



Town of Belleair

901 Ponce de Leon Blvd.
Belleair, FL 33756

Meeting Agenda Town Commission

Tuesday, July 18, 2017

6:00 PM

Town Hall

Welcome. We are glad to have you join us. If you wish to speak, please wait to be recognized, then step to the podium and state your name and address. We also ask that you please turn-off all cell phones.

PLEDGE OF ALLEGIANCE

COMMISSIONER ROLL CALL

SCHEDULED PUBLIC HEARINGS

Persons are advised that, if they decide to appeal any decision made at this meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

[17-0041](#) Second Reading of Ordinance 510 - Coastal Management - Comprehensive Plan Amendment

Attachments: [Memorandum](#)
 [510 - Coastal Management Comp Plan Amend-FINAL](#)

[17-0043](#) Second Reading of Ordinance 511 - Mobility Management - Comprehensive Plan Amendment

Attachments: [Memorandum](#)
 [511 - Mobility Management Comp Plan-FINAL](#)

[17-0093](#) Second Reading of Ordinance 512 - Mobility Management - Land Development Code

Attachments: [Memorandum](#)
 [512 - Mobility Management LDC-FINAL](#)

[17-0158](#) First Reading of Ordinance 515 - Advanced Wireless Communications Infrastructure

Attachments: [515 - Advanced Wireless Communications Infrastructure](#)
 [136.pdf](#)

CITIZENS COMMENTS

(Discussion of items not on the agenda. Each speaker will be allowed 3 minutes to speak.)

CONSENT AGENDA

[17-0150](#) Approval of June 20, 2017 Regular Meeting Minutes

Attachments: [RM 06-20-2017](#)

GENERAL AGENDA

[17-0153](#) Pinellas County Sheriff Office and Town of Belleair Annual Agreement Contract

Attachments: [17-18 PCSO-Belleair Contract](#)
[17-18 PCSO-Belleair Contract Summary](#)

[17-0155](#) Consideration of Interlocal Agreement for Street Sweeping Services with the City of Largo.

Attachments: [Belleair_ILA_2017_DraftFinal.pdf](#)

TOWN MANAGER'S REPORT

TOWN ATTORNEY'S REPORT

MAYOR AND COMMISSIONERS' REPORT/BOARD AND COMMITTEE REPORTS

OTHER BUSINESS

ADJOURNMENT

ANY PERSON WITH A DISABILITY REQUIRING REASONABLE ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING, SHOULD CALL (727) 588-3769 OR FAX A WRITTEN REQUEST TO (727) 588-3767.



Legislation Details (With Text)

File #: 17-0041 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 3/13/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Second Reading of Ordinance 510 - Coastal Management - Comprehensive Plan Amendment
Sponsors:
Indexes:
Code sections:
Attachments: [Memorandum](#)
[510 - Coastal Management Comp Plan Amend-FINAL](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Mayor & Commissioners

From: JP Murphy

Date: 7/11/2017

Subject:

Second Reading of Ordinance 510 - Coastal Management - Comprehensive Plan Amendment

Summary:

See Planner Report

Previous Commission Action: The Commission approved the proposed ordinance on first reading.

Background/Problem Discussion: See Planner Report

Expenditure Challenges N/A

Financial Implications: N/A


Recommendation: N/A

Proposed Motion I move approval/denial of Ordinance 510.



MEMORANDUM

TO: Town of Belleair
Town Commission

FROM: Calvin Giordano & Associates, Inc. 
Luis N. Serna, AICP. Planning Director, Tampa Bay

SUBJECT: Adoption of Updates to the Town of Belleair
Comprehensive Plan and Land Development
Regulations

DATE: July 18, 2017

On April 18, 2017, the Town Commission approved for transmittal to the Florida Department of Economic Opportunity two ordinances amending the Comprehensive Plan addressing the issues of mobility management and sea level rise. In addition, the Town Commission conducted the first reading of a related ordinance amending Section 66-10 (Definitions) and Chapter 70 (Consistency and Concurrency Management) of the Land Development Code, which would replace the Town's existing transportation concurrency system with a mobility management system. These ordinances were drafted in response to recent changes to regulations at the State and County levels. A description of these ordinances is as follows:

Ordinance No. 510. Amends the Conservation and Coastal Management Element to revise existing, and to establish new goals, objectives, and policies addressing sea level rise. This amendment is in response to the enactment of State law in 2015 requiring that local government comprehensive plans address the impacts of sea level rise.

Ordinance No. 511. Amends the Future Land Use, Transportation, and Capital Improvements Elements to replace the Town's transportation concurrency management system with a mobility management system that is consistent with the mobility management system established by Forward Pinellas (formerly the Pinellas Planning Council).

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Municipal Engineering
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and Urban Design
Surveying and Mapping
Traffic Engineering
Transportation Planning

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727.394.3825 phone

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Ordinance No. 512. Amends Section 66-10 and Chapter 70 of the Land Development Code to implement the mobility management system to be consistent with the mobility management system established by Forward Pinellas.

Following the transmittal of Ordinances No. 510 and No. 511 proposing amendments to the Comprehensive Plan, the Town received responses to these changes from the Florida Department of Transportation, the Southwest Florida Water Management District, the Florida Department of Environmental Protection, and the Florida Department of Economic Opportunity. Copies of these responses are attached to this memorandum, and a brief summary of each is as follows:

Florida Department of Transportation (FDOT) – Regarding Ordinance No. 510 (sea level rise), it does not appear that any changes conflict with facilities of State importance. Regarding Ordinance No. 511 (mobility management), the Town is repealing transportation concurrency with a mobility management system that is supported by and is consistent with the Pinellas County Mobility Plan.

Southwest Florida Water Management District (SWFMD) – Comments on the amendments are not necessary.

Florida Department of Environmental Protection (FDEP) – FDEP has found no provisions that, if adopted, would result in adverse impacts to important State resources subject to the Department's jurisdiction.

Florida Department of Economic Opportunity (FDEO) – FDEO identifies no issues related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the proposed amendments. FDEO provided the following Technical Assistance comment regarding the proposed amendment to Ordinance No. 510 (sea level rise): The amendment does not include supporting data and analysis regarding the anticipated area that will be affected and potential impacts in its relation to the proposed policy changes. The amendment should be revised prior to adoption to include supporting data and analysis.

Recommendation

Because none of the reviewing agencies addressed issues of important State concern, the Town should not expect any challenges from any of the reviewing agencies to the adoption of the Comprehensive Plan amendments represented by Ordinances No. 510 and No. 511. We recommend adoption of these proposed amendments to the Comprehensive Plan as they were transmitted to the State. Regarding FDEO's technical review comment, we recommend that the Town monitor the progress of and participate in the TBRPC's One Bay Resilient Communities and other multi-jurisdictional hazard mitigation efforts. The Town may need to address these requirements again during the State mandated Evaluation and Appraisal (EAR)-based amendment process in 2022 depending on the outcome of the regional coordination efforts on sea level rise that will be taking place in upcoming months. Additionally, we recommend adoption of the related revisions to Section 66-10 and Chapter 70 of the Land Development Code proposed by Ordinance No. 512.

These ordinances allow for continued coordination with regional and state Comprehensive Plan and Land Development Code requirements. The amendments are consistent with and do not impact existing or proposed land uses in an adverse manner and will not adversely affect the natural environment, the demand on public facilities, or property values. The ordinances will encourage the continued orderly and logical development pattern now provided for under the Comprehensive Plan and are consistent with the public interest. Therefore, we recommend adoption of these ordinances.

Please feel free to contact us if you have any questions regarding these amendments.

Attachments: FDOT letter, dated May 9, 2017
SWFWMD letter, dated May 18, 2017
FDEP E-mail, dated May 18, 2017
FDEO letter, dated June 1, 2017



Florida Department of Transportation

RICK SCOTT
GOVERNOR

11201 N. McKinley Drive
Tampa, Florida 33612

RACHEL D. CONE
INTERIM SECRETARY

May 9, 2017

Mr. JP Murphy, Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, FL 33756

Re: Town of Belleair Comprehensive Plan Amendment 17-1 ESR

Dear Mr. Murphy:

We have reviewed Town of Belleair Comprehensive Plan (the Plan) 17-1 ESR Text Amendments according to Chapter 163, Florida Statutes, and the Florida Department of Transportation (the Department) review guidelines.

Background: The Town of Belleair is approximately 1,100 acres in size, and located south of Clearwater, between the intracoastal waterway and the City of Largo. The 2010 population was 4,125. Land use is primarily residential and recreation/open space. No state roads pass through the Town, (Gulf Boulevard and Belleair Causeway are county roads in this vicinity).

Proposal: Ordinance No. 510 is amending the Conservation and Coastal Management element including references to high water events; and adding objectives and policies regarding flooding and sea level rise. It doesn't appear that any changes are in conflict with facilities of state importance. Ordinance No. 511 has adopted changes to the Future Land Use, Transportation, and the Capital Improvements Elements. The overarching rationale for these changes is to remove concurrency as it relates to transportation. The City is replacing transportation concurrency with a Mobility Management System that is supported and consistent with Pinellas County Mobility Plan.

The Department endorses both amendments but reserves the right to provide additional comments in response the first and second readings, if necessary.

Thank you for the opportunity to review this amendment. Should you have any questions please do not hesitate to contact me at 813-975-6429 or at Daniel.santos@dot.state.fl.us.

Mr. JP Murphy, Town Manager
Page 2
May 9, 2017

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Santos", with a stylized flourish at the end.

Daniel C. Santos AICP
Transportation Planning Supervisor

cc: Ray Eubanks, Plan Processing Administrator, DEO
Waddah Farah, PDA Administrator, FDOT District 7
Lindsey Mineer, Growth Management, FDOT District 7



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Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

WaterMatters.org

Bartow Office

170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Office

6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Office

7601 U.S. 301 North (Fort King Highway)
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

Randall S. Maggard
Chair, Pasco

Jeffrey M. Adams
Vice Chair, Pinellas

Bryan K. Beswick
Secretary, DeSoto, Hardee,
Highlands

Ed Armstrong
Treasurer, Pinellas

H. Paul Senft, Jr.
Former Chair, Polk

Michael A. Babb
Former Chair, Hillsborough

John Henslick
Manatee

George W. Mann
Polk

Kelly S. Rice
Citrus, Lake, Levy, Sumter

Mark Taylor
Hernando, Marion

Michelle Williamson
Hillsborough

Vacant
Hillsborough, Pinellas

Vacant
Charlotte, Sarasota

Brian J. Armstrong, P.G.
Executive Director

May 18, 2017

Mr. JP Murphy
Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, Florida 33756

Re: **Town of Belleair 17-1ESR**

Dear Mr. Murphy:

The Southwest Florida Water Management District reviewed the referenced plan amendment, and concluded that comments are not necessary. Thank you for the opportunity to participate in this review. For purposes of our records, a copy of the adopted plan amendment would be appreciated. Should you have any questions or require further assistance, please do not hesitate to contact us.

Sincerely,

Trisha Neasman, AICP
Government Planning Coordinator

TN

cc: Ray Eubanks, DEO

From: Plan_Review <Plan.Review@dep.state.fl.us>

Date: Thu, May 18, 2017 at 9:58 AM

Subject: Belleair 17-1ESR Proposed

To: "jmurphy@townofbelleair.net" <jmurphy@townofbelleair.net>, DCPexternalagencycomments
<DCPexternalagencycomments@deo.myflorida.com>

Cc: Plan_Review <Plan.Review@dep.state.fl.us>

To: JP Murphy, Manager

Re: Belleair 17-1ESR – Expedited Review of Proposed Comprehensive Plan Amendment

*Please note the new contact information below.

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Feel free to contact me at Suzanne.e.ray@dep.state.fl.us or (850) 717-9037 for assistance or additional information. Please send all amendments, both proposed and adopted, to plan.review@dep.state.fl.us or

Florida Department of Environmental Protection

Office of Intergovernmental Programs, Plan Review

2600 Blair Stone Rd. MS 47
Tallahassee, Florida 32399-2400



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JP Murphy
Town Manager
Town of Belleair
Belleair, FL 33756
(727)588-3769x205
jmurphy@townofbelleair.net

Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

June 1, 2017

The Honorable Gary H. Katica
Mayor, Town of Belleair
901 Ponce De Leon Boulevard
Belleair, Florida 33756-1096

Dear Mayor Katica:

The State Land Planning Agency (the Agency) has completed its review of the proposed comprehensive plan amendment for the Town of Belleair (Amendment No. 17-1ESR) which was received on May 2, 2017. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendments if adopted.

We are, however, providing a technical assistance comment consistent with Section 163.3168(3), F.S. The Agency's technical assistance comment will not form the basis of a challenge. It is offered as a suggested solution which can strengthen the Town's comprehensive plan and foster vibrant, healthy communities.

The amendment proposed an updated goal, objective, and policies to address the new sea-level rise requirement in Section 163.3178(2)(f), F.S. However, the amendment does not include supporting data and analysis regarding the anticipated area that will be affected and potential impacts in relation to the proposed policy changes. The amendment should be revised prior to adoption to include the supporting data and analysis.

The Town is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the Town. If other reviewing agencies provide comments, we recommend that the Town consider appropriate changes to the amendment based on those comments. If unresolved, such comments may form the basis for a challenge to the amendment after adoption.

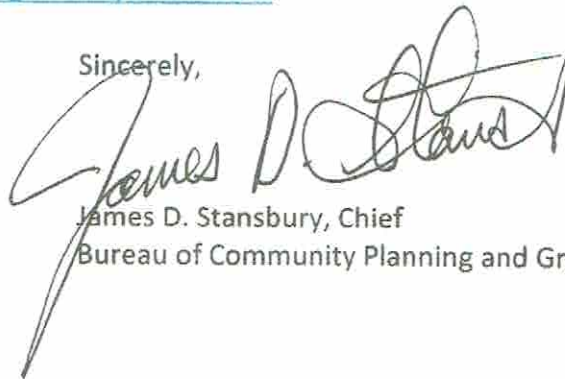
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
[www.twitter.com/FLDEO](https://twitter.com/FLDEO) | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1., F.S., provides that if the second public hearing is not held within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Valerie Jenkins, at (850) 717-8493, or by email at valerie.james@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with the first name "James" being the most prominent.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/vj

Enclosure(s): Procedures for Adoption

cc: JP Murphy, Town Manager, Town of Belleair

Sean T. Sullivan, Executive Director, Tampa Bay Regional Planning Council

ORDINANCE NO. 510

**AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA,
AMENDING THE CONSERVATION AND COASTAL
MANAGEMENT ELEMENT OF THE COMPREHENSIVE
PLAN OF THE TOWN OF BELLEAIR; REVISING GOAL 2 TO
INCLUDE REFERENCES TO HIGH WATER EVENTS;
ADDING OBJECTIVES AND POLICIES REGARDING
FLOODING AND SEA LEVEL RISE; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
DATE THEREOF.**

WHEREAS, the Town Commission of the Town of Belleair adopted a Comprehensive Plan in 2008, which meets the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; and

WHEREAS, the Town Commission of the Town of Belleair has amended the Comprehensive Plan from time to time; and

WHEREAS, in 2015, the State of Florida enacted a law, contained in Section 163.3178(2)(f), Florida Statutes, that requires that the Coastal Management Element of each local government comprehensive plan address the impacts of sea level rise; and

WHEREAS, amendments to the Conservation and Coastal Management Element are necessary in order for the Town of Belleair Comprehensive Plan to comply with the requirements of Section 163.3178(2)(f), Florida Statutes; and

WHEREAS, this Ordinance has been considered by the Local Planning Agency at a duly noticed public hearing, and was recommended by the Local Planning Agency to be approved; and

WHEREAS, the Town Commission has considered the recommendation of the Local Planning Agency, as well as public comment at a duly noticed public hearing; and

WHEREAS, the Town Commission has determined that the amendments to the Comprehensive Plan as set forth in this ordinance are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE Town Commission of the Town of Belleair, as follows:

Section 1. That Goal 2 of the Conservation Element of the Town of Belleair Comprehensive Plan is hereby amended to read as follows:

Goal 2: The town shall provide a set of ~~guidelines for development~~ strategies that increase community resiliency and protect the lives and property of its residents from

the effects of ~~natural disasters~~ high tide events, storm surge, flash floods, stormwater runoff, and sea level rise.

Section 2.

That Objective 2.5, Policy 2.5.1, Policy 2.5.2, Policy 2.5.3, Policy 2.5.4, Policy 2.5.5, Policy 2.5.6, and Policy 2.5.7 of the Town of Belleair Comprehensive Plan are hereby added as follows:

Objective 2.5:

Development and redevelopment within the town shall proceed in a manner that lessens risk to public investments and private property by utilizing policies, techniques and practices that reduce negative impacts of flooding and sea level rise.

Policy 2.5.1:

Current and credible sea-level rise data should be considered when evaluating future land use amendment applications.

Policy 2.5.2:

The town will identify infrastructure and critical facilities at risk for high-tide events, storm surge, and sea-level rise. Redevelopment plans for such improvements will take alternative locations outside of the Coastal High Hazard Area into consideration. Where relocation of infrastructure and critical facilities is deemed unfeasible, structurally defensive measures to mitigate the impacts of rising seas in order to decrease vulnerability should be pursued. Structurally defensive measures could include shoreline armoring and beach renourishment.

Policy 2.5.3:

Strategies for preparing for sea-level rise, such as increasing road surface elevation standards, subsurface stabilization, stormwater management and drainage, and adjustment of bridge heights to allow for navigation, should be collectively assessed and implemented where appropriate.

Policy 2.5.4:

The town may collaborate with state and Pinellas County as appropriate to develop strategies for responding to sea-level rise, including consideration of the effects of sea-level rise on potable water sources, saltwater intrusion, septic systems, wastewater treatment facilities and the water table.

Policy 2.5.5:

Acquisition of severe repetitive loss properties, which have sustained repeated flood losses for use as public open space shall be considered as procurement opportunities arise, such as through the use of grants or tax deed sales.

Policy 2.5.6:

Development and redevelopment in the town will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60.

Policy 2.5.7:

The town will continue to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for its residents.

Section 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

Section 4. Pursuant to Section 163.3184(3), Florida Statutes, the effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED ON FIRST READING: April 18, 2017

PASSED ON SECOND READING:

ATTEST:

Mayor

Town Clerk



Legislation Details (With Text)

File #: 17-0043 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 3/13/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Second Reading of Ordinance 511 - Mobility Management - Comprehensive Plan Amendment
Sponsors:
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Attachments: [Memorandum](#)
[511 - Mobility Management Comp Plan-FINAL](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Mayor & Commissioners
From: JP Murphy, Town Manager
Date: 7/11/2017
Subject:
Second Reading of Ordinance 511 - Mobility Management - Comprehensive Plan Amendment

Summary:

See Planner Report

Previous Commission Action: The Commission previously approved the ordinance as proposed on first reading.

Background/Problem Discussion: See Planner Report

Expenditure Challenges N/A

Financial Implications: N/A


Recommendation: N/A

Proposed Motion I move approval/denial of Ordinance 511.



MEMORANDUM

TO: Town of Belleair
Town Commission

FROM: Calvin Giordano & Associates, Inc. 
Luis N. Serna, AICP. Planning Director, Tampa Bay

SUBJECT: Adoption of Updates to the Town of Belleair
Comprehensive Plan and Land Development
Regulations

DATE: July 18, 2017

On April 18, 2017, the Town Commission approved for transmittal to the Florida Department of Economic Opportunity two ordinances amending the Comprehensive Plan addressing the issues of mobility management and sea level rise. In addition, the Town Commission conducted the first reading of a related ordinance amending Section 66-10 (Definitions) and Chapter 70 (Consistency and Concurrency Management) of the Land Development Code, which would replace the Town's existing transportation concurrency system with a mobility management system. These ordinances were drafted in response to recent changes to regulations at the State and County levels. A description of these ordinances is as follows:

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Please feel free to contact us if you have any questions regarding these amendments.

Attachments: FDOT letter, dated May 9, 2017
SWFWMD letter, dated May 18, 2017
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FDEO letter, dated June 1, 2017



Florida Department of Transportation

RICK SCOTT
GOVERNOR

11201 N. McKinley Drive
Tampa, Florida 33612

RACHEL D. CONE
INTERIM SECRETARY

May 9, 2017

Mr. JP Murphy, Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, FL 33756

Re: Town of Belleair Comprehensive Plan Amendment 17-1 ESR

Dear Mr. Murphy:

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The Department endorses both amendments but reserves the right to provide additional comments in response the first and second readings, if necessary.

Thank you for the opportunity to review this amendment. Should you have any questions please do not hesitate to contact me at 813-975-6429 or at Daniel.santos@dot.state.fl.us.

Mr. JP Murphy, Town Manager
Page 2
May 9, 2017

Sincerely,

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Daniel C. Santos AICP
Transportation Planning Supervisor

cc: Ray Eubanks, Plan Processing Administrator, DEO
Waddah Farah, PDA Administrator, FDOT District 7
Lindsey Mineer, Growth Management, FDOT District 7



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Bartow Office

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(863) 534-1448 or
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Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Office

7601 U.S. 301 North (Fort King Highway)
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

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Chair, Pasco

Jeffrey M. Adams
Vice Chair, Pinellas

Bryan K. Beswick
Secretary, DeSoto, Hardee,
Highlands

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Kelly S. Rice
Citrus, Lake, Levy, Sumter

Mark Taylor
Hernando, Marion

Michelle Williamson
Hillsborough

Vacant
Hillsborough, Pinellas

Vacant
Charlotte, Sarasota

Brian J. Armstrong, P.G.
Executive Director

May 18, 2017

Mr. JP Murphy
Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, Florida 33756

Re: **Town of Belleair 17-1ESR**

Dear Mr. Murphy:

The Southwest Florida Water Management District reviewed the referenced plan amendment, and concluded that comments are not necessary. Thank you for the opportunity to participate in this review. For purposes of our records, a copy of the adopted plan amendment would be appreciated. Should you have any questions or require further assistance, please do not hesitate to contact us.

Sincerely,

Trisha Neasman, AICP
Government Planning Coordinator

TN

cc: Ray Eubanks, DEO

From: Plan_Review <Plan.Review@dep.state.fl.us>

Date: Thu, May 18, 2017 at 9:58 AM

Subject: Belleair 17-1ESR Proposed

To: "jmurphy@townofbelleair.net" <jmurphy@townofbelleair.net>, DCPexternalagencycomments
<DCPexternalagencycomments@deo.myflorida.com>

Cc: Plan_Review <Plan.Review@dep.state.fl.us>

To: JP Murphy, Manager

Re: Belleair 17-1ESR – Expedited Review of Proposed Comprehensive Plan Amendment

*Please note the new contact information below.

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Feel free to contact me at Suzanne.e.ray@dep.state.fl.us or (850) 717-9037 for assistance or additional information. Please send all amendments, both proposed and adopted, to plan.review@dep.state.fl.us or

Florida Department of Environmental Protection

Office of Intergovernmental Programs, Plan Review

2600 Blair Stone Rd. MS 47
Tallahassee, Florida 32399-2400



--
JP Murphy
Town Manager
Town of Belleair
Belleair, FL 33756
(727)588-3769x205
jmurphy@townofbelleair.net

Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

June 1, 2017

The Honorable Gary H. Katica
Mayor, Town of Belleair
901 Ponce De Leon Boulevard
Belleair, Florida 33756-1096

Dear Mayor Katica:

The State Land Planning Agency (the Agency) has completed its review of the proposed comprehensive plan amendment for the Town of Belleair (Amendment No. 17-1ESR) which was received on May 2, 2017. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendments if adopted.

