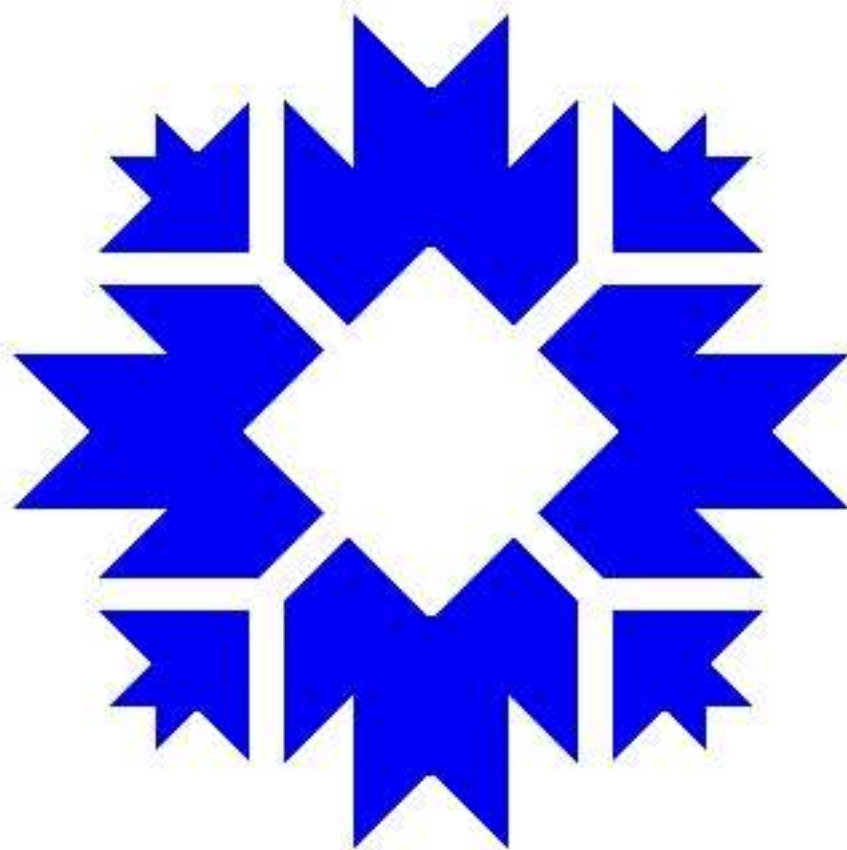


**Board of Public Works Special
Meeting April 28, 2017**



AGENDA
BOARD OF PUBLIC WORKS

A Special Meeting of the Board of Public Work to be held Friday, April 28, 2017 at 5:30 p.m., in the McCloskey Conference Room of City Hall at Showers, 401 N. Morton Street, Bloomington, Indiana.

- I. MESSAGES FROM BOARD MEMBERS**
- II. PETITIONS & REMONSTRANCES**
- III. NEW BUSINESS**
 - 1. Resolution 2017-39: Establishing an Underground and Buried Utility District**
- IV. STAFF REPORTS & OTHER BUSINESS**
- V. APPROVAL OF CLAIMS**
- VI. ADJOURNMENT**

Auxiliary aids for people with disabilities are available upon request with adequate notice. Please call 812-349-3410 or email public.works@bloomington.in.gov.

RESOLUTION 2017-39

CITY OF BLOOMINGTON BOARD OF PUBLIC WORKS

ESTABLISHING AN UNDERGROUND AND BURIED UTILITY DISTRICT

WHEREAS, the City of Bloomington (“City”) pursuant to I.C. § 36-9-2-7 may regulate the use of public ways, and

WHEREAS, the City’s 2002 Growth Policy Plan, adopted by the Bloomington Common Council on December 19, 2002, explicitly encourages the underground placement of utilities, and

WHEREAS, pursuant to I.C. § 36-4-9-5, the City has established the Board of Public Works to, among other things, administer public utilities and regulate the City’s rights-of-way (“ROW”); and

WHEREAS, pursuant to I.C. § 36-9-6-2, the Board of Public Works is statutorily required to supervise the streets, alleys, sewers, public grounds, and other property of the City, including the City’s ROW; and

WHEREAS, public necessity, health and the environment, and safety now require that all new utilities located within the City’s ROW and/or a utility easement granted by the City shall be placed underground or buried, and the City, by and through the Board of Public Works, finds that it is in the best interests of the public health, environment and safety, and the general welfare of its citizens to prohibit the erection of all poles, overhead lines, and associated overhead structures used or useful in supplying electric, communication or similar and associated services within the City’s ROW or granted utility easement; and

WHEREAS, in response to the aforementioned public necessity, and to comply with the provisions of I.C. § 8-1-32.3-15, as amended by P.L. 145-2015, the Board of Public Works now hereby establishes an Underground and Buried Utilities District (“Area”) and designates the Area to be in effect throughout all ROW within the corporate boundaries of the City.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The foregoing recitals are fully incorporated herein by this reference.
2. The City hereby establishes an Underground and Buried Utilities District (“Area”) to be in effect April 28, 2017, and to apply throughout the City’s ROW and granted utility easements, and herein defined as follows:

All areas of ROW or proposed ROW throughout the City, or in a utility easement granted by the City, whether or not above ground utilities or utility facilities currently exist in such areas of ROW, proposed ROW or utility easement.

