved to move forward in the retention of a properly qualified lawyer or law firm to analyze and advise the Monmouth County Board of County Commissioners regarding the current application of the Telecommunications Act of 1996 to both local and County governments within the State of New Jersey and, specifically, the County of Monmouth so that a proper procedure can be implemented related to balancing the safety and technological needs as dictated by Congress with the local concerns of the residents of the County of Monmouth.

BE IT FURTHER RESOLVED that the Clerk of the Board shall forward a certified true copy of this resolution to the County Administrator and Counsel Counsel of the County of Monmouth.