We are, however, providing a technical assistance comment consistent with Section 163.3168(3), F.S. The Agency's technical assistance comment will not form the basis of a challenge. It is offered as a suggested solution which can strengthen the Town's comprehensive plan and foster vibrant, healthy communities.

The amendment proposed an updated goal, objective, and policies to address the new sea-level rise requirement in Section 163.3178(2)(f), F.S. However, the amendment does not include supporting data and analysis regarding the anticipated area that will be affected and potential impacts in relation to the proposed policy changes. The amendment should be revised prior to adoption to include the supporting data and analysis.

The Town is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the Town. If other reviewing agencies provide comments, we recommend that the Town consider appropriate changes to the amendment based on those comments. If unresolved, such comments may form the basis for a challenge to the amendment after adoption.

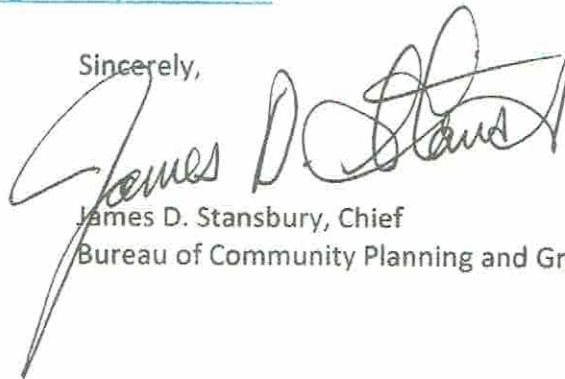
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
[www.twitter.com/FLDEO](https://twitter.com/FLDEO) | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1., F.S., provides that if the second public hearing is not held within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Valerie Jenkins, at (850) 717-8493, or by email at valerie.james@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with the first name "James" being the most prominent.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/vj

Enclosure(s): Procedures for Adoption

cc: JP Murphy, Town Manager, Town of Belleair

Sean T. Sullivan, Executive Director, Tampa Bay Regional Planning Council

ORDINANCE NO. 511

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN OF THE TOWN OF BELLEAIR FOR CONSISTENCY WITH THE COUNTYWIDE PLAN AND RULES; AMENDING THE TRANSPORTATION ELEMENT TO DELETE TRANSPORTATION CONCURRENCY, TO PROVIDE FOR A MULTIMODAL TRANSPORTATION SYSTEM THAT MANAGES THE IMPACTS OF DEVELOPMENT PROJECTS, INCREASES MOBILITY AND MITIGATES IMPROVEMENTS CONSISTENT WITH THE METROPOLITAN PLANNING ORGANIZATION'S LONG RANGE TRANSPORTATION PLAN AND THE PINELLAS COUNTY MOBILITY PLAN; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT TO SUPPORT THE ESTABLISHMENT OF A MULTIMODAL TRANSPORTATION SYSTEM IN ACCORDANCE WITH THE METROPOLITAN PLANNING ORGANIZATION'S LONG RANGE TRANSPORTATION PLAN AND THE PINELLAS COUNTY MOBILITY PLAN, AND TO RECOGNIZE RECENT AMENDMENTS TO THE STATE COMMUNITY PLANNING ACT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, the Town Commission of the Town of Belleair adopted a Comprehensive Plan in 2008, which meets the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; and

WHEREAS, the Town Commission of the Town of Belleair has amended the Comprehensive Plan from time to time; and

WHEREAS, the amendments to the Comprehensive Plan set forth in this ordinance are intended to address certain relevant County, Countywide and State planning provisions, including the following: Pinellas Countywide Plan and Rules - Ordinance No. 2015-03; Pinellas County Mobility Management System - Ordinance No. 16-21; and the Florida State Community Planning Act - Chapter 163, Part II, Florida Statutes; and

WHEREAS, this Ordinance has been considered by the Local Planning Agency at a duly noticed public hearing, and was recommended by the Local Planning Agency to be approved; and

WHEREAS, the Town Commission has considered the recommendation of the Local Planning Agency, as well as public comment at a duly noticed public hearing; and

WHEREAS, the Town Commission has determined that the amendments to the Comprehensive Plan as set forth in this ordinance are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE Town Commission of the Town of Belleair, as follows:

Section 1. That Policy 1.1.1, Policy 1.1.2, Policy 1.3.3, Goal 2, Objective 2.1, Policy 2.1.1, Policy 2.1.2, and Policy 2.1.3 of the Future Land Use Element of the Town of Belleair Comprehensive Plan are hereby amended to read as follows:

Policy 1.1.1:

The Town of Belleair ~~here by~~ hereby adopts the following residential land use categories as those which shall govern residential development within the community for the categories set forth below. These residential land use categories shall be consistent with ~~the primary and secondary uses listed in the noted corresponding category of the Pinellas Planning Council Countywide Plan Map and Rules~~, and as more specifically ~~provided for and regulated~~ governed by the Town Code of Ordinances, in particular Part II, Subpart B, Land Development Code.

<u>Town Plan Category</u>	<u>Countywide Plan Category</u>
• Residential Low (RL), density of 0 to 5 residential units per acre	• <u>Residential Low Medium (RLM)</u>
• Residential Medium (RM), density of 0 to 15 residential units per acre	• <u>Residential Medium (RM)</u>

Policy 1.1.2:

The "Town of Belleair" ~~here by~~ hereby adopts the following land use categories as those which shall govern residential, mixed use, nonresidential and public/semi-public development within the community for the categories set forth below. These land use categories shall be consistent with ~~the primary and secondary uses listed in the noted corresponding category of the Pinellas Planning Council Countywide Plan Map and Rules~~, as more specifically ~~provided for and regulated~~ governed by the Town Code of Ordinances, in particular Part II, Subpart B, Land Development Code.

<u>Town Plan Categories</u>	<u>Countywide Plan Categories</u>
• Commercial General (CG)	• <u>Retail and Services (R + S)</u>
• Recreation/Open Space (R/OS)	• <u>Recreation/Open Space (R/OS)</u>
• Preservation (P)	• <u>Preservation (P)</u>
• Public/Semi-Public - Institutional (Medical Related)	• <u>Public/Semi-Public (P/SP)</u>

• Public/Semi-Public - Institutional (Municipal Buildings/Private School)	• <u>Public/Semi-Public (P/SP)</u>
• Transportation/Utility (TU)	• <u>Public/Semi-Public (P/SP)</u>
• Residential/Office Limited (ROL)	• <u>Office (O)</u>

Policy 1.3.3:

Commercial uses shall be developed in a manner which ensures the compatibility with the type and scale of surrounding land uses ~~and where existing or programmed public facilities shall not be degraded beyond the adopted level of service.~~ Impacts to public transportation facilities shall be managed through the application of Transportation Element Policies and Land Development Code provisions through the site plan review process in accordance with the Pinellas County Mobility Plan.

Goal 2: To comply with ~~Chapter 88-464~~ Chapter 2012-245, Laws of Florida, as amended by participating in the countywide planning process through representation on and coordination with the Pinellas Planning Council to ensure consistency between the town and the *Countywide Plan Map and Rules*.

Objective 2.1:

The Future Land Use Element of the Town of Belleair Comprehensive Plan shall be consistent with the Countywide ~~Future Land Use Plan~~ Map and Rules.

Policy 2.1.1:

Through its Future Land Use Element, the town shall maintain consistency with the Countywide ~~Future Land Use Plan~~ Map by requiring the following:

- Identification of any inconsistencies between the Future Land Use ~~Element and plan~~ Map of the Town of Belleair and the Countywide ~~Future Land Use Plan~~ Map and Rules.
- Processing for action by the Pinellas Planning Council and the Board of County Commissioners, acting in their capacity as the Countywide Planning Authority, all land use plan amendments required to reconcile outstanding inconsistencies between the respective ~~land use plan~~ maps.

Policy 2.1.2:

Per ~~Chapter 88-464~~ Chapter 2012-245, Laws of Florida, as amended, the town land development regulations shall contain density/intensity ~~standards~~ and other such standards as are required to be consistent with the Rules Concerning the Administration of the Countywide Future Land Use Plan, As Amended Countywide Plan Map and Rules, as amended.

Policy 2.1.3:

~~Per Rules Concerning the Administration of the Countywide Future Land Use Plan, As Amended The Countywide Rules (Pinellas County Ordinance 92-4 Ordinance 15-30~~

~~dated March 15, 1992 effective August 15, 2015 as amended, consistency of use characteristics and enumerated use lists, shall be interpreted as being consistent in accordance with the Rules. The Town of Belleair land use categories shall be considered consistent if they are "within the parameter specified" by the Rules and may be "less extensive than the enumerated list, or more narrowly defined than are the corresponding characteristics under the Rules.~~

The Town of Belleair Future Land Use Map, the plan categories and the land development regulations applicable to each category shall be considered consistent with the Countywide Plan and Rules if the "compared item is in accordance with, and is within the parameters specified, for the item by the criterion to which it is compared."

The Town Future Land Use Plan Map categories, and the land development regulations applicable to each category, may be "less extensive than the enumerated list of uses, or more narrowly defined and include more restrictive standards than are the corresponding ~~characteristics~~ uses and standards under" the Rules.

Section 2.

That Goal 1, Objective 1.1, Policy 1.1.1, Policy 1.1.2, and Policy 1.1.3 of the Transportation Element of the Town of Belleair Comprehensive Plan are hereby amended to read as follows:

~~Goal:~~ ~~A safe, convenient and efficient motorized and non-motorized transportation system shall be available for all residents and visitors to the town.~~

~~Objective 1.1:~~

~~The town shall establish a level-of-service standard for the roadways in its jurisdiction, and shall ensure, through its roadway construction and development review processes, the maintenance of those standards.~~

~~Policy 1.1.1:~~

~~The operation level of service (LOS) "D" peak hour shall be the standard for all arterial and collector roads within the town.~~

~~Policy 1.1.2:~~

~~The town shall review all proposed development or redevelopment for consistency with this element and impacts upon the adopted LOS standards. Furthermore,~~

- ~~• All development orders and permits shall be issued only when it is documented by the developer's transportation analysis that such development is consistent with the level-of-service standards for the affected public facilities adopted by this comprehensive plan.~~
- ~~• The transportation analysis will utilize the latest and best methodology available.~~

Policy 1.1.3:

The town shall assess new development or redevelopment an equitable pro rata share of the costs to provide roadway improvements to serve the development or redevelopment and shall enforce countywide transportation impact fee regulations.

Goal: Provide for a safe, convenient, and energy efficient multimodal transportation system that serves to increase mobility, reduce the incidence of single-occupant vehicles, efficiently utilize roadway capacity, reduce the contribution to air pollution from motorized vehicles and improve the quality of life for the citizens and visitors of the town.

Objective 1.1:

Maintain the performance of the major road network within the Town while furthering development of a multimodal transportation system that increases mobility for bicyclists, pedestrians and transit users as well as motorists.

Policy 1.1.1:

The town shall manage the impacts of land development projects and increase mobility through application of Transportation Element policies and Land Development Code provisions through the site plan review process in accordance with the Pinellas County Mobility Plan.

Policy 1.1.2:

The land development regulatory system shall include the identification of “deficient” roadways, including facilities operating at peak hour level of service (LOS) E and F and/or volume-to-capacity (v/c) ratio 0.9 or greater without a mitigating improvement scheduled for construction within three years.

Policy 1.1.3:

The town shall utilize impact fee revenue to fund multimodal improvements to local, county or state facilities that are consistent with the comprehensive plan as well as the Metropolitan Planning Organization (MPO) Long Range Transportation Plan.

Policy 1.1.4:

The town shall work cooperatively with the MPO, Pinellas County, and other local governments to complete any subsequent update of the Multimodal Impact Fee Ordinance through the MPO planning process, which includes review by the MPO Technical Coordinating Committee and MPO Policy Board.

Policy 1.1.5:

The town shall continue to work with the Pinellas Suncoast Transit Authority (PSTA) to increase the efficiency of the fixed-route system by encouraging mass transit use through the application of the Pinellas County Mobility Plan and the town’s Site Plan Review Process.

Policy 1.1.6:

The town shall work with the MPO, Pinellas County, and other local governments to coordinate the application of the Pinellas County Mobility Plan throughout the Town.

Section 3.

That Policy 1.1.5 and Policy 1.5.9 of the Capital Improvements Element of the Town of Belleair Comprehensive Plan are hereby amended to read as follows:

Policy 1.1.5:

Existing and anticipated public facility capacity deficiencies identified in other elements of this plan ~~may be corrected~~ shall be addressed according to the Five-Year Schedule of Capital Improvements adopted through this policy of the Town of Belleair Comprehensive Plan Capital Improvements Element consistent with and in support of this Capital Improvement Element by separate ordinance as provided for and consistent with Florida Statutes Chapter 163, Section 3177(3)(a) and (b) subject to the annual review of the CIE by the town.

Schedule of Capital Improvements

(All numbers are in thousands: \$100,000 = 100)

Type of Project & Name	Totals	Fiscal Year Costs / Funding Source				
		FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12
No Projects						
Fund Summary						
Totals						

Roads:

~~Peak hour operational level of service “D” for all arterial and collector roads.~~

Policy 1.5.9:

Developments or redevelopments requiring the use of roads shall receive development orders ~~subject to:~~ the Transportation Management System Policies of the Transportation Element and Chapter 70 of the Land Development Code.

- ~~• The public facilities being in place or under construction at the time of issuance of the certificate of occupancy; or~~
- ~~• The development order is issued conditioned on the necessary facilities and~~

~~services will be in place or under construction not more than three years after certificate of occupancy issuance as provided in the Schedule of Capital Improvements; or~~

- ~~• The landowner has made a binding commitment to the town to pay the fair share of the cost of providing transportation facilities necessary to serve the proposed development.~~

Section 4. That Policy 1.5.12 and Policy 1.5.13 of the Capital Improvements Element are hereby deleted.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

Section 6. Pursuant to Section 163.3184(3), Florida Statutes, the effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED ON FIRST READING: April 18, 2017

PASSED ON SECOND READING:

ATTEST:

Town Clerk

Mayor



Legislation Details (With Text)

File #: 17-0093 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 4/17/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Second Reading of Ordinance 512 - Mobility Management - Land Development Code
Sponsors:
Indexes:
Code sections:
Attachments: [Memorandum](#)
[512 - Mobility Management LDC-FINAL](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Mayor & Commissioners
From: JP Murphy, Town Manager
Date: 7/11/2017
Subject:
Second Reading of Ordinance 512 - Mobility Management - Land Development Code

Summary:

See the planning report.

Previous Commission Action: The Commission previously

Background/Problem Discussion: See the planning report

Expenditure Challenges N/A

Financial Implications: N/A


Recommendation: N/A

Proposed Motion I move approval/denial of Ordinance 512.



MEMORANDUM

TO: Town of Belleair
Town Commission

FROM: Calvin Giordano & Associates, Inc. 
Luis N. Serna, AICP. Planning Director, Tampa Bay

SUBJECT: Adoption of Updates to the Town of Belleair
Comprehensive Plan and Land Development
Regulations

DATE: July 18, 2017

On April 18, 2017, the Town Commission approved for transmittal to the Florida Department of Economic Opportunity two ordinances amending the Comprehensive Plan addressing the issues of mobility management and sea level rise. In addition, the Town Commission conducted the first reading of a related ordinance amending Section 66-10 (Definitions) and Chapter 70 (Consistency and Concurrency Management) of the Land Development Code, which would replace the Town's existing transportation concurrency system with a mobility management system. These ordinances were drafted in response to recent changes to regulations at the State and County levels. A description of these ordinances is as follows:

Ordinance No. 510. Amends the Conservation and Coastal Management Element to revise existing, and to establish new goals, objectives, and policies addressing sea level rise. This amendment is in response to the enactment of State law in 2015 requiring that local government comprehensive plans address the impacts of sea level rise.

Ordinance No. 511. Amends the Future Land Use, Transportation, and Capital Improvements Elements to replace the Town's transportation concurrency management system with a mobility management system that is consistent with the mobility management system established by Forward Pinellas (formerly the Pinellas Planning Council).

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727.394.3825 phone

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Ordinance No. 512. Amends Section 66-10 and Chapter 70 of the Land Development Code to implement the mobility management system to be consistent with the mobility management system established by Forward Pinellas.

Following the transmittal of Ordinances No. 510 and No. 511 proposing amendments to the Comprehensive Plan, the Town received responses to these changes from the Florida Department of Transportation, the Southwest Florida Water Management District, the Florida Department of Environmental Protection, and the Florida Department of Economic Opportunity. Copies of these responses are attached to this memorandum, and a brief summary of each is as follows:

Florida Department of Transportation (FDOT) – Regarding Ordinance No. 510 (sea level rise), it does not appear that any changes conflict with facilities of State importance. Regarding Ordinance No. 511 (mobility management), the Town is repealing transportation concurrency with a mobility management system that is supported by and is consistent with the Pinellas County Mobility Plan.

Southwest Florida Water Management District (SWFMD) – Comments on the amendments are not necessary.

Florida Department of Environmental Protection (FDEP) – FDEP has found no provisions that, if adopted, would result in adverse impacts to important State resources subject to the Department's jurisdiction.

Florida Department of Economic Opportunity (FDEO) – FDEO identifies no issues related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the proposed amendments. FDEO provided the following Technical Assistance comment regarding the proposed amendment to Ordinance No. 510 (sea level rise): The amendment does not include supporting data and analysis regarding the anticipated area that will be affected and potential impacts in its relation to the proposed policy changes. The amendment should be revised prior to adoption to include supporting data and analysis.

Recommendation

Because none of the reviewing agencies addressed issues of important State concern, the Town should not expect any challenges from any of the reviewing agencies to the adoption of the Comprehensive Plan amendments represented by Ordinances No. 510 and No. 511. We recommend adoption of these proposed amendments to the Comprehensive Plan as they were transmitted to the State. Regarding FDEO's technical review comment, we recommend that the Town monitor the progress of and participate in the TBRPC's One Bay Resilient Communities and other multi-jurisdictional hazard mitigation efforts. The Town may need to address these requirements again during the State mandated Evaluation and Appraisal (EAR)-based amendment process in 2022 depending on the outcome of the regional coordination efforts on sea level rise that will be taking place in upcoming months. Additionally, we recommend adoption of the related revisions to Section 66-10 and Chapter 70 of the Land Development Code proposed by Ordinance No. 512.

These ordinances allow for continued coordination with regional and state Comprehensive Plan and Land Development Code requirements. The amendments are consistent with and do not impact existing or proposed land uses in an adverse manner and will not adversely affect the natural environment, the demand on public facilities, or property values. The ordinances will encourage the continued orderly and logical development pattern now provided for under the Comprehensive Plan and are consistent with the public interest. Therefore, we recommend adoption of these ordinances.

Please feel free to contact us if you have any questions regarding these amendments.

Attachments: FDOT letter, dated May 9, 2017
SWFWMD letter, dated May 18, 2017
FDEP E-mail, dated May 18, 2017
FDEO letter, dated June 1, 2017



Florida Department of Transportation

RICK SCOTT
GOVERNOR

11201 N. McKinley Drive
Tampa, Florida 33612

RACHEL D. CONE
INTERIM SECRETARY

May 9, 2017

Mr. JP Murphy, Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, FL 33756

Re: Town of Belleair Comprehensive Plan Amendment 17-1 ESR

Dear Mr. Murphy:

We have reviewed Town of Belleair Comprehensive Plan (the Plan) 17-1 ESR Text Amendments according to Chapter 163, Florida Statutes, and the Florida Department of Transportation (the Department) review guidelines.

Background: The Town of Belleair is approximately 1,100 acres in size, and located south of Clearwater, between the intracoastal waterway and the City of Largo. The 2010 population was 4,125. Land use is primarily residential and recreation/open space. No state roads pass through the Town, (Gulf Boulevard and Belleair Causeway are county roads in this vicinity).

Proposal: Ordinance No. 510 is amending the Conservation and Coastal Management element including references to high water events; and adding objectives and policies regarding flooding and sea level rise. It doesn't appear that any changes are in conflict with facilities of state importance. Ordinance No. 511 has adopted changes to the Future Land Use, Transportation, and the Capital Improvements Elements. The overarching rationale for these changes is to remove concurrency as it relates to transportation. The City is replacing transportation concurrency with a Mobility Management System that is supported and consistent with Pinellas County Mobility Plan.

The Department endorses both amendments but reserves the right to provide additional comments in response the first and second readings, if necessary.

Thank you for the opportunity to review this amendment. Should you have any questions please do not hesitate to contact me at 813-975-6429 or at Daniel.santos@dot.state.fl.us.

Mr. JP Murphy, Town Manager
Page 2
May 9, 2017

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Santos", with a stylized flourish at the end.

Daniel C. Santos AICP
Transportation Planning Supervisor

cc: Ray Eubanks, Plan Processing Administrator, DEO
Waddah Farah, PDA Administrator, FDOT District 7
Lindsey Mineer, Growth Management, FDOT District 7



An Equal
Opportunity
Employer

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

WaterMatters.org

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170 Century Boulevard
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Kelly S. Rice
Citrus, Lake, Levy, Sumter

Mark Taylor
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Michelle Williamson
Hillsborough

Vacant
Hillsborough, Pinellas

Vacant
Charlotte, Sarasota

Brian J. Armstrong, P.G.
Executive Director

May 18, 2017

Mr. JP Murphy
Town Manager
Town of Belleair
901 Ponce de Leon Boulevard
Belleair, Florida 33756

Re: **Town of Belleair 17-1ESR**

Dear Mr. Murphy:

The Southwest Florida Water Management District reviewed the referenced plan amendment, and concluded that comments are not necessary. Thank you for the opportunity to participate in this review. For purposes of our records, a copy of the adopted plan amendment would be appreciated. Should you have any questions or require further assistance, please do not hesitate to contact us.

Sincerely,

Trisha Neasman, AICP
Government Planning Coordinator

TN

cc: Ray Eubanks, DEO

From: Plan_Review <Plan.Review@dep.state.fl.us>

Date: Thu, May 18, 2017 at 9:58 AM

Subject: Belleair 17-1ESR Proposed

To: "jmurphy@townofbelleair.net" <jmurphy@townofbelleair.net>, DCPexternalagencycomments
<DCPexternalagencycomments@deo.myflorida.com>

Cc: Plan_Review <Plan.Review@dep.state.fl.us>

To: JP Murphy, Manager

Re: Belleair 17-1ESR – Expedited Review of Proposed Comprehensive Plan Amendment

*Please note the new contact information below.