3. Notwithstanding Section 2 above, any utility that requires construction, placement, or use of a small cell facility and associated supporting structure in an Area designated strictly for underground or buried utilities, must submit an application to the Board of Public Works

requesting a waiver to install a new utility pole or new wireless support structure within the Area.

4. Any person, corporation or utility that formulated intentions or plans to place, erect or construct any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services, who, prior to the effective date of this Resolution, expressly made the City aware of such intentions or plans and met with City staff to present draft plans or schematics with specific locations shall not be required to bury or place such lines or structures underground, but shall otherwise comply with all applicable state and local provisions for the placement of utilities in the ROW.
5. Except as provided in Section 4 above and Section 7 below, from and after the effective date of this Resolution, no person, corporation, or utility shall erect or construct within the City's ROW or utility easement granted by the City, any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services.
6. Unless otherwise expressly authorized by the City's Board of Public Works, all utilities located within the City's ROW or a utility easement granted by the City shall be placed underground and/or buried.
7. All existing overhead poles, wires and/or utility transmission lines may remain within the City's ROW or utility easement, but may not be replaced or relocated without prior written authorization of the Board of Public Works, except in cases where public safety will be adversely affected by delay.
8. If any portion of this Resolution is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution so long as enforcement of same can be given the same effect.
9. This Resolution shall be in full force and effect from and after the date of its passage.

CITY OF BLOOMINGTON BOARD OF PUBLIC WORKS

By: _____
Kyla Cox Deckard, President

By: _____
Kelly M. Boatman, Vice President

By: _____
Dana Palazzo, Secretary

Date: _____

SEA 213: Small Cell Structures Summary

Among other things, SEA does the following:

- (1) Increases the size of a "small cell facility" from three cubic feet to six cubic feet per antenna, and increases the maximum equipment enclosure from 17 cubic feet to 28 cubic feet.
- (2) Defines "utility pole" to include structures used to provide traffic control or signage.
- (3) Prohibits a municipality from requiring an application or a permit, or charging fees for
 - routine maintenance
 - replacement of wireless facilities with ones substantially similar or the same size or smaller
 - the installation, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles.
- (4) Requires a municipality if requested to provide a neighborhood or homeowners association with notice of any application filed for placement or use of a small cell facility on a new utility pole or support structure within the neighborhood or homeowners association's area.
- (5) Allows the municipality to require applicants for structures in a historic preservation district to get a certificate of appropriateness.
- (6) Provides that the placement of a small cell facility and supporting structure in the public right-of-way is considered a permitted use and is exempt from local zoning review if the height of the supporting structure does not exceed the greater of:
 - 50 feet measured from grade; or
 - the height of any utility pole in place on July 1, 2017, and within 500 feet of the proposed small cell facility, plus 10 feet.
- (7) Prescribes that permit fees for the construction, placement, or use of small cell facilities may not exceed \$100.
- (8) Allows a municipality to propose that a small cell facility be collocated on an existing utility pole or support structure IF an existing utility pole or wireless support structure is located within 50 feet of the location proposed in the application.
- (9) Allows a municipality to regulate for safety if reasonable and generally applicable.
- (10) Prohibits a municipality from:
 - Limiting small cell facility height or requiring minimum separation
 - Imposing unreasonable maintenance or appearance requirements, e.g. materials used or screening or landscaping
 - Conditioning approval on the applicant agreeing to allow collocation on its structure
 - Prohibiting location in a residential area

- Imposing setback or fallback requirements that are different from those imposed on other structures in the right of way

(11) For placement of a wireless facility on its own poles or structures, a municipality:

- May not charge more than \$50 rental per year
- Must establish and make available rates for use of its structures within 3 months of an application for placement on a city pole

SEA 213 does allow a municipality to prohibit the placement of a new utility pole or wireless support structure in an area of a right-of-way if and only if the municipality does the following:

- Designates the area strictly for underground or buried utilities **before May 1, 2017**
- Allows collocation on existing utility poles and wireless support structures (remember, the statute now defines a utility pole as a structure that provides traffic control and/or signage)
- Allows replacement of existing utility poles and structures within the area
- Provides a waiver, zoning process or another procedure that addresses requests to install new utility poles or wireless structures within the area
- Posts notice of an application for a new pole or structure on the city website, including a statement that the application is available to the public upon request

Ultimately, any prohibitions or restrictions on placement of new poles and structures must be applied in a non-discriminatory fashion.