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Feel free to contact me at Suzanne.e.ray@dep.state.fl.us or (850) 717-9037 for assistance or additional information. Please send all amendments, both proposed and adopted, to plan.review@dep.state.fl.us or

Florida Department of Environmental Protection

Office of Intergovernmental Programs, Plan Review

2600 Blair Stone Rd. MS 47
Tallahassee, Florida 32399-2400



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JP Murphy
Town Manager
Town of Belleair
Belleair, FL 33756
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jmurphy@townofbelleair.net

Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

June 1, 2017

The Honorable Gary H. Katica
Mayor, Town of Belleair
901 Ponce De Leon Boulevard
Belleair, Florida 33756-1096

Dear Mayor Katica:

The State Land Planning Agency (the Agency) has completed its review of the proposed comprehensive plan amendment for the Town of Belleair (Amendment No. 17-1ESR) which was received on May 2, 2017. We have reviewed the proposed amendment pursuant to Sections 163.3184(2) and (3), Florida Statutes (F.S.), and identified no comment related to important state resources and facilities within the Agency's authorized scope of review that will be adversely impacted by the amendments if adopted.

We are, however, providing a technical assistance comment consistent with Section 163.3168(3), F.S. The Agency's technical assistance comment will not form the basis of a challenge. It is offered as a suggested solution which can strengthen the Town's comprehensive plan and foster vibrant, healthy communities.

The amendment proposed an updated goal, objective, and policies to address the new sea-level rise requirement in Section 163.3178(2)(f), F.S. However, the amendment does not include supporting data and analysis regarding the anticipated area that will be affected and potential impacts in relation to the proposed policy changes. The amendment should be revised prior to adoption to include the supporting data and analysis.

The Town is reminded that pursuant to Section 163.3184(3)(b), F.S., other reviewing agencies have the authority to provide comments directly to the Town. If other reviewing agencies provide comments, we recommend that the Town consider appropriate changes to the amendment based on those comments. If unresolved, such comments may form the basis for a challenge to the amendment after adoption.

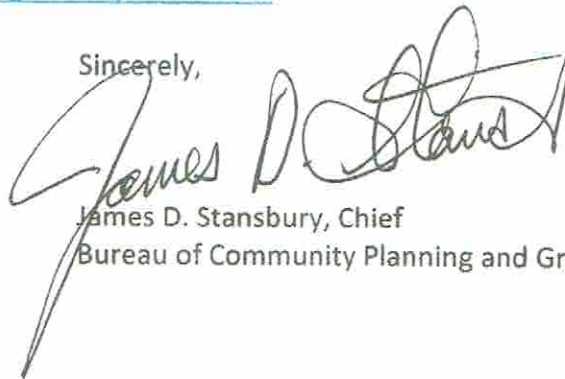
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.floridajobs.org
[www.twitter.com/FLDEO](https://twitter.com/FLDEO) | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. Also, please note that Section 163.3184(3)(c)1., F.S., provides that if the second public hearing is not held within 180 days of your receipt of agency comments, the amendment shall be deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected party that provided comment on the amendment. For your assistance, we have attached procedures for adoption and transmittal of the comprehensive plan amendment.

If you have any questions concerning this review, please contact Valerie Jenkins, at (850) 717-8493, or by email at valerie.james@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with the first name "James" being the most prominent.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/vj

Enclosure(s): Procedures for Adoption

cc: JP Murphy, Town Manager, Town of Belleair

Sean T. Sullivan, Executive Director, Tampa Bay Regional Planning Council

ORDINANCE NO. 512

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, AMENDING THE TOWN OF BELLEAIR CODE OF ORDINANCES, PART II, SUBPART B LAND DEVELOPMENT CODE TO AMEND SECTION 66-10, DEFINITIONS; TO AMEND THE TITLE OF CHAPTER 70; TO RENUMBER SECTION 70-4 – 70-30, RESERVED; TO ADD SECTION 70-4, TRANSPORTATION MANAGEMENT SYSTEM; TO DELETE SECTION 70-33, TRANSPORTATION SYSTEM; TO DELETE ARTICLE III, CHAPTER 70; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, the Town Commission of the Town of Belleair adopted the Code of Ordinances as set forth in Ordinance No. 349, on April 19, 1994, including Subpart B, Land Development Code; and

WHEREAS, the Town Commission of the Town of Belleair has from time to time approved amendments to the Land Development Code; and

WHEREAS, in 2011, the State of Florida enacted the Community Planning Act which, among other changes, rescinded the requirements for communities to adopt level of service standards for transportation concurrency and to enforce transportation concurrency; and

WHEREAS, in 2016, the Pinellas County Metropolitan Planning Organization (MPO) established a mobility management system as an alternative approach to transportation concurrency, and encouraged communities within the County to replace their transportation concurrency systems with regulations consistent with the County's mobility management system; and

WHEREAS, the Town Commission has received and considered the input and recommendation of the Planning and Zoning Board, as well as public comment at a duly noticed public hearing; and

WHEREAS, the Town Commission has considered the recommendation of the Local Planning Agency, as well as public comment at a duly noticed public hearing; and

WHEREAS, the Town Commission desires to amend the Land Development Code to replace transportation concurrency with mobility management system regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE Town Commission of the Town of Belleair, as follows:

Section 1.

That Section 66-10 of the Town of Belleair Land Development Code is hereby amended to add the following definitions:

Deficient facility means a road operating at peak hour level of service E or F, and/or a volume- to-capacity (v/c) ratio of 0.9 or higher with no mitigating improvements scheduled within three years.

Land Development Regulatory System is the coordinated system of plans (e.g., comprehensive plans), regulations, code provisions and related status reports (e.g., concurrency test statement and transportation system report) that provide standards and guidance for land development related activities.

Mobility plan is the framework providing for a countywide approach to managing the traffic impacts of development projects and to increasing mobility for pedestrians, bicyclists, transit users and motor vehicles through the implementation of the Multimodal Impact Fee Ordinance and the transportation provisions of this section through the site plan review process.

New peak hour trip refers to a vehicle trip added to the major road network from and to a developed parcel of land during the weekday peak hour. This excludes “passer-by” or “diverted” trips, whereby the site is accessed as a secondary trip.

Peak hour, in describing traffic conditions, is the 100th highest volume hour of the year in the predominant traffic flow direction.

Pre-existing use refers to the land use that occupied a parcel of land prior to the submittal of a permit/site plan application. In accordance with the Pinellas County Transportation Impact Fee Ordinance (TIFO), development projects are entitled to a credit equivalent to the impact fee assessment of any land use activity that existed on the property as of June 30, 1986, the original adoption date of the TIFO. The applicant must provide the necessary documentation to verify any pre-existing use activity not reflected in the current records of the Pinellas County Property Appraiser’s Office.

Transportation management plan, as developed by an applicant representing a proposed development, is submitted in conjunction with individual site plans seeking to utilize transportation management strategies to address their development impacts, protect roadway capacity and to increase mobility. These strategies include, but are not limited to, density/intensity reductions, project phasing, access controls, capital improvements and/or incentives encouraging mass transit, bicycle or pedestrian travel, ride-sharing or roadway improvements. Strategies that are standard site plan review requirements would not be eligible for inclusion in a transportation management plan. Transportation Management Plans must be submitted to the Building Department for review and approval.

Transportation management system refers to the management of development impacts on transportation facilities and implementation of mobility improvements pursuant to the Mobility Plan.

Section 2. That the title of Chapter 70 is of the Town of Belleair Land Development Code is hereby amended as follows:

Chapter 70 - CONSISTENCY—~~AND~~, CONCURRENTLY, AND TRANSPORTATION MANAGEMENT

Section 3. That Section 70-4 of the Town of Belleair Land Development Code is hereby added as follows:

Sec. 70-4. – Transportation management system.

(a) Purpose and Intent. It is the purpose of this division to establish a transportation management system to ensure that the impacts of development on transportation facilities and services are effectively managed while increasing mobility for pedestrians, bicyclists, transit users and motor vehicles.

(b) Transportation Management Plan

(1) Transportation management plans are to be submitted by applicants of development projects in conjunction with their site plans. Transportation management plans are required for development applications seeking to utilize transportation management strategies/improvements to address their development impacts. The extent of the strategies/improvements included in an approved transportation management plan in terms of the scale of the project(s) and roadway capacity and/or mobility benefits provided shall be based primarily on the projected impact of the development project on the surrounding traffic circulation system. Specific conditions of the deficient road corridor impacted by the development will also be considered. Transportation management plan strategies/improvements applicable to

development projects within deficient road corridors will be determined at the time of site plan review. Should the impacts of the development project impact a road under the jurisdiction of an adjacent local government or FDOT, the identification of appropriate TMP strategies shall be coordinated with the affected jurisdiction(s). Transportation management plans must be developed by the applicant and accepted by the Town of Bellair. Transportation management plan strategies/improvements include, but are not limited to those listed below.

- a. *Intensity reduction.* The intensity of the proposal may be reduced through an across-the-board reduction of the permitted floor area ratio, as it would otherwise normally apply to the proposal. Other such corrective actions that would reduce the intensity of the proposal may also apply.
- b. *Density reduction.* The density of the proposal may be decreased by a reduction in the number of units per acre below that which would otherwise normally apply to the proposal.
- c. *Project phasing.* A project may be divided into logical phases of development by area, with later phases of the development proposal's approval withheld until the needed facilities are available.
- d. *Outparcel deletion.* Those portions of the proposal characterized as outparcels that create separate and unique impacts may be deleted from the total proposal.
- e. *Physical highway improvements.* A project may construct link capacity improvements, acceleration/deceleration lanes, intersection improvements or frontage roads.
- f. *Operational improvements (signal).* This includes efforts involving signal removal or signal timing improvements.
- g. *Access management strategies.* These include access management controls such as the preclusion of a direct connection to a deficient facility, right-in/right-out driveways, alternative driveway locations, reduction of a driveway, single point access, shared access or the implementation of median controls.
- h. *Mass transit initiatives.* A project may implement a plan to encourage transit (e.g., employer-issued bus passes). Other mass transit initiatives may include, but are not limited to, direct route subsidies, provision of

feeder service or the construction of bus stop amenities, bus pull-off areas and dedication of park and ride parking spaces.

- i. *Demand management/commuter assistance.* These include efforts to encourage ride- sharing (e.g., designated parking spaces for carpools, employer-sponsored carpool program, participation in transportation management organization/initiative programs), and to implement flexible work hour and telecommuting programs.
- j. *Bicycle/pedestrian improvements.* These would involve structural improvements or construction of a bikeway or sidewalk connecting an existing bikeway/sidewalk network or providing access to a school, park, shopping center, etc. These improvements may also include pedestrian treatments in parking areas, sidewalks connecting developments with adjacent land uses, trail improvements and bicycle rack and on-street bicycle lane installations, and the planting of trees to provide shade canopy along sidewalks.
- k. *Intelligent transportation system improvements.* This includes improvements pertaining to computerized traffic signal systems that automatically adjust to maximize traffic flow and to permit emergency vehicles to pass through intersections quickly. It also includes freeway management systems, such as electronic message signs, and electronic fare payment on public buses that reduce passenger boarding time.
- l. *Livable community site design features.* These include, but are not limited to, implementation of pedestrian friendly site design features such as orienting buildings toward the street and parking lots to the side or rear of buildings.

- (2) Transportation management plans seeking to implement strategies that do not involve structural improvements, such as ride-sharing and transit incentive programs, must include a monitoring program to ensure the strategies are carried out in accordance with the plan, as developed by the applicant and accepted by the Town of Belleair.

(c) Deficient Road Corridors, Transportation Management Plan Strategies Applied

- (1) Deficient road corridors include parcels within one-half mile of the centerline or terminus of a facility operating under a deficient level of service.
- (2) In support of the provisions of this section regarding deficient road corridors, policies in the comprehensive plan seek to discourage future land

use map (FLUM) amendments that allow for an increase in automobile trips generated from sites proposed for amendment.

(3) Development projects located within deficient road corridors that generate between 51 and 300 new peak hour trips are classified as tier 1.

a. Developers of tier 1 projects are required to submit a transportation management plan designed to address their impacts while increasing mobility and reducing the demand for single occupant vehicle travel.

b. The cost of transportation management strategies implemented for tier 1 projects are creditable toward their multimodal impact fee assessment in accordance with the Multimodal Impact Fee Ordinance. If the cost of the improvement exceeds the assessment, the development project would not be subject to payment of the fee.

(4) Development projects located within deficient road corridors that generate more than 300 new peak hour trips are classified as tier 2. Developers of tier 2 projects are required to conduct a traffic study and submit an accompanying report. The report shall include the results of the traffic study and a transportation management plan identifying improvements necessary to mitigate the impacts of the project. The report shall be submitted to the Building Department for review. The cost of transportation management strategies implemented for tier 2 projects may be applied as credit toward the project's multimodal impact fee assessment in accordance with the Multimodal Impact Fee Ordinance or payment of the fee could be included as part of a transportation management plan.

(5) Development projects that generate less than 51 new peak hour trips are required to pay a multimodal impact fee in accordance with the Multimodal Impact Fee Ordinance. They are not required to submit a transportation management plan or traffic study.

(6) A traffic study and corresponding transportation management plan for a land development project generating more than 50 new peak hour trips outside a deficient road corridor may be required if through the site plan review process the local government determines that operational improvements such as intersection or median modifications are necessary to accommodate the additional trips generated by the proposed land use.

(d) Methodology Applied. Determination of trip generation shall be based on the Pinellas County Transportation Impact Fee Ordinance fee schedules and latest edition of the *Institute of Transportation Engineers Trip Generation Manual*.

Section 4. That Section 70-4 – 70-30 of the Town of Belleair Land Development Code are hereby renumbered as follows:

Secs. 70-4 ~~5~~—70-30. - Reserved.

Section 5. That Section 70-33 of the Town of Belleair Land Development Code is hereby deleted.

Section 6. That Article III of Chapter 70 of the Town of Belleair Land Development Code is hereby deleted.

Section 7. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

Section 8. The effective date of this ordinance shall be the date the final ordinance is read and approved by the Town Commission as provided by law.

PASSED ON FIRST READING: April 18, 2017

PASSED ON SECOND READING:

ATTEST:

Mayor

Town Clerk



Legislation Details (With Text)

File #: 17-0158 **Version:** 1 **Name:**
Type: Ordinance **Status:** Public Hearing
File created: 7/7/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Flrst Reading of Ordinance 515 - Advanced Wireless Communications Infrastructure
Sponsors:
Indexes:
Code sections:
Attachments: [515 - Advanced Wireless Communications Infrastructure 136.pdf](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Planning and Zoning Board
From: JP Murphy
Date: 7/6/2017

Subject:
Wireless Communication Devices (5G Bill)

Summary:

The town will have to amend its ordinances to properly regulate and permit small wireless communications devices per new state law. **CS/CS/HB 687** (La Rosa) preempts local government control of taxpayer-owned rights of way for placement of “small” or “micro” wireless antennas and equipment. The statute provides authorization for wireless carriers to install devices in public rights-of-way pursuant to a permit obtained from the local government authority. The statute limits the authority of the town and provides limited parameters for regulating the wireless infrastructure. Ordinance 515 aims to place conforming language into the code of ordinances. Please see the [linked bill <https://www.flsenate.gov/Session/Bill/2017/687/BillText/er/PDF>](https://www.flsenate.gov/Session/Bill/2017/687/BillText/er/PDF) and attached ordinance for more detail.

Previous Commission Action: N/A

Background/Problem Discussion: As part of the “Advanced Wireless Infrastructure Deployment Act”, the town has both the authority and the responsibility to regulate, by ordinance, certain areas including, but not limited to, design standards, sightlines, insurance coverage, indemnification, performance bonds, security bonds, force majeure, abandonment, authority liability or authority warranties. Additionally any permit application filed by a wireless carrier must be evaluated and addressed by the Town within sixty (60) days and the wireless carrier can put up or thirty (30) locations on one (1) permit application request. Town staff, planner and town attorney are currently reviewing the recently enacted legislation researching issues related to the permitting of such wireless installations, as well as related issues that would impact the town. Staff is looking into adding additional standards for design, camouflage and processing. A final draft ordinance will come before the board again likely in August.

Expenditure Challenges N/A

Financial Implications: N/A

Recommendation: Recommend approval on first reading subject to amendment on second reading

Proposed Motion I move approval of Ordinance 515 on first reading.

ORDINANCE NO. 515

AN ORDINANCE OF THE TOWN OF BELLEAIR, FLORIDA, RELATING TO COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; AMENDING THE BELLEAIR CODE; CREATING A NEW CHAPTER 23 IN THE BELLEAIR CODE TO BE ENTITLED "COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS OF WAY"; PROVIDING FINDINGS & INTENT; PROVIDING DEFINITIONS; PROVIDING FOR REGISTRATION OF COMMUNICATION SERVICE PROVIDERS; PROVIDING FOR RULES AND REGULATIONS FOR COMMUNICATIONS SERVICE PROVIDERS, WIRELESS SERVICE PROVIDERS, & SMALL WIRELESS SERVICE PROVIDERS & THEIR FACILITIES ; PROVIDING FOR A DUTY TO NOTIFY; PROVIDING FOR REVOCATION & SUSPENSION; PROVIDING FOR TERMINATION; PROVIDING FOR APPEALS ; PROVIDING FOR APPLICATION OF THESE RULES TO EXISTING COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; PROVIDING FOR INSURANCE; PROVIDING FOR INDEMNIFICATION; PROVIDING FOR CONSTRUCTION BOND; PROVIDING FOR ABANDONMENT OF A COMMUNICATIONS FACILITY; PROVIDING FOR PASS-THROUGH PROVIDER FEES AND FEES FOR USE OF TOWN UTILITY POLES; PROVIDING FOR RESERVATION OF RIGHTS AND REMEDIES; PROVIDING FOR THIS ORDINANCE TO CONTROL IN THE EVENT OF CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA:

Section 1. Chapter 23, Belleair Code, is hereby created as follows:

Chapter 23 - COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY

Sec. 23-01. - Short Title.

This Chapter shall be known, and may be cited, as the "Belleair Communications Facilities in Public Rights-of-Way Ordinance."

Sec. 23-02. - Findings, Intent and Scope.

(a) The Town hereby makes and declares the following findings and declares its legislative intent as follows:

(1) The Public Rights-of-Way within the Town of Belleair are a unique and physically limited resource and important amenity that are critical to the travel and transport of persons and property in the Town.

(2) The demand for telecommunications services has grown exponentially in recent years, requiring the continual upgrading of telecommunications equipment and services to satisfy such demand.

(3) The placement of telecommunications equipment and facilities in the public rights-of-way to satisfy the demand for telecommunications services raises important issues with respect to the Town's responsibility to manage its public rights-of-way.

(4) The Public Rights-of-Way must be managed and controlled in a manner that enhances the health, safety and general welfare of the Town and its citizens.

(5) The use and occupancy of the Public Rights-of-Way by providers of communications services must be subject to regulation which can ensure minimal inconvenience to the public, coordinate users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of an optimal number of providers of cable, telecommunications, and other services in the public interest.

(6) Section 166.041, Florida Statutes, provides for procedures for adoption of an ordinance which is a regulation of general and permanent nature and enforceable as local law.

(7) Section 337.401, Florida Statutes, provides that because federal and state law require the nondiscriminatory treatment of providers of telecommunications services and because of the desire to promote competition among providers of communications services, it is the intent of the Florida Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way.

(8) The Town finds that, to promote the public health, safety and general welfare, it is necessary to (i) provide for the placement or maintenance of Communications Facilities in the Public Rights-of-Way within the Town limits, (ii) adopt and administer reasonable rules, regulations and general conditions not inconsistent with applicable state and federal law, (iii) manage the placement and maintenance of Communications Facilities in the Public Rights-of-Way by all Communications Services Providers, (iv) minimize disruption to the Public Rights-of-Way, and (v) require the restoration of the Public Rights-of-Way to original condition.

(9) The Town's intent is that these rules and regulations must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the Town as a condition of placing or maintaining communications facilities in its roads or rights-of-way.

(10) It is also the Town's intent to exercise the Town's retained authority to regulate and manage the Town's roads and rights-of-way in exercising its police power over Communications Services Providers' placement and maintenance of facilities in the public rights-of-way in a nondiscriminatory and competitively neutral manner.

(b) This Chapter shall apply to any public or private entity who seeks to construct, place, install, maintain or operate a Communications System or Facilities, as such terms are defined herein, in the Public Rights-of-Way, unless otherwise exempt by operation of applicable state or federal law. This Chapter shall equally apply to a Town owned or controlled Communications System except to the extent such Facilities are utilized on an internal, non-commercial basis by the Town or any of its agencies, departments or bureaus.

Sec. 23-03. - Definitions.

(a) For purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings ascribed herein. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The words "shall," "will" and "must" are mandatory, and "may" is permissive. Words not otherwise defined herein shall have the meaning ascribed thereto under Chapters 202 or 337, Florida Statutes, as amended, or where none is ascribed shall be construed to mean the common and ordinary meaning.

(1) *Abandonment* means the permanent cessation of all uses of a Communications Facility; provided that this term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "Abandonment" of a Facility in the Public Rights-of-Way.

(2) *Affiliate* means each person, directly or indirectly, controlling, controlled by, or under common control with a Communications Services Provider that is Registered with the Town; provided that Affiliate shall in no event mean any limited partner, member, or shareholder holding an interest of less than 15 percent in such Communications Services Provider.

(3) *Antenna* means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing Wireless Services or other Communications Services.

(4) *Applicable Codes* means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance which may require that a new utility pole replacing an existing utility pole be of substantially similar design, material, and color, or that ground-mounted equipment meet reasonable spacing requirements. The term includes objective design standards adopted by ordinance which may require a Small Wireless Facility to meet reasonable location context, color, stealth, and concealment requirements; however, the Town may waive the design standards upon a showing that the design standards are not reasonably compatible for the particular location of a Small Wireless Facility or that the design standards impose an excessive expense. The waiver must be granted or denied within 45 days after the date of the waiver request.

(5) *Applicant* means a person who submits an Application and is a Wireless Provider.

(6) *Application* means a request submitted by an Applicant to the Town for a permit to collocate Small Wireless Facilities.

(7) *As-Built Surveys* means the final and complete drawings in hard copy signed and sealed by a Professional Surveyor and Mapper (as defined in § 472.005, Florida Statutes) and the final and complete electronic overview map (in autocad, microstation, mapinfo or ESRI format) presented in computer input medium such as cd-rom, dvd or zip 100/250. As-Built Surveys, in both the drawings and the electronic overview map, must show the present state of a Communications Services Provider's Facilities in the Public Rights-of-Way, including, but not limited to, the horizontal and vertical location of Facilities located at least every 100 feet and at any alignment change. Horizontal locations on all points of Facilities shall be from street

centerline, or section or quarter section lines or corners. Vertical locations on all points of Facilities shall consist of elevations in either Town datum or United States Geological Survey datum.

(8) *Cable Service* means the one-way transmission to subscribers of video programming or any other programming service; and subscriber interaction, if any, that is required for the selection or use of such video programming or other programming service.

(9) *Cable Service Provider* means a person that provides cable service over a cable system.

(10) *Cable System* means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, but such term does not include: a facility that serves only to retransmit the television signals of one or more television broadcast stations; a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; a facility that serves subscribers without using any public right-of-way; a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the federal Communications Act of 1934 except such facility shall be considered a cable system other than for purposes of 47 U.S.C. Section 541(c) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; any facilities of any electric utility used solely for operating its electric utility systems; or an open video system that complies with 47 U.S. C. Section 573.

(11) *Chapter* means the Belleair Communications Right-of-Way Utilization Ordinance, codified as Chapter 23 of the Town Code pursuant to that Ordinance enacted by Town Commission effective on July 1, 2017, as may be amended or supplemented from time to time.

(12) *Town* means the Town of Belleair, Florida, a municipal corporation organized and existing under the laws of the State of Florida.

(13) *Town Code* means the Code of Ordinances of the Town of Belleair, Florida.

(14) *Town Commission* means the governing body for the Town.

(15) *Town Utility Pole* means a utility pole owned by the Town in the right-of-way.

(16) *Collocate* or *Collocation* means the shared use of Facilities, such as poles, ducts or conduit, including but not limited to the placement of conduit owned by more than one user of the Public Rights-of-Way in the same trench or boring and the placement of equipment owned by more than one user in the same conduit. Co-location does not include interconnection of Facilities or the sale or purchase of capacity (whether bundled or unbundled).

(17) *Communications Facility, Facility* or *Facilities* means any portion of a Communications System located in the Public Rights-of-Way.

(18) *Communications Services* means the definition ascribed thereto in Section 202.11(1), Florida Statutes, as may be amended, and also includes but is not limited to Wireless Services as defined herein.

(19) *Communications Services Provider* means (i) any Person, municipality or county providing Communications Services through the use and operation of a Communications System or Communications Facilities installed, placed and maintained in the Public Rights-of-Way,

regardless of whether such System or Facilities are owned or leased by such Person, municipality or county and regardless of whether such Person, municipality or county has registered with the Florida Department of Revenue as a provider of Communications Services in Florida pursuant to Chapter 202, Florida Statutes and (ii) any Person, municipality or county who constructs, installs, places, maintains or operates Communications Facilities in the Public Rights-of-Way but who does not provide Communications Services, including for example a company that places "dark fiber" or conduit in the Public Rights-of-Way and leases or otherwise provides those facilities to another company that does provide Communications Services.

(20) *Communications System* or *System* means any permanent or temporary plant, equipment and property placed or maintained in the Public Rights-of-Way that is occupied or used, or is capable of being occupied or used, by a Communications Services Provider for the purpose of producing, conveying, routing, transmitting, receiving, amplifying, distributing, providing or offering Communications Services including, but not limited to cables, wires, lines, conduits, fiber optics, antennae, radios and any associated poles, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, and other plant, equipment and pathway.

(21) *Dealer* means any Person, municipality or county providing Communications Services to an end user in Belleair through the use and operation of Communications Facilities installed, placed and maintained in the Public Rights-of-Way, whether owned or leased, and who has registered with the Florida Department of Revenue as a provider of Communications Services pursuant to Chapter 202, Florida Statutes. This definition of "Dealer" is intended to include any "Reseller."

(22) *Department* means the Florida Department of State.

(23) *Development Permit* means the permit defined in Section 66-10, Town Code, and required under Chapter 66, Town Code, prior to commencement of any placement or maintenance of Facilities in the Public Rights-of-Way.

(24) *Excavation* or other similar formulation of that term means the cutting, trenching or other disturbance to the Public Rights-of-Way intended to change the grade or level of land or which causes any cavity, gap, depression, penetration or hole in the surface of the Public Rights-of-Way.

(25) *FCC* means the Federal Communications Commission.

(26) *Franchise* means an initial authorization or renewal of an authorization, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, to construct and operate a cable system or video service provider network facilities in the public right-of-way.

(27) *Franchise Authority* means any governmental entity empowered by federal, state, or local law to grant a franchise.

(28) *Government* means the United States of America, the State of Florida, counties, municipalities, and any of their respective agencies, departments or bureaus.

(29) *In the Public Rights-of-Way* means in, along, on, over, under, across or through the Public Rights-of-Way.

(30) *Micro Wireless Facility* means a Small Wireless Facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

(31) *Pass-Through Facilities* means the Facilities for a Communication System that merely pass through the Town from one point to another point and from which no revenues are directly attributable to subscribers or other carriers within the Town.

(32) *Pass-through Provider* means any Person, municipality or county that places or maintains a Communications System or Communications Facilities in the Public Rights-of-Way but who does not provide Communications Services, including for example a company that places "dark fiber" or conduit In The Public Rights-of-Way and leases or otherwise provides those facilities to another company that does provide Communications Services to an end user. This definition of "Pass-through Provider" is intended to include any Person that places or maintains "Pass-Through Facilities" in the Public Rights-of-Way, but does not provide Communications Services to an end user within the corporate limits of the Town.

(33) *Person* means any individual, firm, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, association, corporation, company, organization or legal entity of any kind, including any Affiliate, successor, assignee, transferee or personal representative thereof, and all other groups or combinations, and shall include the Town to the extent that the Town acts as a Communications Services Provider.

(34) *Placement or maintenance or placing or maintaining* or other similar formulation of that term means the named actions interpreted broadly to encompass, among other things, erection, construction, reconstruction, installation, inspection, maintenance, placement, replacement, extension, expansion, repair, removal, operation, occupation, location, relocation, grading, undergrounding, trenching or excavation. Any Communications Services Provider that owns, leases or otherwise controls the use of a Communications System or Facility in the Public Rights-of-Way, including the physical control to maintain and repair, is "placing or maintaining" a Communications System or Facility. A Person providing service only through buying wholesale and then reselling is not "placing or maintaining" the Communications Facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the Public Rights-of-Way does not constitute "placing or maintaining" Facilities in the Public Rights-of-Way.

(35) *Public Rights-of-Way* means a road, street, highway, bridge, tunnel or alley that is owned by the Town, publicly held by the Town or dedicated to the Town for public use and over which the Town has jurisdiction and control and may lawfully grant access pursuant to applicable law, and includes the space above, at or below the surface of such right-of-way. "Public Rights-of-Way" shall not include (a) county, state or federal rights-of-way, (b) property owned by any Person other than the Town, (c) service entrances or driveways leading from the road or street onto adjoining property or (d) except as described above, any real or personal property of the Town, such as, but not limited to, Town parks, buildings, fixtures, conduits, sewer lines, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

(36) *Public Service Commission* or PSC means the agency for the State of Florida charged with the powers and duties conferred upon it by Chapter 364, Florida Statutes.

(37) *Record Drawings* means a final and complete drawing accurately depicting the improvements as constructed. Record Drawings are not required to be signed and sealed by a Professional Surveyor and Mapper.

(38) *Registration* or *Register* other similar formulation of that term means the process described in Section 23.04 herein whereby a Communications Services Provider provides certain information to the Town.

(39) *Reseller* means any Person providing Communications Services within the Town over a Communications System, or portion thereof, for which a separate charge is made, where that Person does not place or maintain, nor own or control, any of the underlying Facilities in the Public Rights-of-Way used for transmission. Instead such Person purchases the Service, usually at wholesale, from a Communications Services Provider and then resells it at retail or such Person uses the Public Rights-of-Way by either interconnecting with the Facilities of a Communications Services Provider utilizing the Public Rights-of-Way or by leasing excess Capacity from a facility-based Communications Services Provider.

(40) *Small Wireless Facility* means a wireless facility that meets the following qualifications: (a) each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and (b) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

(41) *Utility Pole* means a pole or similar structure used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights, but does not include any horizontal structures upon which are attached signal lights or other traffic control devices and does not include any pole or similar structure 15 feet in height or less unless the Town grants a waiver for the pole.

(42) *Video Programming* means programming provided by, or generally considered comparable to programming provided by, a television broadcast station as set forth in 47 U.S.C. s. 522(20).

(43) *Video Service* means video programming services, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. s. 332 (d), video programming provided as part of and via a service that enables end users to access content, information, electronic mail, or other services offered over the public Internet.

(44) *Video Service Provider* means an entity providing video service.

(45) *Wireless Facilities* means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup

power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include (a) the structure or improvements on under within, or adjacent to the structure on which the equipment is collocated, or (b) wireline backhaul facilities, or (c) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(46) *Wireless Infrastructure Provider* means a person who has been certificated to provide telecommunications service in the state, and who builds or installs wireless communication transmission equipment, Wireless Facilities, or Wireless Support Structures, but is not a Wireless Services Provider.

(47) *Wireless Provider* means a wireless infrastructure provider or a Wireless Services Provider.

(48) *Wireless Services* means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using Wireless Facilities.

(49) *Wireless Services Provider* means a person who provides Wireless Services.

(50) *Wireless Support Structure* means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a Utility Pole.

Sec. 23-04. - Registration.

Every Communications Services Provider that desires to place or maintain a Communications System or any Communications Facilities in the Public Rights-of-Way, including any Pass Through Facilities, shall first Register with the Town in accordance with this Section 23-04. Subject to the provisions prescribed in this Chapter, a Communications Services Provider that has properly Registered may apply for Development Permits to place or maintain a Communications System or Facilities in the Public Rights-of-Way.

(a) Every Communications Services Provider that desires to place or maintain Communications Facilities in the Public Rights-of-Way, including any Pass Through Facilities, shall Register with the Town Engineer's Office and shall submit the following information and documentation:

(1) the name of the applicant under which it will transact business in the Town and, if different, in the State of Florida; and

(2) the address and telephone number of the applicant's principal place of business in the State of Florida and any branch office located in the Town or, if none, the name, address and telephone number of the applicant's national headquarters and its Registered Agent in Florida; and

(3) the name, address and telephone number of the applicant's primary contact person and the person to contact in case of an emergency; and

(4) the type of Communications Services that the applicant intends to provide within the corporate limits of the Town (if more than one, state all that apply), or, if none, state that the applicant is a Pass-through Provider or is intending only to place and maintain Pass Through Facilities, as the case may be; and

(5) for Registrations submitted on or after October 1, 2017, a copy of both the applicant's resale certificate and certificate of registration issued by the Florida Department of Revenue to engage in the business of providing communications services in the State of Florida; and

(6) a copy of the applicant's certificate of authorization, public convenience and necessity or other similar certification issued by the Florida Public Service Commission; and

(7) the number of the applicant's certificate of authorization or license to provide Communications Services issued by the Florida Public Service Commission, the Department, the FCC, or other Federal authority, if any; and

(8) for an applicant that is a Pass-through Provider, in lieu of paragraphs (5), (6) and (7) above, the applicant shall provide a certified copy of the certificate or license issued by the Florida Department of State, or other appropriate state agency or department, authorizing the company to do business in the State of Florida; and

(9) evidence of the applicant's insurance coverage as required under this Chapter.

(b) The Town shall review the information submitted by the applicant. Such review shall be by the Town Engineer or his or her designee. If it is found that the applicant complied with the requirements in subsection (a) above, the Registration shall be effective and the Town shall notify the applicant of the effectiveness of Registration in writing. If the Town determines that the applicant is not in compliance, the Town shall notify the applicant in writing of the non-effectiveness and denial of Registration and the reasons therefor. The Town shall so reply to an applicant within thirty (30) days after receipt of the Registration and required information from the applicant. Non-effectiveness and denial of Registration shall not preclude an applicant from reapplying or filing subsequent applications for Registration under the provisions of this Section.

(c) An effective Registration does not, and shall not be construed to, convey equitable or legal title in the Public Rights-of-Way to any Communications Services Provider. Registration under this Ordinance governs only the placement or maintenance of a Communications System or Communications Facilities in the Public Rights-of-Way. Other ordinances, codes or regulations may apply to the placement or maintenance in the Public Rights-of-Way of facilities that are not part of a Communications System. Registration does not excuse a Communications Services Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on those facilities or property belonging to the Town or another Person. Registration does not excuse a Communications Services Provider from complying with all other applicable Town ordinances, codes or regulations, including the rules, regulations and general conditions set forth in this Chapter.

(d) A Communications Services Provider may cancel a Registration upon written notice to the Town stating that it will no longer place or maintain a Communications System or any Communications Facilities in the Public Rights-of-Way and will no longer have a need to apply for Development Permits to perform construction or other work in the Public Rights-of-Way. A Communications Services Provider cannot cancel a Registration if it intends to continue placing or maintaining a Communications System or any Communications Facilities in the Public Rights-of-Way.

(e) Registration, in and of itself, does not establish a right to place or maintain or a priority for the placement or maintenance of a Communications System or any Facility in the Public Rights-

of-Way, but shall establish for the Communications Services Provider a right to apply for an Division 2 Permit from the Town. Registrations are expressly subject to any future amendment to or replacement of this Chapter and further subject to any additional Town ordinances, as well as any State or Federal laws that may be enacted. Registration does not excuse or exempt a Communications Services Provider from having to obtain an Occupational License from the Town in accordance with the Town Code.

(f) A Communications Services Provider shall renew its Registration with the Town by April 1 of even numbered years in accordance with the Registration requirements in this Chapter, except that any Communications Services Provider that initially Registers during the even numbered year when renewal would be due or the odd numbered year immediately preceding such even numbered year shall not be required to renew its Registration until the next even numbered year. Within thirty (30) days of any change in the information required to be submitted pursuant to subsection (1), a Communications Services Provider shall provide updated information to the Town. If no information in the then-existing Registration has changed, the renewal may state that no information has changed. Failure to renew a Registration may result in the Town restricting the issuance of additional Development Permits until the Communications Services Provider has complied with the Registration requirements of this Chapter.

(g) In accordance with applicable Town ordinances, codes or regulations, a Development Permit is required for a Communications Services Provider to place or maintain a Communications Facility in the Public Rights-of-Way. An effective Registration shall be a condition of obtaining such a permit. Notwithstanding an effective Registration, all permitting requirements shall apply, including the requirement to pay for any such permits unless otherwise provided by resolution or ordinance of the Town. A permit may be obtained by or on behalf of the Communications Services Provider having an effective Registration if all permitting requirements of the Town and other provisions of this Chapter are met.

(h) A Reseller, which by definition does not place or maintain Communications Facilities in the Public Rights-of-Way, is not required to Register with the Town.

Sec. 23-05. - Notice of Transfer, Sale or Assignment of Assets.

If a Communications Services Provider transfers, sells or assigns its System or any Facilities located in the Public Rights-of-Way incident to a transfer, sale or assignment of the Communications Services Provider's assets, the transferee, buyer or assignee shall be obligated to comply with the provisions set forth in this Chapter. Written notice of any such transfer, sale or assignment shall be provided by the Communications Services Provider to the Town within thirty (30) days after the effective date of such transfer, sale or assignment. If the transferee, buyer or assignee is not currently Registered with the Town, then the transferee, buyer or assignee must Register as provided in Section 23-04 within sixty (60) days of the effective date of such transfer, sale or assignment. If any applications for Division 2 Permits are pending under the Communications Services Provider's name as of the date the Town receives written notice of the transfer, sale or assignment, then the Town shall consider the transferee, buyer or assignee as the new applicant unless otherwise notified by the Communications Services Provider.

Sec. 23-06. - Rules, Regulations and General Conditions to Placement of Communications Systems and Facilities in the Public Right-of-Way.

As a condition of allowing the placement or maintenance of a Communications System or any Communications Facility in the Public Rights-of-Way, and under additional authority granted pursuant to Chapter 337, Florida Statutes, the Town hereby imposes the following rules, regulations and general conditions. Unless otherwise provided in this Chapter 23, these rules, regulations and general conditions shall apply to all Communications Services Providers, including those that are Pass-through Providers irrespective of whether they place and maintain only conduit, dark fiber or Pass-Through Facilities.

(a) *Rules on Utilization of the Public Rights-of-Way.*

(1) *Compliance with Laws.* A Communications Services Provider shall at all times be in full compliance with and abide by all applicable Federal, State and local laws, codes and regulations in placing or maintaining a Communications System and Facilities in the Public Rights-of-Way.

(2) *Due Care.* A Communications Services Provider shall use and exercise due caution, care and skill in performing work in the Public Rights-of-Way and shall take all reasonable steps to safeguard work site areas.

(3) *Permits.* A Communications Services Provider shall not commence to place or maintain a Communications Facility in Public Rights-of-Way until all applicable permits have been issued by the Town and other appropriate authority, except in the case of an emergency. The term "emergency" shall mean a condition that affects the public's health, safety or general welfare, which includes an unplanned out-of-service condition of a pre-existing service. The Communications Services Provider shall provide prompt notice to the Town of the placement or maintenance of a Communications Facility in the Public Rights-of-Way in the event of an emergency and shall, after-the-fact, be required to submit plans and Record Drawings and As-Built Surveys, if required by the Town Engineer, showing the placement or relocation of a Communications Facility undertaken in connection with the emergency.

(4) *Application for Development Permit.* Prior to the issuance of a Development Permit to allow the placement or maintenance of a Communications System or Facility in the Public Rights-of-Way, the Town has the right to first review and consider and the Communications Services Provider shall provide all of the following:

a. The expected dates and times when the Facility will be installed and the estimated time needed for construction and placement of the proposed Facility;

b. The location of the proposed Facility, the Public Rights-of-Way affected and a description of the Facility, including the type of Facility (e.g. conduit, fiber, twisted pair, etc.), the number of fibers or other cable being installed, and the approximate size of the Facility (e.g. length, height, width and diameter); and

c. Plans, drawings, photographs, and schematics (including cross section layout) prepared by a qualified engineer or technician showing where the Facility is proposed to be located in the Public Rights-of-Way and showing any known Communications Facilities or utility facilities in such Public Rights-of-Way.

(5) *Revised Plans.* If the plans or drawings submitted showing the proposed location for installation of the Facility in the Public Rights-of-Way require revision for any reason prior to commencing construction, the Communications Services Provider shall promptly submit revised plans and drawings to the Town Engineer.

(6) *Power to Restrict Area.* To the extent not otherwise prohibited by State or Federal law, the Town shall have the power to prohibit or limit the placement of new or additional Communications Facilities within a particular area of the Public Rights-of Way and deny the issuance of a Development Permit.

(7) *Limited Purpose of Development Permit.* A Development Permit issued by the Town constitutes authorization to undertake only certain activities in Public Rights-of-Way in accordance with this Chapter, and does not create any property right or other vested interest, or grant authority to impinge upon the rights of others who may have an interest in the Public Rights-of-Way. Development Permits shall be granted only for specific routes or locations in the Public Rights-of-Way and for such term as described in the permit. The Town's issuance of a Development Permit shall not be construed as a warranty that the placement of any Communications Facility is in compliance with applicable codes, regulations or laws.

(8) *Responsibility for Contractors.* Every Communications Services Provider that is Registered with the Town shall be liable for the actions of contractor(s) hired by them to perform the placement or maintenance of Facilities in the Public Rights-of-Way and shall be responsible for making sure that such contractor meets and complies fully with the rules, regulations and general conditions set forth in this Chapter.

(b) *Regulations on the Placement or Maintenance of Communications Facilities.*

(1) *Provision and Form of Record Drawings and As-Built Surveys.* Within forty-five (45) days after completion of any placement or maintenance of a Communications Facility in the Public Rights-of-Way, the Communications Services Provider shall provide the Town with Record Drawings showing the final location of such Facility in the Public Rights-of-Way. Upon request by the Town Engineer, the Communications Services Provider shall also provide the Town with As-Built Surveys within forty-five (45) days after completion of any placement or maintenance of a Communications Facility in the Public Rights-of-Way. The Record Drawings and As-Built Surveys shall be provided to the Town at no cost.

(2) *Production and Filing of As-Builts.* Every Communications Services Provider that is Registered with the Town shall produce and keep on file at its principal place of business an accurate and complete set of As-Builts of all Facilities placed and maintained in the Public Rights-of-Way. The location and identification of Facilities and the production of As-Builts shall be at the sole expense of the Communications Services Provider. Within thirty (30) days of any written request by the Town Engineer, the Communications Services Provider must provide to the Town, at no cost, copies of complete sets of As-Builts for the indicated Public Rights-of-Way. The failure of the Communications Services Provider to produce, keep on file, or provide to the Town As-Builts as required under this Chapter is sufficient grounds for the Town to deny the issuance of Development Permits in the future.

(3) *Removal of Facilities Placed Without Permit.* Any Communications Facilities placed in the Public Rights-of-Way by the Communications Services Provider without first having obtained the required Development Permits shall be removed within thirty (30) days of written notice by the Town to remove the same and in default of compliance with such notice, such Facilities may be removed by order of the Town Engineer and the cost of removal shall be borne and paid by the Communications Services Provider upon demand.

(4) *Underground.* The placement or maintenance of all Communications Facilities shall be underground unless otherwise approved in writing by the Town Engineer. Communications Facilities shall be placed between the property line and the curb line of all streets and avenues and shall not be within the roadway or the roadway recovery area unless specifically approved in writing by the Town Engineer. All Communications Facilities shall have consistent alignment parallel with the edge of pavement, a thirty-six inch (36") depth of cover for and shall have two feet (2') of horizontal clearance from other underground utilities and their appurtenances. Where approved by the Town Engineer, Facilities to be placed in the street shall be laid according to the permanent grade of the street and at a depth below the surface of the permanent grade as each is determined by the Town Engineer.

(5) *Above-Ground Approval.* The placement or maintenance of Facilities above-ground, including new poles and aerial wires, is subject to written approval by the Town Engineer. Attachment to any pole or other above-ground structure must be pursuant to a valid and effective pole attachment agreement or similar instrument. Location on any pole or other above-ground structure shall not be considered a vested interest of the Communications Services Provider and such poles or structures, if owned by the Communications Services Provider, shall be removed or modified by the Communications Services Provider at its own expense whenever the Town or other governmental authority determines that the public convenience would be enhanced thereby. The lowest placement of any Communications Facility on any pole or other above-ground structure in the Public Rights-of-Way shall not be less than eighteen (18) feet from the ground. The Communications Services Provider shall, at such time as the electric utility facilities or other Communications Facilities are placed underground or are required by the Town to be placed underground, concurrently place its Communications Facilities underground without cost to the Town.

(6) *New Poles or Above-Ground Structures.* The placing of any new pole or other above-ground structure to support Communications Facilities is subject to the approval of the Town Engineer and shall be done under the supervision of the Town Engineer or his designee. No such pole or other above-ground structure shall be placed in any gutter or drainage area and must be behind the curb to avoid damage to any sidewalk. In areas of the Town where either electric utility wires or other Communications Facilities are above ground and such facilities are moved, either voluntarily or at the direction of the Town, to a new pole or other above-ground structure, the Communications Services Provider shall likewise move all its above-ground Facilities on such poles or structures to such new pole or structure within thirty (30) days after receipt of written notice from either the Town or the owner of the new pole or structure, without cost to the Town.

(7) *Placement and Maintenance Standards.* The placement or maintenance of Communications Facilities in the Public Rights-of-Way shall be performed in accordance with standards and requirements of the following, as is applicable and as each is in force at the time of the respective placement or maintenance of a Communications System or Facility:

- a. the Florida Department of Transportation Utilities Accommodation Guide;
- b. the State of Florida Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways;
- c. the Trench Safety Act (Chapter 553, Florida Statutes);

- d. the Underground Facility Damage Prevention and Safety Act (Chapter 556, Florida Statutes);
- e. the National Electrical Code or the ANSI National Electrical Safety Code; and
- f. the "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States.

(8) *Sunshine State One-Call*. Every Communications Services Provider shall utilize, and if permissible, maintain membership in the utility notification one call system administered by Sunshine State One-Call of Florida, Inc.

(9) *Safety and Minimal Interference*. All placement and maintenance of Communication Facilities in the Public Rights-of-Way shall be subject to the Town Code and other regulations of the Town pertaining thereto, and shall be performed with the least possible interference with the use and appearance of the Public Rights-of-Way and the rights and reasonable convenience of the property owners who abut or adjoin the Public Rights-of-Way and in compliance with the rules and regulations of the Florida Department of Transportation. The Communications Services Provider shall at all times employ reasonable care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injury or be a nuisance to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. All placement and maintenance shall be done in such a manner as to minimize to the greatest extent any interference with the usual travel on such Public Rights-of-Way. The use of trenchless technology (i.e., microtunneling and horizontal directional drilling techniques) for the installation of Communications Facilities in the Public Rights-of-Way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed wherever and whenever feasible.

(10) *Correction of Harmful Conditions*. If, at any time, the Town or other authority of competent jurisdiction reasonably determines that any Communications Facility is, or has caused a condition that is, harmful to the health, safety or general welfare of any Person, then the Communications Services Provider shall, at its own expense, promptly correct or eliminate all such Facilities and conditions. In an emergency, as determined by the Town Engineer, when the Communications Services Provider is not immediately available or is unable to provide the necessary immediate repairs to any Communications Facility that is damaged or malfunctioning, or has caused a sunken area or other condition and, in the Town Engineer's sole discretion, is deemed a threat to public safety, then the Town, when apprised of such an emergency, shall have the right to remove, make repairs to or eliminate same with the total cost being charged to and paid for by the Communications Services Provider upon demand.

(11) *Remedy of Hazardous Conditions*. If, at any time, a condition exists that the Town or other authority of competent jurisdiction reasonably determines is an emergency that is potentially hazardous or life threatening to any person or is a threat to the health or safety of the general public, and to remedy such condition the Town or other authority of competent jurisdiction reasonably determines that a Communications Services Provider must temporarily relocate or temporarily shut off service or transmissions through a specific Facility, then the Town, as an appropriate exercise of its police powers, may order the Communications Services Provider to immediately perform such temporary relocation or shut off until the condition has been remedied,

and to do so at its own expense and without liability to or recourse against the Town. In such an emergency, when the Communications Services Provider is not immediately available or is unable to provide the necessary immediate relocation or shut off of the specific Communications Facility, then the Town shall have the right to perform, or cause to be performed, such temporary relocation or shut off until the condition has been remedied with the total cost being charged to and paid for by the Communications Services Provider upon demand.

(12) *Interference with Other Facilities.* A Communications Services Provider shall not, in violation of any applicable laws or regulatory standards, design, place or maintain its Communications Facilities in a manner that will interfere with the signals or facilities of any municipal or county police, fire or rescue department, the facilities of any public utility, or the Communications Facilities of another Communications Service Provider, including any cable service provider.

(13) *Relocation or Removal of Facilities.* Except in cases of emergency, a Communications Services Provider, at its own expense, shall:

a. Upon thirty (30) days written notice, relocate or remove, as specified in said notice, its Communications Facility in the event the Town finds that the particular Facility is unreasonably interfering in some way with the convenient, safe or continuous use, or the maintenance, improvement, extension or expansion of any Public Rights-of-Way. The Town shall provide the Communications Services Provider with a notice and order as provided for in Section 337.404 of the Florida Statutes, or any subsequently enacted law of the State of Florida, in the event it charges the Communications Services Provider for the cost and expense of relocating or removing such Facility pursuant to this paragraph.

b. Within a reasonable period of time from the date of written notice from the Town, but not more than one hundred twenty (120) days thereafter, relocate or remove, as specified in said notice, its Communications Facility in the event the Town Engineer determines it necessary for the construction, completion, repair, relocation or maintenance of a Town project, because the particular Communications Facility is interfering with or adversely affecting the proper operation of street light poles, traffic signals, or any communications system belonging to the Town or an agency thereof or because the particular Communications Facility is interfering with the signals or facilities of the Belleair Police Department, Belleair Fire Rescue, or any municipal public utility. In the event the Town issues any such written notice to the Communications Services Provider pursuant to this paragraph, and the Communications Services Provider fails to cause the aforementioned relocation or removal as required herein, the Town shall be entitled to relocate or remove such Facilities without further notice to the Communications Services Provider and the total cost and expense shall be charged to the Communications Services Provider.

(14) *Temporary Raising or Lowering of Facilities.* A Communications Services Provider, upon request of any Person holding a validly issued building or moving permit from the Town to temporarily encroach on or perform moving operations in or across the Public Rights-of-Way, shall temporarily raise or lower its Communications Facilities to accommodate such temporary encroachment or move. The expense of such temporary raising or lowering of Facilities shall be paid by the Person requesting the same, and the Communications Services Provider shall have the authority to require such payment in advance. The Communications Services Provider shall be given not less than twenty (20) days advance written notice from such Person to arrange for the temporary relocation, which notice must detail the time and location of the permitted

activity, and not less than twenty-four (24) hours advance notice from the permit holder advising of the actual operation. The Town is not subject to, nor shall it be liable for, any such expense or notice requirement for the moving of houses or structures performed by the Town or its contractors.

(15) *Coordination.* In an effort to minimize the adverse impact on the Public Rights-of-Way and other municipal improvements, a Communications Services Provider may be required by the Town Engineer to coordinate the placement or maintenance of its Facilities with any work, construction, installation in or repairs of the subject Public Rights-of-Way or other Facilities therein that is occurring or is scheduled to occur within a reasonable time from application for a Development Permit as determined by the Town Engineer. Every Communications Services Provider shall make space in its trench and/or conduit within the Public Rights-of-Way available to other providers consistent with the federal requirements of 47 U.S.C. 224. Every Communications Services Provider shall utilize existing conduits, pathways and other Facilities whenever possible, and shall not place or maintain any new, different, or additional poles, conduits, pathways or other Facilities, whether in the Public Rights-of-Way or on privately-owned property, until written approval is obtained from the Town or other appropriate governmental authority, and, where applicable, from the private property owner.

(16) *Co-location and Joint Use.* A Communications Services Provider, in an effort to minimize the adverse impact on the useful life of the Public Rights-of-Way, shall, whenever possible, enter into joint use agreements with the Town and other parties who have Registered with, or who are expressly authorized by, the Town to use its Public Rights-of-Way; provided that the terms of such agreements are satisfactory to the Communications Services Provider. Nothing herein contained shall mandate that the Communications Services Provider enter into joint use agreements with parties other than the Town or an agency of the Town. However, prior to placement of any new or additional underground conduit in the Public Rights-of-Way, a Communications Services Provider is required to certify in writing to the Town Engineer that it has made appropriate inquiry to all existing utilities and other entities possessing a right to occupy the Public Rights-of-Way as to the availability of existing or planned conduit that the particular Communications Services Provider could reasonably utilize to meet its needs, and that no such conduit is available or planned at a reasonable cost by any other entity on the time schedule reasonably needed. The Communications Services Provider shall not be permitted to perform any placement or maintenance of Facilities in those segments of the Public Rights-of-Way where there exists vacant or available conduit, dark fiber or surplus fiber owned by the Town, an agency of the Town or another governmental body which is or, through a reasonable amount of effort and expense, can be made compatible with the Communications Services Provider's System or network. Under such circumstances the Communications Services Provider shall have the opportunity to enter into a use agreement or lease arrangement with the Town or an agency of the Town at or below reasonable and prevailing market rates for such conduit or fiber or, where owned by another governmental body, shall, in good faith, first exhaust all means of obtaining use of such conduit or fiber before applying for an Division 2 Permit from the Town.

(17) *Maintenance-of-Traffic.* In the event that placement or maintenance of Communications Facilities conducted by the Communications Services Provider requires streets or traffic lanes to be closed or obstructed, the Communications Services Provider must, pursuant to the requirements of existing or subsequently enacted Town ordinances, obtain all necessary permits from Town, and shall obtain approval of its maintenance-of-traffic plan from the Town Engineer.

(18) *Restoration of the Public Rights-of-Way.* After completion of any placement or maintenance of a Communications Facility in the Public Rights-of-Way or each phase thereof, the Communications Services Provider shall, at its own expense and in a manner reasonably acceptable to the Town, restore without delay the Public Rights-of-Way so disturbed to its original condition immediately prior to the placement or maintenance work. If the Communications Services Provider fails to make such restoration within thirty (30) days following the completion of such placement or maintenance, the Town may perform such restoration and charge the costs of the restoration to the Communications Services Provider in accordance with Section 337.402, Florida Statutes, as it may be amended. The Communications Services Provider shall, to the satisfaction of the Town Engineer, maintain and correct any restorations made pursuant hereto for a period of twelve (12) months following the date of its completion. Failure to comply with this subsection shall be deemed sufficient grounds for denial of any future Development Permits for the placement or maintenance of Communications Facilities.

(c) *General Conditions on the Utilization of the Public Rights-of-Way and the Placement or Maintenance of Communications Facilities.*

(1) *Town Not Liable.* Except for acts of willful misconduct or gross negligence and to the extent permitted by applicable law, neither the Town nor its officials, boards, commissions, consultants, agents, employees or independent contractors shall have any liability to the Communications Services Provider for any claims for any damages, costs, expenses or losses resulting from the Town's breakage, removal, alteration or relocation of any Facilities of any Communications Services Provider which arose out of or in connection with any emergency or disaster situation or was, in the sole discretion of the Town Engineer, deemed necessary to facilitate any public works project, public improvement, alteration of a Town structure, change in the grade or line of any Public Rights-of-Way, or the elimination, abandonment or closure of any Public Rights-of-Way or was found by Town Commission to be in the best interest of the health, safety or general welfare of the public; nor shall any charge be made by the Communications Services Provider against the Town for any damages, costs, expenses or losses related thereto.

(2) *No Exemption from Permits.* Nothing in this Chapter shall exempt any Communications Services Provider from obtaining Development Permits for work done within the Public Rights-of-Way.

(3) *Subject to Police Powers.* The rights of the Communications Services Provider shall be subject to all lawful exercise of police power by the Town, and to such other reasonable regulation of the Public Rights-of-Way as the Town shall hereafter by resolution or ordinance provide in the interest of the health, safety and general welfare of the public. Any inconsistency or ambiguity between the provisions of this Chapter 23 and any lawful exercise of the Town's police power shall be resolved in favor of the latter.

(4) *Town Inspection.* The Town shall have the right to make such inspections of a Communications System or Facilities placed or maintained in the Public Rights-of-Way as it finds necessary to ensure compliance with this Chapter. This Chapter shall not be construed to create or hold the Town responsible or liable for any damage to persons or property by reason of any inspection by the Town of the placement or maintenance of a Communications System or Facility as authorized herein or failure by the Town to so inspect.

(5) *Access to Manholes.* The Town, in the proper exercise of its municipal powers and duties with respect to the Public Rights-of-way, shall have access at any time to all hand holes and

manholes in the Town belonging to a Communications Services Provider. Before accessing any manhole, the Town will make a reasonable good faith effort to provide the Communications Services Provider prior notice to afford an opportunity to have trained personnel present, unless determined by the Town to be an emergency situation.

(6) *Compatibility, Capacity and Interference Issues.* To properly manage and control the use of the Public Rights-of-Way, and to protect the health, safety and general welfare of the public, the Town, in its legislative and regulatory role, shall be the final authority on permitting a Communications System or Facility to be placed in the Public Rights-of-Way and shall exercise such authority in a non-discriminatory manner. It shall be in the sole discretion of the Town Attorney whether an easement is compatible with or allows for its use by a Communications System or Facility. It shall be in the sole discretion of the Town Engineer, based on the nature, design, size, configuration or proposed location of any Communications System or Facility, whether there is sufficient Capacity in a particular section of the Public Rights-of-Way or whether such System or Facility will interfere with the Facilities or equipment of any municipality, county, public utility, cable operator, or other Communications Service Provider.

(7) *No Warranty of Fitness or Suitability.* The Town makes no express or implied warranties or representations regarding the fitness, suitability, or availability of the Public Rights-of-Way for any Communications System or Facility or its right to authorize the placement or maintenance of any Communications System or Facility in the Public Rights-of-Way. Any performance of work, costs incurred or services rendered by a Communications Services Provider shall be at such Provider's sole risk. Nothing in this Chapter shall affect the Town's authority to acquire or add Public Rights-of-Way, or to vacate or abandon Public Rights-of-Way as provided for in the Town Code or applicable law. The Town makes no express or implied warranties or representations regarding the availability of any acquired, added, vacated or abandoned Public Rights-of-Way for a Communications System or Facility.

(8) *Annexations.* Upon the annexation of any territory to the Town of Belleair, the provisions of this Chapter and the rules, regulations and general conditions contained herein shall extend to the territories so annexed; and all Facilities placed, maintained, owned or operated by any Communications Services Provider extending into or already located in the Public Rights-of-Way of the territory so annexed, shall thereafter be subject to all terms hereof, as the same may be amended from time to time.

Sec. 23-07. - Duty to Notify Town of Resellers; Conditional Use of Public Rights-of-Way.

Within thirty (30) days of any Registered Communications Services Provider using its Facilities to carry the Communication Services of any Reseller, such Communications Services Provider shall notify the Town of the name and address of such Reseller. A Reseller's lease, interconnection or other use of Facilities belonging to a Communications Services Provider duly Registered in accordance with Section 23-04 and properly permitted to place or maintain its Facilities in the Public Rights-of-Way, does not, and shall not, afford such Reseller any right, claim or cause of action to impede the lawful exercise of the Town's rights or police powers, including, but not limited to, requiring the Registered Communications Services Provider to remove such Facilities from the Public Rights-of-Way.

Sec. 23-08. - Wireless Facilities.

(a) *Generally.* The placement of telecommunication towers and antennae anywhere in the corporate limits of the Town shall in all cases be subject to the Town's zoning and land use regulations, including those set forth in Section 74-283 in the Town's Land Development Code, which is a part of the Town Code. Where placement of a wireless antenna in the Public Rights-of-Way has been approved by the Town and to the extent not inconsistent with any Town zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the Public Rights-of-Way, such as a light pole or utility pole, shall, unless otherwise agreed to by the Town in writing:

- (1) not extend more than 10 feet above the highest point of the vertical structure;
- (2) not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
- (3) comply with any applicable Federal Communications Commission Emissions Standards;
- (4) comply with any applicable local building codes in terms of design, construction and installation; and
- (5) not contain any commercial advertising thereon.

(b) *Small Wireless Facilities in Public Rights-of-Way.* The Town hereby adopts the following rules that will apply to the Collocation of Small Wireless Facilities In Public Rights-of-Way for all Applications filed on or after July 1, 2017:

(1) *General Conditions.* Applicants seeking permission to Collocate or install Small Wireless Facilities within Public Rights-of-Way shall comply with the registration, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, Town liability, and Town warranties provisions contained in this Chapter 23; provided, however, that the review timeframes and denial criteria of this Subsection 23-08(b) shall control.

(2) *Filing, Review, and Processing of Applications.* The Town shall accept Applications for permits and shall process and issue permits for the Collocation of Small Wireless Facilities In Public Rights-Of-Way subject to the following requirements:

a. The Applicant shall as a part of its Application provide information necessary to demonstrate the applicant's compliance with the applicable provisions of Chapter 23 for the placement of Small Wireless Facilities in the locations identified in the Application, and shall bear the burden of demonstrating compliance therewith.

b. Within 14 days after the date of filing the Application, the Town may request that the proposed location of a Small Wireless Facility be moved to another location in the right-of-way and placed on an alternative Town Utility Pole or support structure or may place a new Utility Pole. The Town and the Applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the Applicant, the Applicant must notify the Town of such acceptance and the Application shall be deemed granted for any new location for which there is agreement and all other locations in the Application. If an agreement is not reached, the Applicant must notify the

Town of such nonagreement and the Town must grant or deny the original Application within 90 days after the date the Application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

c. The Town hereby limits the height of a Small Wireless Facility to 10 feet above the Utility Pole or structure upon which the Small Wireless Facility is to be collocated. Unless waived by the Town, the height for a new Utility Pole is limited to the tallest existing Utility Pole as of July 1, 2017, located in the same Public Right-Of-Way, other than a Utility Pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Small Wireless Facility. If there is no Utility Pole within 500 feet, the Town shall limit the height of the Utility Pole to 50 feet.

d. Within 14 days after receiving an Application, the Town must determine and notify the Applicant by electronic mail as to whether the Application is complete. If an Application is deemed incomplete, the Town must specifically identify the missing information. An Application is deemed complete if the Town fails to provide notification to the Applicant within 14 days.

e. The Town shall process all Applications on a nondiscriminatory basis. If the Town fails to approve or deny a complete application within 60 days after receipt of the Application, the Application is deemed approved. If the Town does not use the 30-day negotiation period provided herein., the parties may mutually agree to extend the 60-day Application review period. The Town shall grant or deny the Application at the end of the extended period.

f. A permit issued pursuant to an approved application shall remain effective for 1 year unless extended by the Town.

g. The Town shall notify the Applicant of approval or denial by electronic mail. The Town shall approve a complete Application unless it does not meet the applicable provisions of this Chapter 23.

h. If the Application is denied, the Town shall specify in writing the basis for denial, including the specific code provisions on which the denial is based, and shall send the documentation to the Applicant by electronic mail on the day the Town denies the Application.

i. The Applicant may cure the deficiencies identified by the Town and resubmit the Application within 30 days after notice of the denial is sent to the Applicant. Failure by the Applicant to timely resubmit the Application shall result in a final denial of the Application. The Town shall approve or deny a timely filed revised Application within 30 days after receipt or the Application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

j. An Applicant seeking to Collocate Small Wireless Facilities within the Town's boundaries may, at the Applicant's discretion, file a consolidated application with the Town and receive a single permit for the Collocation of up to 30 Small Wireless Facilities. If the Application includes multiple Small Wireless Facilities, the Town may separately address Small Wireless Facility Collocations for which incomplete information has been received or which are denied.

k. The Town may deny a proposed Collocation of a Small Wireless Facility In The Public Rights-of-Way if the proposed Collocation:

1. Materially interferes with the safe operation of traffic control equipment.

2. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

3. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

4. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

5. Fails to comply with applicable codes and the applicable provisions of this Chapter 23.

1. Notwithstanding anything to the contrary contained herein, the Town may reserve space on Town Utility Poles for future public safety uses. If replacement of a Town utility pole is necessary to accommodate the collocation of the Small Wireless Facility and the future public safety use, the pole replacement is subject to the make-ready provisions of this ordinance and the replaced pole shall accommodate the future public safety use.

m. A structure granted a permit and installed pursuant to this subsection 23-08 (b) shall comply with chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

n. The Town does not require approval or fees for (i) routine maintenance, (ii) replacement of existing Wireless Facilities with substantially similar Wireless Facilities, or (iii) installation, placement, maintenance, or replacement of Micro Wireless Facilities that are suspended on cables strung between existing Utility Poles in compliances with applicable codes by or for a Communications Services Provider authorized to occupy the Public Rights of-Way and who is remitting taxes under Chapter 202, Florida Statutes.

(3) *Collocation of Small Wireless Facilities on Town Utility Poles.* Collocation of small wireless facilities on Town utility poles is subject to the following requirements:

a. The Town shall not enter into an exclusive arrangement with any Person for the right to attach equipment to Town Utility Poles.

b. The rates and fees for Collocations on Town Utility Poles must be nondiscriminatory, regardless of the services provided by the collocating person.

c. The Town hereby levies, establishes, and sets an annual rate that shall be paid by all those Applicants who file an Application to Collocate Small Wireless Facilities on Town Utility Poles in the amount of \$150 per pole per year. The initial payment shall be made as a condition of the granting of the permit, with remaining annual payments to be made in all subsequent years on the same date.

d. Agreements between the Town and Wireless Providers that are in effect on July 1, 2017, and that relate to the Collocation of Small Wireless Facilities in the right-of-way, including the Collocation of Small Wireless Facilities on Town Utility Poles, remain in effect, subject to applicable termination provisions. The Wireless Provider may accept the rates, fees, and terms established under this subsection for Small Wireless Facilities and Utility Poles that are the subject of an application submitted after the rates, fees, and terms become effective.

e. For a Town Utility Pole that supports an aerial facility used to provide Communications Services or Electric Service by another, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

f. For an Town utility pole that does not support an aerial facility used to provide communications services or electric service by another, the Town shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Collocation, including necessary pole replacement, within 60 days after receipt of a complete Application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the Applicant. Alternatively, the Town may require the Applicant seeking to collocate a Small Wireless Facility to provide a make-ready estimate at the Applicant's expense for the work necessary to support the Small Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a Utility Pole that is substantially similar in color and composition. The Town may not condition or restrict the manner in which the Applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered Utility Pole shall remain the property of the Town.

g. The Town may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to Communications Services Providers other than Wireless Services Providers for similar work and may not include any consultant fee or expense.

(4) Placement of Utility Poles In the Public Rights-of-Way In Support of Collocation of Small Wireless Facilities. A Wireless Infrastructure Provider may apply to the Town to place Utility Poles In The Public Rights-of-Way to support the Collocation of Small Wireless Facilities. The Application must include an attestation that Small Wireless Facilities will be collocated on the Utility Pole or structure and will be used by a Wireless Services Provider to provide service within 9 months after the date the Application is approved by the Town. The Town shall accept and process the Application in accordance with Subsection 23-08(b) and any applicable codes and other local codes governing the placement of Utility Poles In The Public Rights-of-Way.

(5) Application and Enforcement of Historic Preservation Zoning Regulations. Consistent with preservation of local zoning authority under 47 U.S.C. s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), and the National Historic Preservation Act of 1966, as amended, this Subsection 23-08(b) is subject to the provisions of Section 74-332, Town Code, Historic Preservation.

(6) *Prohibited Collocations, Attachments, Installations, and Services Not Authorized by Subsection 23-08(b)*. This subsection 23-08(b) does not authorize, and the Town hereby prohibits, the following:

a. This Subsection 23-08(b) does not authorize a Person to Collocate or attach Wireless Facilities, including any Antenna, Micro Wireless Facility, or Small Wireless Facility, on a privately owned Utility Pole, a Utility Pole owned by an electric cooperative or a municipal electric utility, a privately owned Wireless Support Structure, or other private property without the consent of the property owner.

b. The approval of the installation, placement, maintenance, or operation of a Small Wireless Facility pursuant to this Subsection 23-08(b) does not authorize the provision of any voice, data, or Video Services or the installation, placement, maintenance, or operation of any Communications Facilities other than Small Wireless Facilities In The Public Right-of-Way.

c. This Subsection 23-08(b) does not affect provisions relating to Pass-Through Providers contained in this Ordinance and contained in Section 337.401(6), Florida Statutes.

d. This Subsection 23-08(b) does not apply to the installation, placement, maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such Collocation or construction shall be only as provided by the Town's underground utilities ordinance.

e. This Subsection 23-08(b) does not authorize a Person to Collocate Small Wireless Facilities or Micro Wireless Facilities on a Town Utility Pole or erect a Wireless Support Structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does not apply to the installation, placement, maintenance, or replacement of Micro Wireless Facilities on any existing and duly authorized aerial communications facilities.

Sec. 23-09. - Revocation or Suspension of Development Permits.

Subject to Section 23-11, the Town may revoke any Development Permit currently issued to a Communications Services Provider for work in the Public Rights-of-Way or suspend the issuance of Development Permits in the future to a Communications Services Provider for, in addition to any other circumstances provided for in this Chapter, one or more of the following reasons:

(a) a violation of permit conditions, including conditions set forth in the permit, this Chapter 23, and other applicable codes or regulations governing the placement or maintenance of Communications Facilities in the Public Rights-of-Way;

(b) a misrepresentation or fraud made or committed on the part of the Communications Services Provider in the Registration process or in the application for an Division 2 Permit;

(c) the failure to properly renew the Registration or the ineffectiveness of Registration; or

(d) the failure to relocate or remove Communications Facilities as may be required by the Town pursuant to this Chapter 23.

The Town Engineer shall provide notice and an opportunity to cure any violation of (a) through (d) above, each of which shall be reasonable under the circumstances.

Sec. 23-10. - Involuntary Termination of Registration.

(a) The Town may terminate a Registration if:

(1) a Federal or State authority suspends, denies, or revokes a Communications Services Provider's certification or license to provide Communications Services;

(2) the Communications Services Provider's placement or maintenance of a Communications Facility in the Public Rights-of-Way presents an extraordinary danger to the general public or other users of the Public Rights-of-Way and the Communications Services Provider fails to remedy the danger promptly after receipt of written notice;

(3) the Communications Services Provider ceases to use all of its Communications Facilities in the Public Rights-of-Way and has not complied with Section 23-21 herein; or

(4) the Communications Services Provider fails to comply with any of the rules, regulations or general conditions set forth in Section 23-06 herein.

(b) Prior to termination of a Registration, the Communications Services Provider shall be notified by the Town Engineer with a written notice setting forth all matters pertinent to the proposed termination, including which of (1) through (4) above is applicable as the reason therefore. The Communications Services Provider shall have thirty (30) days after receipt of such notice within which to eliminate the reason or within which to present a plan, satisfactory to the Town Engineer, to accomplish the same. If not eliminated or if the plan presented is rejected, the Town Engineer shall provide written notice of such rejection to the Communications Services Provider and a final determination to terminate Registration. A final determination to terminate Registration may be appealed in accordance with the procedures set forth in Section 23-11.

(c) In the event of termination, following any appeal period, the Communications Services Provider formerly Registered shall: (1) notify the Town of the assumption or anticipated assumption by another registrant of ownership of the Communications Services Provider's Facilities in Public Rights-of-Way or (2) provide the Town with an acceptable plan for disposition of its Communications Facilities in the Public Rights-of-Way. If a Communications Services Provider fails to comply with this subsection (c), which determination of non-compliance is subject to appeal as provided in Section 23-11, the Town may exercise any remedies or rights it has at law or in equity, including but not limited to taking possession of the Facilities where another Person has not assumed the ownership or physical control of the Facilities or requiring the Communications Services Provider within 90 days of the termination, or such longer period as may be mutually agreed to between the Town and the Communications Services Provider, to remove some or all of the Communications Facilities from the Public Rights-of-Way and restore the Public Rights-of-Way to their original condition prior to such removal.

(d) In any event, a Communications Services Provider whose Registration has been terminated shall take such steps as are necessary to render safe every portion of the Communications Facilities remaining in the Public Rights-of-Way.

(e) In the event of termination of a Registration, this Section does not authorize the Town to cause the removal of Communications Facilities used to provide another service for which the

Communications Services Provider or another Person who owns or exercises physical control over the Communications Facilities holds a valid certification or license with the governing Federal or State agency, if required for provision of such service, and who is Registered with the Town, if required.

(f) The Town's right to terminate a Registration shall be in addition to all other rights of the Town, whether reserved in this Chapter, or authorized by other law, and no action, proceeding or exercise of the right to terminate Registration will affect or preclude any other right the Town may have.

Sec. 23-11. - Appeals.

Final determinations by appropriate Town staff denying an initial Registration; denying an application for renewal of a Registration; terminating a Registration; or denying, revoking or suspending any Development Permit are subject to appeal. A notice of appeal of such decision may be filed with the Town's Manager within thirty (30) days of the date of the final, written decision to be appealed. The Town Manager shall have thirty (30) days from the date the appeal is filed to review the matter and render a written decision to uphold or reverse the final decision made by staff. If the Town Manager upholds the final decision of staff, the appellant may file a notice of appeal with the Town Clerk within thirty (30) days of the date of the written decision of the Chief Administrative Officer. The Town Clerk shall set the matter for hearing before the Town Commission at any regular meeting of Town Commission scheduled within forty-five (45) days of the date that the notice of appeal is filed with the Town Clerk, unless waived by the Communications Services Provider. A ruling may be made at the hearing or at the next regularly scheduled Town Commission meeting and the Communications Services Provider shall be notified of the decision in writing within thirty (30) days thereof. Where a notice of appeal to the Town Manager or the Town Clerk is not timely filed as provided herein, such right to appeal shall be waived. Upon correction by the Communications Services Provider of the circumstances that gave rise to a suspension or denial of a Development Permit, the suspension or denial shall be lifted (the same does not apply to the revocation of a Development Permit).

Sec. 23-12. – Fees Applicable to Those Not Subject to Communications Services Tax.

While the Florida Legislature has prohibited municipalities from requiring providers of communications services who have registered with the Florida Department of Revenue from having to enter into franchise agreements or license arrangements as a condition to placing or maintaining Communications Facilities in the Public Rights-of-Way, the Town expressly reserves the right to require the payment of consideration or regulatory fees by Persons using or occupying the Public Rights-of-Way in other capacities. The Town reserves the right to require such payments based on the type of user and to the extent as follows:

(a) *Dealer*. Except as provided in paragraph (16) of subsection 23-06.(b), a Communications Services Provider who meets the definition of Dealer as set forth in this Chapter 23 and who has Registered in accordance with Section 23.04 is not required to enter into a franchise agreement or license arrangement with the Town as a condition to placing or maintaining Communications Facilities in the Public Rights-of-Way, nor is a Dealer required to make payment of any franchise fees, license fees or other user fees to the Town as consideration for the use or occupancy of the Public Rights-of-Way for the provision of Communication Services.

(b) *Pass-through Provider and Pass Through Facilities.* A Communications Services Provider who meets the definition of Pass-through Provider as set forth in this Chapter 23 and who is not subject to the Town of Belleair's Local Communications Services Tax imposed pursuant to Sections 202.19 and 202.20, Florida Statutes shall pay the Town the maximum annual amount allowed under Section 337.401(6)(b), Florida Statutes, as amended. For purposes of calculating payments hereunder, each separate pole or tower installed or maintained by a Pass-through Provider for purposes of supporting Antennas for other over-the-air radio transmission or reception equipment In The Public Rights-of-Way shall comprise a separate Communications Facility subject to assessment of a separate permit fee in the amount of five hundred dollars (\$500.00) per linear mile, or portion thereof, up to the maximum amount allowed under Section 337.401, Florida Statutes, whichever is higher. The annual amount referred to above shall be due and payable on October 1 of every year beginning on October 1, 2017. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one percent per month from the date due until paid. The acceptance of any payment required hereunder by the Town shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Town may have for additional sums due and payable or authorization to install any facilities In The Public Rights-of-Way.

(c) *Other Persons.* All other Persons, except Government, are required to pay the Town, as consideration for the use or occupancy of the Public Rights-of-Way for the placement or maintenance of Communications Facilities, an amount based on and in accordance with Section 23-12(b), Town Code.

(d) *Government.* A Government is not required to pay the Town consideration for the use or occupancy of the Public Rights-of-Way for the placement or maintenance of Communications Facilities, unless such Facilities are being used by such Government or a Communications Services Provider, including Resellers, to offer or provide Communication Services other than for such Government's internal non-commercial use, in which event the Government, where not subject to the Town of Belleair's Local Communications Services Tax imposed pursuant to Sections 202.19 and 202.20, Florida Statutes is required to pay the Town, as consideration for the use or occupancy of the Public Rights-of-Way by or through its Facilities placed therein after October 1, 2017, an amount based on and in accordance with Section 23-12(b), Town Code. or such other amount or rate of compensation as mutually agreed to in writing by the Government and the Town.

Sec. 23-13. - Existing Communications Facility.

A Communications Services Provider with a Facility in the Public Rights-of-Way as of the effective date of this Chapter 23 has until October 1, 2017 to comply with the provisions of this Chapter, including, but not limited to, Registration, or be in violation thereof.

Sec. 23-14. - Insurance.

(a) At all times during the use or occupancy of the Public Rights-of-Way, including any time during placement or maintenance of Communications Facilities, the Communications Services Provider shall obtain, pay all premiums for, and maintain satisfactory to the Town the types of insurance policies and coverage limits described in this Section 23-14. Nothing contained in this Chapter shall limit a Communications Services Provider's liability to the Town to the limits of insurance certified or carried.

(1) Commercial general liability insurance valid in the State of Florida, including contractual liability and products completed operations liability coverage on an occurrence basis, which policy limit shall be in an amount not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury, personal injury or death, or property damage and in an amount not less than Two Million Dollars (\$2,000,000) policy aggregate for each personal injury liability, broad form property damage (without XCU exclusions), contractual liability and products-completed operations liability.

(2) Business automobile liability insurance valid in the State of Florida which policy limit shall be in an amount not less than One Million Dollars (\$1,000,000) combined single limit, including bodily injury and property damage covering owned, leased, hired and non-owner vehicles.

(3) Workers' Compensation valid in the State of Florida which policy limit shall be in an amount not less than the Statutory limit for Workers' Compensation.

(4) Employer's liability insurance valid in the State of Florida which policy limit shall be in an amount not less than One Million Dollars (\$1,000,000) each accident for employer's liability.

(b) All insurance providers used shall be admitted and duly authorized to do business in the State of Florida and shall have assigned by A. M. Best Company a minimum Financial Strength Rating of "A" and a minimum Financial Size Category of "IX" (i.e., a size of \$250,000,000 to \$500,000,000 based on capital, surplus, and conditional reserve funds). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable. All liability policies shall name the Town, its council members, officers, and employees as additional insureds with respect to any covered liability arising out of the placement or maintenance of Communications Facilities in the Public Rights-of-Way or other activities under this Chapter. Each Communications Services Provider shall furnish annually to the Town certificates showing proof of all required insurance coverage. All liability coverage must be in occurrence form and in accordance with the limits specified. Claims made policies are not acceptable. No insurance policy shall be canceled, nor shall the occurrence or aggregate limits set forth herein be reduced, until the Town has received at least thirty (30) days' advance written notice by registered, certified or regular mail or facsimile of any cancellation, intent not to renew or reduction in policy coverage. Each Communications Services Provider shall be responsible for notifying the Town of such cancellation, intent not to renew or reduction in coverage. All Certificate(s) of Insurance, including all endorsements and riders, evidencing insurance coverage shall be submitted to the Town within thirty (30) days after the date of registration with the Town in order for a Communications Services Provider to obtain Division 2 Permits required for construction in the Public Rights-of-Way. Each Communications Services Provider shall, in the event of any such notice described above, obtain, pay all premiums for, and file with the Town, written evidence of the issuance of replacement policies within thirty (30) days following receipt by the Town or the Communications Services Provider of such notice.

(c) The Certificate(s) of Insurance forms must be properly executed by the authorized representative of the insurance provider and must include all endorsements, riders and notices. Each Communications Services Provider shall file and maintain with the Town on an annual basis the required Certificate(s) of Insurance. The Certificate(s) of Insurance must indicate the following:

(1) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; that the policy coverage "pertains the

requirements of Section 23.14 of the Belleair Communications Right-of-Way Utilization Ordinance;" policy expiration date; and specific coverage amounts; and

(2) any applicable deductibles or self-insured retentions; and

(3) that the Town, its council members, officers and employees are additional insureds; and

(4) that the Town shall receive thirty (30) days' advance written notice of cancellation, intent not to renew or reduction in coverage; and

(5) that the commercial general liability insurance policy is primary as respects any other valid or collectible insurance that the Town may possess, including any self-insured retentions the Town may have; and any other insurance the Town does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.

(d) Under extraordinary circumstances a Communications Services Provider may satisfy the insurance requirements of this Chapter by providing documentation of self-insurance that, in the sole discretion of the Director of Human Resources and Risk Management, demonstrates incontrovertibly the adequacy to defend and cover claims of any nature that might arise from the placement and maintenance of Facilities in the Public Rights-of-Way. The Communications Services Provider must be authorized as a self-insurer by the Department of Insurance under the laws of the State of Florida.

Sec. 23-15. - Indemnification.

(a) Except with respect to the willful misconduct, negligence or gross negligence of the Town, a Communications Services Provider, by act of Registering with the Town as such, shall be obligated, at its sole cost and expense, to defend, indemnify and hold harmless the Town, its officials, commissioners, agents and employees from and against any and all claims, suits, causes of action, proceedings, liabilities and judgments for damages or equitable relief, and costs and expenses arising out of or in connection with the placement or maintenance of its Communications Facilities in the Public Rights-of-Way by the Communications Services Provider or its agent or hired contractor. This indemnification provision shall include, but not be limited to, such damages and penalties arising out of claims (1) by any Person whatsoever on account of (i) bodily injury to a person or persons, (ii) death of a person or persons or (iii) property damage, where any of the foregoing is occasioned by the operations of the Communications Services Provider, or alleged to have been so caused or occurred or (2) involving the Communications Services Provider's violation of any easement or private property rights.

(b) Nothing in this Section shall prohibit the Town from participating in the defense of any litigation by its own counsel if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict.

(c) Indemnified costs and expenses shall include, but not be limited to, all out-of-pocket expenses and reasonable attorneys' fees in defending against any such claim, suit or proceeding, and shall also include the reasonable value of any services rendered by the Town Attorney or his assistants or any consultants, agents and employees of the Town. The Town will attempt to notify

the Communications Services Provider, in writing, within a reasonable time of the Town's receiving notice of any issue it determines may require indemnification.

(d) Nothing contained in this subsection shall be construed or interpreted: (1) as denying the Town, the Communications Services Provider or any Person any remedy or defense available to them under the laws of the State of Florida; or (2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes, as it may be amended.

(e) The indemnification requirements shall survive and be in effect after the termination or cancellation of a Registration.

Sec. 23-16. - Construction Bond.

(a) Prior to issuance of any Development Permit where the type of work allowed under the permit will require restoration of the Public Rights-of-Way, the Communications Services Provider or the contractor performing such work on its behalf shall obtain, pay for and file with the Town a construction bond. The construction bond shall serve to guarantee the timeliness and quality of the construction and restoration work and to secure, and enable the Town to recover, all costs related to the restoration of the Public Rights-of-Way in the event the Communications Services Provider or its contractor fails to make such restoration to the Town's satisfaction or causes damage to the Public Rights-of-Way during construction. The construction bond must name the Town as Obligee and be in the face amount of Fifteen Thousand Dollars (\$15,000) conditioned upon the full and faithful completion of construction and restoration of the Public Rights-of-Way to its original condition. Six (6) months following completion and inspection of the restoration of the Public Rights-of-Way satisfactory to the Town Engineer, the Communications Services Provider or its contractor, as the case may be, may reduce the face amount of the construction bond to Five Thousand Dollars (\$5,000) and, thereafter, may allow the bond to lapse in accordance with its terms. However, for any subsequent work in the Public Rights-of-Way, the Communications Services Provider or its contractor will be required to replenish any existing construction bond or provide a new construction bond in the face amount of Fifteen Thousand Dollars (\$15,000). The construction bond shall be in a form acceptable to the Town Attorney and must be issued by a surety having a rating reasonably acceptable to the Town Engineer and authorized by the Florida Department of Insurance to issue surety bonds in this State.

(b) The construction bond must be issued as non-cancelable and be for a term of not less than twelve (12) months. In the event the term of any construction bond expires, or is reasonably expected to expire, prior to the completion of construction, restoration and Town inspection, the Communications Services Provider, or the contractor acting on its behalf, shall immediately obtain, pay for, and file with the Town a replacement bond.

(c) The Town's requirement of a construction bond is not in lieu of any additional bonds that may be required under this Chapter or through the permitting process. The Town's right to recover under the construction bond shall be in addition to all other rights of the Town, whether reserved in this Chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the construction bond will affect or preclude any other right the Town may have.

Sec. 23-17. - Performance Bond.

(a) Before any Communications Services Provider is permitted to begin the placement or maintenance of an initial build, any substantial rebuild, upgrade or extension of its Communications System, or when construction plans show that there would be at least one thousand (1,000) feet of open trenching in the Public Rights-of-Way at any given time, the Communications Services Provider is required to obtain, pay for, and file with the Town a performance bond. The performance bond must name the Town as Obligee and be in the face amount of Two Hundred Fifty Thousand Dollars (\$250,000) conditioned upon the full and faithful compliance by the Communications Services Provider with all requirements, duties and obligations imposed by the provisions of the Belleair Communications Right-of-Way Utilization Ordinance during, and through completion of, the placement or maintenance project. The performance bond shall be in a form acceptable to the Town Attorney and must be issued by a surety having a rating reasonably acceptable to the Town Engineer and authorized by the Florida Department of Insurance to issue performance bonds in this State.

(b) The performance bond must be issued as non-cancelable and be for a term consistent with the reasonably expected duration of the particular placement or maintenance project (including restoration and Town inspection), but in no event less than eighteen (18) months. In the event the term of any performance bond expires, or is reasonably expected to expire, prior to the completion of such placement or maintenance project, including restoration and Town inspection, the Communications Services Provider shall immediately obtain, pay for, and file with the Town a replacement bond.

(c) The Town's requirement of a performance bond is not in lieu of any additional bonds that may be required under this Chapter or through the permitting process. The Town's right to recover under the performance bond shall be in addition to all other rights of the Town, whether reserved in this Chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the Town may have. Any proceeds recovered under the performance bond may be used to reimburse the Town for such additional expenses as may be incurred by the Town as a result of the Communications Services Provider's failure to comply with the responsibilities imposed by this Chapter, including, but not limited to, attorney's fees and costs of any action or proceeding, and the cost of removal or abandonment of any property.

Sec. 23-18. - Security Fund.

Every Communications Services Provider shall make a Twenty-Five Thousand Dollar (\$25,000) cash deposit, or shall file with the Town an irrevocable letter of credit or acceptable equivalent in the same amount, which shall serve, and be referred to, as the "Security Fund." The Security Fund shall be conditioned upon the full and faithful compliance with and performance by the Communications Services Provider of all requirements, duties and obligations imposed by the provisions of the Belleair Communications Right-of-Way Utilization Ordinance at all times. The letter of credit shall be in a form and issued by an institution acceptable to the Town's Chief Financial Officer. Should the Town draw upon the Security Fund, it shall promptly notify the Communications Services Provider, and the Communications Services Provider shall promptly restore the cash deposit or letter of credit to the full amount. The Security Fund shall be maintained until the later of (a) the effective date of transfer, sale or assignment by the Communications Services Provider of all its Facilities In The Public Rights-of-Way, (b) twelve (12) months after the removal or abandonment by the Communications Services Provider of all of its Facilities in

the Public Rights-of-Way or (c) six (6) months after the termination of Registration, including any appeals undertaken pursuant to Section 23.11 herein. Upon the later of these events the cash deposit will be returned without interest or the letter of credit may be cancelled. In the event a Communications Services Provider fails to perform any requirement, duty or obligation imposed upon it by the provisions of this Chapter, there shall be recoverable, jointly and severally from the Security Fund, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal, relocation or abandonment of any Facilities in Public Rights-of-Way, plus a reasonable allowance for attorneys' fees, up to the full amount of the Security Fund.

Sec. 23-19. - Enforcement Remedies.

(a) No provision of this Chapter shall be deemed to bar the right of the Town to seek or obtain judicial relief from a violation of any provisions of this Chapter, the Registration provisions, or any rule, regulation or general condition provided for hereunder, whether administratively, judicially or both. Neither the existence of other remedies identified in this Chapter nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Town to recover fines, penalties or monetary damages (except where liquidated damages are otherwise prescribed) for such violation by the Communications Services Provider. The remedies available to the Town shall be cumulative and in addition to any other remedies provided by law or equity. The laws of the State of Florida shall govern with respect to any proceeding in law or equity pertaining to the enforcement of this Chapter or any cause of action arising out of or in connection herewith.

(b) A Communications Services Provider's failure to comply with provisions of this Chapter shall constitute a Town Code violation and shall subject the Communications Service Provider to the code enforcement provisions and procedures as provided in Chapter 2, Article VIII, Town Code, and may be punishable as provided in Section 162.22, Florida Statutes, as it may be amended.

(c) In any proceeding before the Town Commission where there exists an issue with respect to a Communications Services Provider's performance of its obligations pursuant to this Chapter, the Communications Services Provider shall be given the opportunity to provide such information as it may have concerning its compliance with the terms and conditions of this Ordinance. The Town may find a Communications Services Provider that does not demonstrate compliance with the terms and conditions of this Chapter in default and apply any appropriate remedy or remedies as authorized by this Ordinance. In determining which remedy is appropriate, the Town Commission shall take into consideration the nature of the violation, the Person bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the Town Commission determines are appropriate to the public interest.

(d) The Town Engineer, or his/her designee, shall be responsible for administration and enforcement of this Chapter, and is authorized to give any notice required herein or by law.

(e) Failure of the Town to enforce any requirements of this Chapter shall not constitute a waiver of the Town's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

Sec. 23-20. - Abandonment of a Communications Facility.

(a) Upon Abandonment of any Facility owned by a Communications Services Provider in the Public Rights-of-Way, the Communications Services Provider shall notify the Town within sixty (60) days.

(b) The Town may direct the Communications Services Provider, by written notice, to remove all or any portion of such Abandoned Communications Facility at the Communications Services Provider's sole expense if the Town determines that the Abandoned Communications Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such Communications Facility: (1) compromises safety at any time for any Public Rights-of-Way user; (2) compromises the safety of other Persons performing placement or maintenance of Communications Facilities in the Public Rights-of-Way; (3) prevents another Person from locating other facilities in the area of the Public Rights-of-Way where the Abandoned Communications Facility is located when other alternative locations are not reasonably available; or (4) creates a maintenance condition that is disruptive to the use of the Public Rights-of-Way. In the event of (2), the Town may require the third Person to coordinate with the Communications Services Provider that owns the existing Communications Facility for joint removal and placement, where agreed to by the Communications Services Provider.

(c) If the Communications Services Provider fails to remove all or any portion of an Abandoned Communications Facility as directed by the Town within the time period specified in the written notice, which time period must be reasonable under the circumstances, the Town may perform such removal and charge the cost of the removal against the Communications Services Provider.

(d) In the event that the Town does not direct the removal of the Abandoned Communications Facility, the Communications Services Provider, by its notice of Abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of such abandoned Facility by the Town or other Person, provided that the cost of the alteration or removal is not borne by the Communications Services Provider.

Sec. 23-21. - Reservation of Rights.

The Town hereby expressly reserves all of the following rights:

(a) To exercise its municipal home rule powers, now or hereafter, to the fullest extent allowed by law with regard to the access, use and regulation of the Public Rights-of-Way.

(b) To amend this Chapter as it shall find necessary in the lawful exercise of its municipal authority.

(c) To adopt or enact by resolution or ordinance, in addition to the provisions contained herein and in any existing applicable ordinances, such additional reasonable regulations as Town Commission finds necessary in the exercise of the Town's police powers.

(d) To exercise the power of eminent domain, consistent with applicable federal and state law, to acquire property that may include that property owned or leased by a Communications Services Provider.

(e) As and when deemed necessary by Town Commission to be in the interest of the Town or its residents, to abandon portions of the Public Rights-of-Way within the proper exercise of its municipal authority and without notice to or the consent of any Communications Services Provider. The Town shall not be responsible for any costs, damages, loss or other expense to the

Communications Services Provider as a result of the Town's abandonment of any Public Rights-of-Way.

(f) To place and maintain, and franchise or permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in the Public Rights-of-Way occupied by any Communications Services Provider.

(g) Without limitation, the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of any Public Rights-of-Way within the Town limits and within said limits as the same may from time to time be altered.

(h) To require a Reseller to Register in accordance with Section 23-04 to the extent such Reseller wants the right to place or maintain Facilities in the Public Rights-of-Way. Any Person using or leasing Facilities owned by a Registered Communications Services Provider is not, therefore, entitled to any rights to place or maintain Communications Facilities in the Public Rights-of-Way, unless such Person themselves Registers with the Town.

Section 2. If the event of a conflict with any other Town ordinances or part of ordinances, the provisions of this Ordinance shall control.

Section 3. If any section, subsection, sentence, clause, phrase, word or other part of this Chapter is for any reason declared unconstitutional or invalid by any court of competent jurisdiction, such part shall be deemed separate, distinct and independent and the remainder of this Chapter shall continue in full force and effect.

Section 4. This ordinance shall take effect immediately upon adoption, and shall apply to any applications for facilities in the Town's public rights of way filed on or after that date.

PASSED ON FIRST READING: **July 18, 2017*

PASSED AND ADOPTED ON SECOND AND FINAL READING:

Mayor

ATTEST:

Town Clerk

CHAPTER 2017-136

Committee Substitute for Committee Substitute for House Bill No. 687

An act relating to utilities; amending s. 337.401, F.S.; authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce rules or regulations regarding the placing and maintaining of certain voice or data communications services lines or wireless facilities on certain rights-of-way; providing a short title; providing definitions; prohibiting an authority from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way under certain circumstances; authorizing an authority to require a registration process and permit fees under certain circumstances; requiring an authority to accept, process, and issue applications for permits subject to specified requirements; prohibiting an authority from requiring approval or requiring fees or other charges for routine maintenance, the replacement of certain wireless facilities, or the installation, placement, maintenance, or replacement of certain micro wireless facilities; providing an exception; providing requirements for the collocation of small wireless facilities on authority utility poles; providing requirements for rates, fees, and other terms related to authority utility poles; authorizing an authority to apply current ordinances regulating placement of communications facilities in the right-of-way for certain applications; requiring an authority to waive certain permit application requirements and small wireless facility placement requirements; prohibiting an authority from adopting or enforcing any regulation on the placement or operation of certain communications facilities and from regulating any communications services or imposing or collecting any tax, fee, or charge not specifically authorized under state law; providing construction; requiring a wireless provider to comply with certain nondiscriminatory undergrounding requirements of an authority; authorizing the authority to waive any such requirements; authorizing a wireless infrastructure provider to apply to an authority to place utility poles in the public rights-of-way to support the collocation of small wireless facilities; providing application requirements; requiring the authority to accept and process the application subject to certain requirements; providing construction; authorizing an authority to enforce certain local codes, administrative rules, or regulations; authorizing an authority to enforce certain pending local ordinances, administrative rules, or regulations under certain circumstances, subject to waiver by the authority; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 337.401, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(1)(a) The department and local governmental entities, referred to in this section and in ss. 337.402, 337.403, and 337.404 as the “authority,” that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, voice telephone, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404 as the “utility.” The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

(7)(a) This subsection may be cited as the “Advanced Wireless Infrastructure Deployment Act.”

(b) As used in this subsection, the term:

1. “Antenna” means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

2. “Applicable codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the authority upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

3. “Applicant” means a person who submits an application and is a wireless provider.

4. “Application” means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities.

5. “Authority” means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation. Rights-of-way under the jurisdiction and control of the department are excluded from this subsection.

6. “Authority utility pole” means a utility pole owned by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-of-way within:

a. A retirement community that:

(I) Is deed restricted as housing for older persons as defined in s. 760.29(4)(b);

(II) Has more than 5,000 residents; and

(III) Has underground utilities for electric transmission or distribution.

b. A municipality that:

(I) Is located on a coastal barrier island as defined in s. 161.053(1)(b)3.;

(II) Has a land area of less than 5 square miles;

(III) Has less than 10,000 residents; and

(IV) Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

7. “Collocate” or “collocation” means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

8. “FCC” means the Federal Communications Commission.

9. “Micro wireless facility” means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

10. “Small wireless facility” means a wireless facility that meets the following qualifications:

a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas

that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

11. "Utility pole" means a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

12. "Wireless facility" means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. “Wireless support structure” means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

(c) Except as provided in this subsection, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way.

(d) An authority may require a registration process and permit fees in accordance with subsection (3). An authority shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.

2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant’s compliance with applicable codes for the placement of small wireless facilities in the locations identified the application.

3. An authority may not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

4. An authority may not limit the placement of small wireless facilities by minimum separation distances. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative authority utility pole or support structure or may place a new utility pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility pole

is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority shall limit the height of the utility pole to 50 feet.

6. Except as provided in subparagraphs 4. and 5., the installation of a utility pole in the public rights-of-way designed to support a small wireless facility shall be subject to authority rules or regulations governing the placement of utility poles in the public rights-of-way and shall be subject to the application review timeframes in this subsection.

7. Within 14 days after receiving an application, an authority must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the authority must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.

8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application. If an authority does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The authority shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for 1 year unless extended by the authority.

9. An authority must notify the applicant of approval or denial by electronic mail. An authority shall approve a complete application unless it does not meet the authority's applicable codes. If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

11. An authority may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

e. Fails to comply with applicable codes.

12. An authority may adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Such provisions must be reasonable and nondiscriminatory.

13. Collocation of a small wireless facility on an authority utility pole does not provide the basis for the imposition of an ad valorem tax on the authority utility pole.

14. An authority may reserve space on authority utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(e) An authority may not require approval or require fees or other charges for:

1. Routine maintenance;

2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications

services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(f) Collocation of small wireless facilities on authority utility poles is subject to the following requirements:

1. An authority may not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.

2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.

3. The rate to collocate small wireless facilities on an authority utility pole may not exceed \$150 per pole annually.

4. Agreements between authorities and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this subsection for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.

5. A person owning or controlling an authority utility pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority, the person owning or controlling the authority utility pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of small wireless facilities on the authority utility pole which comply with this subsection.

a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.

b. For an authority utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

c. For an authority utility pole that does not support an aerial facility used to provide communications services or electric service, the authority

shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, an authority may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The authority may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the authority.

d. An authority may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

(g) For any applications filed before the effective date of ordinances implementing this subsection, an authority may apply current ordinances relating to placement of communications facilities in the right-of-way related to registration, permitting, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Permit application requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this subsection shall be waived by the authority.

(h) Except as provided in this section or specifically required by state law, an authority may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law. This paragraph does not alter any law regarding an authority's ability to regulate the relocation of facilities.

(i) A wireless provider shall, in relation to a small wireless facility, utility pole, or wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.

(j) A wireless infrastructure provider may apply to an authority to place utility poles in the public rights-of-way to support the collocation of small

wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. The authority shall accept and process the application in accordance with subparagraph (d)6. and any applicable codes and other local codes governing the placement of utility poles in the public rights-of-way.

(k) This subsection does not limit a local government's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement such laws. An authority may enforce local codes, administrative rules, or regulations adopted by ordinance in effect on April 1, 2017, which are applicable to a historic area designated by the state or authority. An authority may enforce pending local ordinances, administrative rules, or regulations applicable to a historic area designated by the state if the intent to adopt such changes has been publicly declared on or before April 1, 2017. An authority may waive any ordinances or other requirements that are subject to this paragraph.

(l) This subsection does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(m) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this subsection does not authorize the provision of any voice, data, or video communications services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.

(n) This subsection does not affect provisions relating to pass-through providers in subsection (6).

(o) This subsection does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on a utility pole, unless otherwise permitted by federal law, or erect a wireless support structure in the right-of-way located within a retirement community that:

1. Is deed restricted as housing for older persons as defined in s. 760.29(4)(b);
2. Has more than 5,000 residents; and
3. Has underground utilities for electric transmission or distribution.

This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such collocation or construction shall be only as provided by the municipality's underground utilities ordinance.

(p) This subsection does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on a utility pole, unless otherwise permitted by federal law, or erect a wireless support structure in the right-of-way located within a municipality that:

1. Is located on a coastal barrier island as defined in s. 161.053(1)(b)3.;
2. Has a land area of less than 5 square miles;
3. Has fewer than 10,000 residents; and
4. Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such collocation or construction shall be only as provided by the municipality's underground utilities ordinance.

(q) This subsection does not authorize a person to collocate small wireless facilities or micro wireless facilities on an authority utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

Section 2. This act shall take effect July 1, 2017.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.



Legislation Details (With Text)

File #: 17-0150 **Version:** 1 **Name:**
Type: Minutes **Status:** Minutes Approval
File created: 6/30/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Approval of June 20, 2017 Regular Meeting Minutes
Sponsors:
Indexes:
Code sections:
Attachments: [RM 06-20-2017](#)

Date	Ver.	Action By	Action	Result
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Town of Belleair

901 Ponce de Leon Blvd.
Belleair, FL 33756

Meeting Minutes Town Commission

Tuesday, June 20, 2017

6:00 PM

Town Hall

Welcome. We are glad to have you join us. If you wish to speak, please wait to be recognized, then step to the podium and state your name and address. We also ask that you please turn-off all cell phones.

Meeting called to order at 6:03 PM with Mayor Katica presiding.

PLEDGE OF ALLEGIANCE

COMMISSIONER ROLL CALL

Present: 5 - Mayor Gary H. Katica
Deputy Mayor Karla Rettstatt
Commissioner Michael Wilkinson
Commissioner Tom Shelly
Commissioner Tom Kurey

SCHEDULED PUBLIC HEARINGS

Persons are advised that, if they decide to appeal any decision made at this meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

17-0148 Request for Variance - 322 Roebling Rd. N.

David Ottinger-Town Attorney- Stated item initially missed on agenda; publicly noticed; will discuss under general agenda.

CITIZENS COMMENTS

(Discussion of items not on the agenda. Each speaker will be allowed 3 minutes to speak.)

Dick Belsito-Resident-Spoke against short term rental properties.

CONSENT AGENDA

[17-0124](#) Approval of May 2, 2017 and May 16, 2017 Regular Meeting Minutes

Commissioner Shelly moved approval of the consent agenda; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

GENERAL AGENDA[17-0125](#)**Presentation of Restored Fort McHenry Flag**

JP Murphy-Town Manager-Provided brief history; flag is a replica of the Ft. McHenry flag and was flown in town during the bicentennial year; restoration thanks to Belleair Community Foundation.

James McArthur-BCF Board Member-Spoke on behalf of the organization.

17-0148**Request for Variance - 322 Roebling Rd. N.**

Those wishing to speak sworn in by Town Clerk.

Mr. Murphy presented case; approval would allow for construction of a porch to extend two feet into the front yard setback resulting in a twenty three foot front yard setback; Planning and Zoning Board unanimously recommended approval.

No exparte communications expressed by the Commission.

Tim Stroyne-Applicant-Spoke briefly on current conditions of property.

Deputy Mayor Rettstatt lives in neighborhood; spoke in favor of granting variance.

Mr. Murphy stated letters of support recieved from neighbors Steve and Molly Fowler as well as Laurie Adams.

Commissioner Shelly moved approval of the variance; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

[17-0116](#)**Consideration of Penny for Pinellas Interlocal Agreement.**

Mr. Murphy noted agreement is for distribution of Penny proceeds pending voter approval in November; spoke on importance of proceeds relating to funding for capital projects.

Mayor Katica commented on Penny discussions at the Mayors' Council meetings; beneficial to all municipalities.

Commissioner Shelly moved approval of the Penny for Pinellas Interlocal Agreement; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

[17-0131](#)**Consideration of Interlocal Agreement for the Cooperative Purchasing of Debris Managment and Debris Monitoring Contracts**

Mr. Murphy stated this relates to FEMA reimbursement for debris management and monitoring.

Deputy Mayor Rettstatt moved approval of the Interlocal Agreement for the Cooperative Purchasing of Debris Management and Debris Monitoring Contracts; seconded by Commissioner Wilkinson.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

[17-0135](#)

Pinellas/Ponce Engineering Services by Deuel & Associates

Mr. Murphy commented on SWFWMD cooperative funding opportunity; project required to be split.

Keith Bodeker-Construction Project Supervisor-Further analysis with engineer requires design revisions to accommodate drainage; fifty percent cost share with SWFWMD; provides longterm benefit to future projects.

Brief discussion regarding cost; proactive for future infrastructure needs.

Commissioner Shelly moved approval of the additional professional engineering services for the Oleaner, Pinellas, Ponce de Leon, Palmview by Deuel & Associates in the amount of \$130,000.00; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

[17-0130](#)

Pat Wall and Magnolia Park Renovation Project

Eric Wahlbeck-Director of Parks and Recreation-Discussed renovation and partnership with Belleair Community Foundation; provided feedback from neighborhood meeting; Park and Tree Board voted unanimously to accept plan and budget. Plan for tree removal and new plantings was also discussed.

Nancy Hartshorne-Resident-Commented on marking/tagging trees that are to be removed.

John Birmingham-Resident-Questioned birm and privacy measures.

Malory Daigneault-Resident-Spoke on the addition of a community garden.

Jay Daigneault-Resident-Spoke in support of a community garden; supports addition of a playground as well.

Mary Lurch-Resident-Spoke in support of the addition of a playground.

Mr. Wahlbeck provided budget information; BCF to donate \$150,000; no design for playground or garden at this time, space available for both; commented on potential costs of adding items.

Discussion ensued regarding crosswalks and lighting; addition of a flashing light for crosswalk; staff will bring back a proposed final plan; looking to residents to raise funds for additional items.

Deputy Mayor Rettstatt moved approval of preliminary plans for Magnolia and Pat Wall Park as budgeted with the concepts of the community garden and the playground as a future addition; seconded by Commissioner Wilkinson.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

Deputy Mayor Rettstatt amended motion to include the signalization; seconded by Commissioner Wilkinson.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

Mr. Wahlbeck stated the BCF has requested name change to park; Commission can decide whether or not to approve; Mr. Murphy briefly commented on past practices.

Discussion ensued regarding donations and process for approving naming rights; policy to be drafted for Commission approval.

Deputy Mayor Rettstatt moved approval of the opportunity for naming rights for Magnolia Park upon approval of the Commission; seconded by Commissioner Wilkinson.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

Laurie Daigneau-Resident-Commented on fundraising process for playground equipment in park.

17-0133

Parks and Recreation Month Proclamation

Mr. Murphy read into record.

Commissioner Wilkinson moved that the Town of Belleair acknowledge that July is Parks and Recreation Month; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

17-0134

Town Manager's Plan of Delegation

Mr. Murphy presented his delegation plan as required by charter.

Commissioner Wilkinson moved approval of the Town Manager's Plan of Delegation; seconded by Deputy Mayor Rettstatt.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly, and Commissioner Kurey

17-0132

2017 Legislative Report

Mr. Murphy provided overview of Florida Legislature bills passed that impact town; discussed homestead exemption, wireless communication equipment, drone limitations, ride share companies and public records reform.

Commissioner Kurey questioned revenue loss from homestead exemption and penny

items; discussion ensued regarding strategy and potential ways to offset.

Mr. Murphy briefly discussed legislation regarding medical marijuana dispensaries; most likely not an issue given current zoning law. Reverse osmosis project funding request did not get approved; will reapply next year.

17-0128

Introducing Quarterly Communications Updates

Cathy DeKarz-Management Analyst-Provided information regarding quarterly update newsletter to be distributed to residents through utility billing, website and social media.

Brief discussion regarding additional distribution methods and content.

TOWN MANAGER'S REPORT

Mr. Murphy announced Adolphus Merricks and Brandon Brown as the employees of the month for May; Chief Sohl stated Mr. Merricks and Mr. Brown assisted in identifying individuals involved in a hit and run.

Dan Hartshorne-Resident-Spoke in support of raises for solid waste staff.

Mr. Bodeker provided a brief report regarding Pinellas/Ponce project, anticipates August for bid; Palmetto Rd. to be reviewed soon; Harold's Lake design complete, awaiting soil analysis to include in bid package.

TOWN ATTORNEY'S REPORT

David Ottinger-Town Attorney-Golf course sale closed; conservation easement to be submitted upon completion of improvements; deed held in escrow. Also commented on Belleair Country Club interest in purchasing property along waterfront; survey to be done; Mr. Murphy suggests having a broader community conversation prior to taking action.

Discussion ensued regarding Hallett Park; Deputy Mayor Rettstatt spoke on potentially renaming park and raising funds; project would be down the road.

MAYOR AND COMMISSIONERS' REPORT/BOARD AND COMMITTEE REPORTS

Commissioner Wilkinson-No Recreation Board meeting; summer camps ongoing.

Mayor Katika-Commented on letter received from resident about Barbara Circle and road construction.

Deputy Mayor Rettstatt-Presenter at Mayors' Council meeting was from The Heart Gallery; organization promotes adoption; potential to have a photo gallery in town. Also spoke on trapping and relocation efforts for animals on golf course property; golf course representative will attend upcoming meetings to provide updates on course construction.

Commissioner Shelly-FEMA fixed rate for flood insurance on non-homedest

properties expires this year.

Commissioner Kurey-Nothing to report.

OTHER BUSINESS

No other business.

ADJOURNMENT

No further business; meeting adjourned in due form at 7:54 PM.

Deputy Mayor Rettstatt moved to adjourn; seconded by Commissioner Wilkinson.

Aye: 5 - Mayor Katica, Deputy Mayor Rettstatt, Commissioner Wilkinson, Commissioner Shelly,
and Commissioner Kurey

TOWN CLERK

APPROVED:

MAYOR



Legislation Details (With Text)

File #: 17-0153 **Version:** 1 **Name:**
Type: Discussion Items **Status:** General Agenda
File created: 7/6/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Pinellas County Sheriff Office and Town of Belleair Annual Agreement Contract
Sponsors:
Indexes:
Code sections:
Attachments: [17-18 PCSO-Belleair Contract](#)
[17-18 PCSO-Belleair Contract Summary](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Mayor, Commissioners and Town Manager
From: Bill Sohl, Chief of Police
Date: 7/6/2017

Subject:

Pinellas County Sheriff Office and Belleair Police Department Annual Contract

Summary:

The body of this year's contract is word for word the same as last year. Cost for services is up \$1,328.00 and is explained with the attached itemization.

Previous Commission Action: Last year's contract was approved.

Background/Problem Discussion: N/A

Expenditure Challenges N/A

Financial Implications: \$23,740.00

Recommendation: Approval of the Contract

Proposed Motion Approval

AGREEMENT

THIS AGREEMENT is made and entered into by and between the TOWN OF BELLEAIR, a municipal corporation (hereinafter "TOWN"), and BOB GUALTIERI, as Sheriff, Pinellas County, Florida (hereinafter "SHERIFF").

A. **COMPUTER AIDED DISPATCH (CAD)**

WHEREAS, the SHERIFF currently maintains a computer-aided dispatch (CAD) system;
and

WHEREAS, the TOWN desires to contract with the SHERIFF to permit TOWN to have full access to all the features available in the Sheriff's computer-aided dispatch (CAD) system;
and

WHEREAS, the CAD system is capable of handling the volume of calls that are anticipated to be generated by the TOWN without reducing the speed or efficiency of the system;
and

WHEREAS, both the TOWN and the SHERIFF believe the provision of such services as hereinafter described is in the best interest of the safety and welfare of the citizens of the TOWN and of Pinellas County;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties hereto agree as follows:

1. The SHERIFF maintains a computer-aided dispatch (CAD) system whose main purpose is to receive and dispatch calls for service relating to law enforcement matters, as well as additional voice and data communication needed to assist police officers in their daily duties. This system includes communication with police laptop computers, portable and in-car radios and is staffed 24 hours a day, 7 days a week. This system is solo operated and maintained by the SHERIFF and is housed at a location designated by the SHERIFF. The SHERIFF agrees to

receive calls for TOWN police services and dispatch police services to the TOWN via this CAD system.

2. The SHERIFF shall be responsible for the maintenance, upgrades and repairs to the Sheriff's CAD system.

3. The SHERIFF shall notify the TOWN of any changes or upgrades necessary in the communication equipment owned by the TOWN, to ensure that the TOWN continues to have full access to the CAD system. The cost of such changes or upgrades shall be the responsibility of the TOWN.

4. The SHERIFF agrees that such notice to the TOWN shall be made as soon as possible after the SHERIFF becomes aware of the need for the change or upgrade.

5. The TOWN agrees to make the necessary changes or upgrades in a timely manner. Failure to do so may result in termination of the Agreement.

6. All communication equipment needed, such as but not limited to radio and laptop computers, to provide communication between the SHERIFF and the on-duty officers of the TOWN shall be purchased by the TOWN. However, the equipment shall meet the technical requirements for the SHERIFF'S CAD system.

7. All equipment purchased by the TOWN shall remain the property of and be maintained by the TOWN. The parties agree that licenses which provide for the use of the software which enables access and use of the SHERIFF'S CAD system by the TOWN, and for which licenses the TOWN pays the SHERIFF, are not "equipment" and as such remain the SHERIFF'S property.

8. The SHERIFF agrees to provide technical support, install, repair and maintain any TOWN communication equipment (radios, laptop computers, laptop software), which is being used by the TOWN in conjunction with the CAD system. Such support, repair or maintenance

shall be provided to the TOWN at SHERIFF'S cost (including labor and materials) and charged to the TOWN.

9. In addition to the costs stated above, in return for the services to be provided by the SHERIFF, the TOWN shall pay to the SHERIFF the sum of TWELVE THOUSAND TWO HUNDRED SEVENTY-ONE DOLLARS AND NO CENTS (\$12,271.00) to be paid on October 1, 2017, or as soon as possible after approval of the Agreement by both parties. This cost includes payment for Sheriff's Office Communications Center personnel and the nine (9) mobile licenses annual fees for the nine (9) police officer and supervisor units.

10. Should the TOWN determine a need to add additional units to its fleet which are CAD-accessible, then the TOWN shall be responsible for all associated costs incurred by the SHERIFF on its behalf and charged accordingly. Such costs shall be billed by the SHERIFF and payable upon receipt by the TOWN to the SHERIFF.

B. AUGMENTED CRIMINAL INVESTIGATIVE SUPPORT SYSTEM (ACISS)

WHEREAS, the SHERIFF currently has available and utilizes a computer based system for taking, recording and collating police reports known as the Augmented Criminal Investigative Support System (hereinafter referred to as "ACISS"); and

WHEREAS, this computer based system allows officers to prepare police reports using the system, making retrieval of and statistical information related to such reports readily available to law enforcement personnel; and

WHEREAS, the TOWN desires to contract with the SHERIFF to permit TOWN officers to utilize the computer based ACISS program; and

WHEREAS, the ACISS system is capable of handling the volume of reports that are anticipated to be generated by the TOWN without reducing the speed or efficiency of the system;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties hereto agree as follows:

1. The SHERIFF will make ACISS available to the TOWN, which will permit officers of the TOWN to prepare police reports relating to Part 1 offenses and all other reports as the TOWN may deem necessary or appropriate. This system will be available at all times except at such times as the system is unavailable because of routine maintenance, upgrading, data back-up operations or malfunction.

2. The TOWN shall have access to the ACISS system through a computer terminal located at the TOWN police facility. The TOWN shall be responsible for all hardware and software (other than ACISS software) necessary to access the ACISS system. The SHERIFF is responsible for maintaining the records management computer system, including all required software licenses, upgrades, updates, and system administration. The SHERIFF is also responsible for maintaining the records management software (ACISS), including all necessary software licenses, upgrades, updates and system administration. The TOWN agrees it shall be responsible for providing and running the necessary anti-virus software on all computers connected to ACISS, and shall be responsible for performing Windows updates on a regular and ongoing basis. Pursuant to this Agreement, the TOWN shall be authorized to have one (1) person logged on to the system at any given time.

3. The cost for the annual maintenance of one (1) ACISS license is FOUR HUNDRED NINETY-FIVE DOLLARS (\$495.00), which the TOWN agrees to pay to the SHERIFF on October 1, 2017, or as soon as possible after approval of the Agreement by both parties. Should the TOWN desire to obtain simultaneous access to the ACISS system by more than one person, the cost for additional simultaneous users shall be THREE THOUSAND

THREE HUNDRED DOLLARS (\$3,300.00) for the additional ACISS license and FOUR HUNDRED NINETY-FIVE DOLLARS (\$495.00) for the annual maintenance fee.

4. Effective July 1, 2013, the Florida State legislature enacted §119.0701. This statute requires that all contractors comply with Florida's public records laws with respect to services performed on behalf of a governmental agency. Specifically, the statute requires that contractors:

a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service;

b. Provide the public with access to public records on the same terms and conditions that a public agency would provide the records and at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes or as otherwise provided by law;

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law;

d. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. Failure to comply with these provisions is considered an immediate breach of this Agreement.

5. The TOWN agrees to establish and maintain a quality control system in order to maintain the integrity of the data being entered into ACISS. Failure to do so may result in payment by the TOWN to ACISS to restore the integrity of the data and/or the requirement that all reports be done utilizing the SHERIFF'S ARMS (Automated Records Management System) Unit staff.

6. The SHERIFF originally provided TOWN police officers and other police personnel with training in the use of the ACISS system for the creation of police reports and self-entry by the officers. The parties agreed that the goal in training TOWN officers in the use of ACISS was to develop expertise on the part of one or more officers to the extent they would become responsible for training new officers who are employed by the TOWN in the future, and as such the TOWN is now responsible for said training.

7. In addition to ACISS access, the SHERIFF shall process traffic citations from the Belleair Police Department. These citations shall be delivered to the Sheriff's Office and placed in the designated receptacle for citations. This additional service shall include the entering of the Belleair Police Department traffic citations into ACISS and transferring said traffic citations to the Clerk of the Circuit Court. If said traffic citations are found to be lacking the required information for entering them into ACISS or forwarding them to the Clerk of the Circuit Court, they will be returned to the Belleair Police Department with an explanation for the return.

8. The TOWN agrees to pay the SHERIFF, on October 1, 2017, or as soon as possible after approval of the Agreement by both parties the sum of FIVE HUNDRED DOLLARS AND NO CENTS (\$500.00), which reflects the sum due for traffic citation processing.

C. **FORENSIC SCIENCE SERVICES/PROPERTY AND EVIDENCE SERVICES**

WHEREAS, the TOWN desires to contract with the SHERIFF for crime scene services and evidence and property storage for the TOWN OF BELLEAIR Police Department; and

WHEREAS, the SHERIFF has available personnel to perform such services for the TOWN; and

WHEREAS, both the TOWN and the SHERIFF believe the provision of such services as hereinafter described is in the best interest of the safety and welfare of the citizens of the TOWN

and of Pinellas County and that such will facilitate the investigation of criminal activity and the apprehension of persons engaging in such activity;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties hereto agree as follows:

1. FORENSIC SCIENCE SERVICES

a. The SHERIFF will provide to the TOWN, upon request by the TOWN, Forensic Science Specialists to document, process and collect evidence at crime scenes within the TOWN. Said services shall include the photographing or otherwise documenting said crime scene as such may be appropriate, within the scope and capabilities of the SHERIFF. Any processing or testing outside SHERIFF'S capabilities shall be at the expense of the TOWN but will be facilitated by the SHERIFF.

b. The SHERIFF shall provide to the TOWN Police Department copies of all crime scene reports generated by SHERIFF's personnel pursuant to this Agreement.

c. The TOWN shall pay to the SHERIFF the sum of TWO HUNDRED TWENTY-FIVE DOLLARS AND TWENTY-ONE CENTS (\$225.21) for each crime scene processed by the SHERIFF and shall pay for twenty-seven (27) calls for service during the period of this Agreement. For all requests for service in excess of the specified number of calls, the TOWN shall pay to the SHERIFF the sum of TWO HUNDRED TWENTY-FIVE DOLLARS AND TWENTY-ONE CENTS (\$225.21) for each crime scene processed pursuant to this Agreement.

d. The TOWN shall pay to the SHERIFF, on October 1, 2017, or as soon as possible after approval of the Agreement by both parties the sum of SIX THOUSAND EIGHTY DOLLARS AND SIXTY-SEVEN CENTS (\$6,080.67) for the twenty-seven (27) calls for service during the period of this Agreement.

e. Should the TOWN'S request for services be less than the twenty-seven (27) calls as provided herein, the funds for the number of calls paid for above the amount of actual calls processed during the term of this Agreement shall be refunded to the TOWN as soon as is practical after the final month of this contract term has been completed and the total number of calls for the year been determined.

f. The parties agree that the term "call for service" as used herein shall be defined as an incident, event or offense that requires a report or offense number made, recorded or taken by a member of the TOWN Police Department for documentation purposes and which requires some reportable action by a SHERIFF's Forensic Science Specialist. All services rendered under the same case number shall be deemed one call for service. Such offense numbers shall be used to calculate calls for service with each offense number that results in a request for services being deemed a call for service.

2. PROPERTY AND EVIDENCE SERVICES

a. During the term of this Agreement, the SHERIFF agrees to provide to the TOWN storage, release and disposition of all seized evidence, found property and property being held for safekeeping as defined by Florida Statutes and the Belleair Code of Ordinances within the SHERIFF'S Evidence and Property Control Facility, except for non-evidentiary bicycles and breath, blood or urine samples obtained from persons suspected of operating vehicles or vessels while under the influence of alcohol or drugs, which samples shall be maintained by the Pinellas County Medical Examiner's Office.

b. The SHERIFF shall also transport drug items to and from the County lab as determined by the Town Police Department. The Town Police Department shall be responsible for transporting all items of property or evidence as aforesaid from the Town Police Department and transporting same to secure storage facilities maintained by the SHERIFF.

c. The SHERIFF shall store and maintain chain of custody of all evidence and other property in accordance with current General Orders and SOPs. All evidence and other property seized, found or held for safekeeping by the SHERIFF for the Town Police Department shall be disposed of in accordance with Florida law or as otherwise ordered by a court of law. Nothing herein shall prevent the TOWN from retaining any of its evidence or other property as part of the TOWN's inventory of property or donated by the TOWN to a qualified non-profit organization in accordance with Florida law.

e. The TOWN shall pay to the SHERIFF on October 1, 2017, or as soon as possible after approval of the Agreement by both parties the sum of TWO THOUSAND THREE HUNDRED TWENTY-FOUR DOLLARS AND NO CENTS (\$2,324.00), which reflects the sum due for all property and evidence services to be rendered during the term of this Agreement, which provides for the processing of 200 pieces of property and evidence at the cost per piece of ELEVEN DOLLARS AND SIXTY-TWO CENTS (\$11.62).

f. Billing for any pieces of property and evidence beyond 200 pieces covered by the minimum sum above for the term of this Agreement shall be invoiced at the rate of ELEVEN DOLLARS AND SIXTY-TWO CENTS (\$11.62) on a quarterly basis, as needed. If the TOWN uses less than the two hundred (200) items anticipated, the funds for the number of cases paid for above the amount of actual cases processed during the term of this Agreement shall be refunded to the TOWN as soon as is practical after the final month of this contract term has been completed and the total number of items for the year been determined.

D. LATENT PRINT SERVICES

WHEREAS, the TOWN desires to contract with the SHERIFF for latent print services for the TOWN OF BELLEAIR Police Department; and

WHEREAS, the SHERIFF has available personnel to perform such services for the TOWN; and

WHEREAS, both the TOWN and the SHERIFF believe the provision of such services as hereinafter described is in the best interest of the safety and welfare of the citizens of the TOWN and of Pinellas County and that such will facilitate the investigation of criminal activity and the apprehension of persons engaging in such activity;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties hereto agree as follows:

1. The SHERIFF shall provide to the TOWN latent print examination and analysis services.
2. Latent Print Examiners who perform these services shall be appropriately trained and qualified to examine latent fingerprints and to identify same.
3. Said Examiners shall be members of the Pinellas County Sheriff's Office and shall be subject to the direction and all rules and regulations of the SHERIFF.
4. Said Examiners shall be on duty to perform fingerprint examinations for the TOWN eight (8) hours per day, five (5) days per week and shall as a part of their duties:
 - a. Examine fingerprints provided by the TOWN to eliminate fingerprints of persons who have a legitimate reason to have their fingerprints at a premise or on an object.
 - b. Evaluate the quality of latent fingerprints provided by the TOWN.
 - c. Compare the latent fingerprints of suspects provided by the TOWN.
 - d. Appropriately document those latent fingerprints provided by the TOWN that cannot be positively identified.
 - e. Prepare and provide to the TOWN reports on all latent fingerprint identifications performed.

f. Attend depositions, hearings and trials and render expert testimony in the area of fingerprint identification.

5. In those instances where the TOWN submits a complex or lengthy latent identification request, the SHERIFF shall devote the necessary personnel available to perform the work.

6. The TOWN shall provide one individual, to be designated by the TOWN, who shall act as a liaison with Examiners as provided for herein. Said liaison shall:

- a. Be a member of the TOWN Police Department.
- b. Be responsible for the timely and appropriate delivery of latent fingerprints and certain items of evidence to the SHERIFF.
- c. Be responsible for the proper execution and delivery to the SHERIFF of correctly executed latent fingerprint request forms.
- d. Be responsible for the return to the TOWN of completed latent fingerprint request forms showing the results of such examination or comparison.
- e. Serve as the SHERIFF's contact with the TOWN in all day-to-day matters relating to the examination of latent fingerprints pursuant to this Agreement.

7. The TOWN shall pay the SHERIFF on October 1, 2017, the sum of TWO THOUSAND SIXTY-NINE DOLLARS AND SEVENTY-FIVE CENTS (\$2,069.75) for the latent print examination and analysis services to be rendered pursuant to this Agreement, which reflects payment for twenty-five (25) latent print cases at a cost of EIGHTY-TWO DOLLARS AND SEVENTY-NINE CENTS (\$82.79) per case. Should the TOWN'S number of cases exceed the twenty-five (25) cases covered by this Agreement, it agrees to pay the EIGHTY-TWO DOLLARS AND SEVENTY-NINE CENTS (\$82.79) per each additional case. If the TOWN

uses less than the anticipated twenty-five (25) cases, the funds for the number of cases paid for above the amount of actual cases processed during the term of this Agreement shall be refunded to the TOWN as soon as is practical after the final month of this contract term has been completed and the total number of cases for the year been determined.

E. **TOTAL COMPENSATION**

The TOWN shall pay to the SHERIFF on October 1, 2017, or as soon as possible after approval of the Agreement by both parties the sum of TWENTY-THREE THOUSAND SEVEN HUNDRED FORTY DOLLARS AND NO CENTS (\$23,740.00), which reflects the sum due for all services to be rendered during the term of this Agreement, with adjustments, if any, made as soon as possible after the end of the contract year as provided herein.

F. The term of the Agreement shall be for a period of one (1) year commencing October 1, 2017, and terminating September 30, 2018. The parties agree that where the Agreement is not terminated as provided for below, the terms of this Agreement shall automatically continue for 120 days beyond September 30, 2018, in the event a replacement contract has not yet been completely executed. The TOWN shall pay to the SHERIFF the same sum as is due for this Agreement, and the parties agree that any change in the annual cost of service, if any, shall be retroactively applied for services rendered from October 1, 2018, through the duration of the replacement contract, and shall immediately be paid by the TOWN to the SHERIFF if an additional sum is due, or credited to the TOWN if a refund is due for the services already provided, with any credits from this Agreement as provided herein factored into the balance due or credit owed.

G. Either party may terminate this Agreement without cause or further liability to the other upon written notice to the other given thirty (30) days prior to the requested termination date.

H. For the purpose of this Agreement, notice shall be given to the parties as follows:

TOWN: J. P. MURPHY, Town Manager
Town of Belleair
901 Ponce deLeon Blvd.
Belleair, FL 33756

SHERIFF: MAJOR STEFANIE CAMPBELL
Support Services Bureau
Pinellas County Sheriff's Office
P. O. Drawer 2500
Largo, FL 33779-2500

I. This Agreement reflects the full and complete understanding of the parties and may be modified only by a document in writing executed by the parties hereto.

Neither party shall assign any obligations or responsibilities under this Agreement to any third party.

J. The parties agree that nothing contained herein shall in any manner waive the sovereign immunity which applies to the parties nor shall anything contained herein waive the provisions of Chapter 768 of the Florida Statutes.

IN WITNESS WHEREOF, the parties to this Agreement have caused the same to be signed by their duly authorized representatives this ____ day of _____ 2017.

ATTEST: **TOWN OF BELLEAIR**

TOWN CLERK

MAYOR

TOWN ATTORNEY

TOWN MANAGER

SHERIFF, PINELLAS COUNTY, FL

BOB GUALTIERI, Sheriff

17-18 PCSO-Belleair Contract Summary

The body of the contract is word for word the same as last year.

Cost for services is up \$1,328.00 as follows:

Service	FY 16-17	FY 17-18
Dispatch	\$11,686	\$12,271
Reports	\$ 495	\$ 495
Citations	\$ 500	\$ 500
Forensics	\$ 5,466 for 25 @ \$218.65	\$ 4,080.67 for 27 @ \$225.21
Property & Evidence	\$ 2,256 for 200 @ \$11.28	\$ 2,324 for 200 @ \$11.62
Latent Prints	<u>\$ 2,009</u> for 25 @ \$80.38	<u>\$ 2,069.75</u> for 25 @ \$82.79
Total	\$22,412	\$23,740



Legislation Details (With Text)

File #: 17-0155 **Version:** 1 **Name:**
Type: Discussion Items **Status:** Agenda Ready
File created: 7/7/2017 **In control:** Town Commission
On agenda: 7/18/2017 **Final action:**
Title: Consideration of Interlocal Agreement for Street Sweeping Services with the City of Largo.
Sponsors: JP Murphy
Indexes:
Code sections:
Attachments: [Belleair_ILA_2017_DraftFinal.pdf](#)

Date	Ver.	Action By	Action	Result
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Summary

To: Mayor & Commissioners
From: JP Murphy, Town Manager
Date: 7/11/2017

Subject:

Consideration of Interlocal Agreement with the City of Largo to provide street sweeping services

Summary:

Staff is recommending the renewal of our Interlocal Agreement with the City of Largo to provide street sweeping services. The arrangement is mutually beneficial to both municipalities and the cost per mile is remaining at the previous rate of \$28.00 per curb mile, escalating yearly at the Municipal CPI rate. The agreement has a term of 3 years.

Previous Commission Action: The Commission previously approved the original ILA for street sweeping services with Largo.

Background/Problem Discussion: The City of Largo currently provides street sweeping services for the town.. In addition, they provide the town with a report of collection for use in our NPDES permitting and reporting. Staff is very happy with the level of service we receive from Largo and wishes to renew the agreement.

Expenditure Challenges The annual amount of the agreement of \$16,016 is budgeted

Financial Implications: \$1,232.00 per sweep; \$16,016 Annually, (13 sweeps)

Recommendation: I recommend approval.

Proposed Motion I move approval/denial of the Interlocal Agreement with the City of Largo to provide street sweeping services

INTERLOCAL AGREEMENT PROVIDING FOR MUNICIPAL STREET SWEEPING SERVICES

THIS INTERLOCAL AGREEMENT PROVIDING FOR STREET SWEEPING SERVICES (the "Agreement") is made and entered into on this _____ day of _____, 2017 by and between the TOWN OF BELLEAIR, FLORIDA, (hereinafter "BELLEAIR") and the CITY OF LARGO, FLORIDA (hereinafter "LARGO"), both parties being municipal corporations located in Pinellas County, Florida.

WHEREAS, Section 163.01, Florida Statutes, also known as the Florida Interlocal Cooperation Act of 1969, authorizes local governments to enter into interlocal agreements to enable them to best meet the needs of their citizenry; and

WHEREAS, LARGO and BELLEAIR recognize that street sweeping provides a direct environmental and stormwater management benefit to both municipalities; and

WHEREAS, BELLEAIR desires to implement a more cost effective method for sweeping its municipal streets; and

WHEREAS, LARGO currently operates three street sweepers and has agreed to provide street sweeping services to BELLEAIR in accordance with the terms outlined here.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are hereby fully incorporated by reference.
2. Effective Date. This Agreement shall become effective on the date it is filed with the Clerk of Circuit Court in and for Pinellas County, Florida and shall continue for an initial term of **three (3) years**. This Agreement may thereafter be extended upon mutual agreement of the parties for up to two (2) additional one (1) year terms. LARGO shall be responsible for the initial filing of this Agreement with the Clerk of Court and any subsequent extensions or renewals.
3. LARGO RESPONSIBILITIES:
 - a) LARGO agrees to sweep the streets located within BELLEAIR as depicted on the map attached hereto as "Exhibit A" and incorporated herein by this reference utilizing a regenerative vacuum type sweeper. The provision of street sweeping services will be conducted in accordance with LARGO'S current street sweeping policies and procedures and applicable NPDES MS4 permit requirements, as may be amended from time to time, in LARGO'S sole discretion. LARGO will provide this service only on streets that are the responsibility of BELLEAIR. This specifically excludes any County or Florida Department of Transportation streets or rights-of-way existing within BELLEAIR'S municipal limits.
 - b) LARGO will sweep streets a minimum of one (1) time every month in accordance with applicable federal stormwater requirements. Scheduling of street sweeping shall be in LARGO'S sole discretion.
 - c) LARGO will perform additional street sweeping as requested by BELLEAIR no later than seven (7) days following receipt of the request.

- d) LARGO will be responsible for the disposal of all materials collected from the provision of street sweeping services at the Pinellas County Waste to Energy Facility or another contracted disposal vendor as determined by LARGO in its sole discretion.
- e) LARGO will assign a foreman or a supervisor as a point of contact for provision of these services to BELLEAIR.
- f) LARGO will submit to BELLEAIR a monthly report providing the amount of material collected from BELLEAIR streets for BELLEAIR'S use in NPDES permitting/reporting. An invoice for the services provided will accompany each monthly report.

4. BELLEAIR'S OBLIGATIONS:

- a) BELLEAIR agrees to pay LARGO \$28.00 per lane mile, per month for street sweeping services. Invoices will be submitted monthly, on the first day of each month (or on the first business day of the month, whichever is sooner), for services provided during the month immediately preceding. The aforementioned cost per lane mile assessed includes all costs for disposal of the recovered materials and maintenance/management of the street sweeping operation.
 - b) BELLEAIR may request sweeping from LARGO as outlined above in Section 3 Paragraph C and will pay for such work at the rate of \$28.00 per curb mile swept. This cost per lane mile assessed includes all costs for disposal of the recovered materials and maintenance/management of the street sweeping operation.
 - c) BELLEAIR shall submit payment, in full, in accordance with the Florida Prompt Payment Act. Interest shall accrue on any late payment, or portion thereof, in accordance with the Florida Prompt Payment Act.
 - c) BELLEAIR will assign a point of contact for communication as necessary on matters related to the services to be provided hereunder.
5. Annual Cost Modifier. The amounts paid by BELLEAIR to LARGO per lane mile swept will be adjusted every twelve (12) months according to the Municipal Cost Index (MCI) most recently published by American City & County.
6. Termination and Suspension. This Agreement may be terminated, without cause, by either party upon thirty (30) days written notice to the other party. In the event either party to this Agreement declares a state of emergency, or is included in or subject to a declaration of state of emergency, this Agreement shall be automatically suspended until such time as both parties agree to recommence the provision of street sweeping services, in whole or in part, in accordance with the terms provided herein.

7. Notices. All notices, requests, demands, deliveries, and other communications which are required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or three (3) days after mailing via registered or certified mail, first class postage pre-paid as set forth below:

If to LARGO:

City of Largo, Florida
Attn: City Manager
201 Highland Avenue
Largo, Florida 33770
Fax # (727) 587-6703

with a required copy to:

City Attorney, City of Largo
201 Highland Avenue
Largo, Florida 33770

If to BELLEAIR:

Town of Belleair, Florida
Attn: City Manager
901 Ponce de Leon Blvd
Belleair, Florida 33756
Fax # (727) 588-3778

with a copy to:

Attorney, Town of Belleair
901 Ponce de Leon Blvd
Belleair, Florida 33756

Either party may change the persons and/or addresses to which notices or other communications are to be sent to it by giving written notice of any such change in the manner provided herein for giving notice.

8. Reservation of Rights and Sovereign Immunity. Nothing in this Agreement shall be construed to affect either party's entitlement to sovereign immunity, or any limitation of liability under Section 768.28, Florida Statutes, nor shall this Agreement be construed to create any indemnification by one party of another. This Agreement shall furthermore not be construed to create any agency relationships among the parties or any relationship other than independent contracting entities. Each party shall assume full responsibility and liability for its own actions, including the actions of its employees, agents and officials.
9. Entire Agreement. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties hereto, and supersedes all prior and contemporaneous agreements, understandings or conditions, express or implied, oral or written, except as herein contained.
10. Amendments. All amendments hereto shall be in writing and shall not be effective until properly executed by both parties.
11. Assignments. Neither party shall assign or otherwise transfer any of its rights or duties under this Agreement without the express prior written consent of the other party.
12. Severability. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, then, to the extent that the invalidity or unenforceability does not impair the application of this Agreement as intended by the parties, the remaining provisions of this Agreement or the application of this Agreement to other situations, shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned have affixed their hands and seals the day and year first above-written.

CITY OF LARGO,
a Florida municipal corporation

Louis L. Brown, Mayor

REVIEWED AND APPROVED:

ATTEST:

Alan S. Zimmet, City Attorney

Diane Bruner, City Clerk

TOWN OF BELLEAIR,
a Florida municipal corporation

Gary H. Katica, Mayor

APPROVED AS TO FORM:

ATTEST:

Town Attorney

Town Clerk