
PROCEEDINGS OF THE BOARD OF TRUSTEES OF THE TOWN OF CICERO

The Board of Trustees of the Town of Cicero met Thursday, February 28, 2019 at 10:00 A.M., in the Town Hall Council Chambers, Town of Cicero.

On roll call there were present:

President: Dominick

Clerk: Punzo-Arias

Trustees: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Thereupon, President Dominick declared a quorum present and the meeting duly convened and requested that all present in attendance stand and join in the Pledge of Allegiance to the Flag.

On motion of Trustee Banks seconded by Trustee Garcia, the minutes of the Regular Meeting held Tuesday, February 12, 2019 at 10:00 o'clock A.M., were approved, the reading being dispensed with, each member having received a copy.

APPROVAL OF BILLS

(24-19)

On motion of Trustee Virruso seconded by Trustee Cava, the list of bills itemized in Warrant #4, dated February 26, 2019, in the total amount of \$2,040,019.61, the list of manual checks dated February 8 thru February 25, in the total amount of \$9,383.00, and the list of online payments dated February 9 thru February 25, in the total amount of \$0.00, were accepted, placed on file and approved for payment; action taken by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

(25-19)

On motion of Trustee Garcia seconded by Trustee Cava, payroll (*Estimated Corporate \$1,524,116.33 & Library \$25,024.83*) was approved for the active employees listed on the printout dated 02-25-19; action taken by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.
Nays: None.

(26-19)

By Trustee Virruso:

RESOLVED, that the list of medical claims listed on the printout for the month of January/2019, prepared by Blue Cross & Blue Shield of Illinois, in the total amount of \$1,325,324.06, be accepted, placed on file and approved for payment.

Which was on motion of Trustee Virruso seconded by Trustee Garcia, approved by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.
Nays: None.

(27-19)

By Trustee Banks:

RESOLVED, that the life and accidental death & dismemberment insurance premium for the month of March/2019, prepared by Dearborn National, in the total amount of \$6,693.28, be accepted, placed on file and approved for payment.

Which was on motion of Trustee Banks seconded by Trustee Porod, approved by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.
Nays: None.

PERMITS

(28-19)

On motion of Trustee Reitz seconded by Trustee Porod, permission was granted Lifeline Church to conduct a one day event (*in the form of a \$5,000.00 gas giveaway*) at the Citgo Gas Station located 5737 West Roosevelt Road on Saturday, March 30th from 10:00 AM to 3:00 PM.

(29-19)

On motion of Trustee Cava seconded by Trustee Garcia, permission was granted St. Anthony of Padua to host a Dance fundraising event to be held in the parish hall on Saturday, March 2nd from 7:00PM to 11:59PM.

(30-19)

On motion of Trustee Porod seconded by Trustee Garcia, permission was granted St. Frances of Rome Parish to host a Mardi Gras event to be held in their school auditorium on Saturday, March 2nd from 6:00PM to 10:00PM.

(31-19)

On motion of Trustee Virruso seconded by Trustee Porod, permission was granted St. Mary of Czestochowa Parish to conduct religious processions on the following dates on the routes outlined in their requests:

Friday, April 19 from 10:00AM	<i>"Live Way of the Cross"</i>
Sunday, April 21, from 5:30 AM	<i>"Easter"</i>
Sunday, April 28, from 3:30 PM	<i>"Divine Mercy"</i>
Sunday, June 23, from 11:30 AM	<i>"Corpus Christi"</i>
Sunday, August 25, from 11:30 AM	<i>"Parish Fest Day"</i>

ORDINANCES

("O" 8-19)

On motion of Trustee Garcia seconded by Trustee Porod, the Ordinance authorizing and approving the purchase of equipment (*Two (2) 2020 International Series HV-607 6x4 Chassis from Rush Truck Centers in the total amount of \$188,526.00*) for the Cicero Department of Public Works, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("O" 9-19)

On motion of Trustee Virruso seconded by Trustee Cava, the Ordinance authorizing and approving the purchase of equipment (*One (1) Elgin Pelican Street Sweeper from Standard Equipment Company in the total amount of \$219,640.00*) for the Cicero

Department of Public Works, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

(“O” 10-19)

On motion of Trustee Garcia seconded by Trustee Cava, the Ordinance authorizing and approving the purchase of equipment (*Two (2) 2018 New Way Cobra Magnum Rear Load Refuse Bodies from Standard Equipment Company in the total amount of \$162,360.00*) for the Cicero Department of Public Works, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

(“O” 11-19)

On motion of Trustee Virruso seconded by Trustee Porod, the Ordinance amending Chapter 82, entitled “Streets, Sidewalk and Other Public Places”, Section 82-339 & Section 82-341 and adopting Section 82-341.1 of the Code of Ordinances of the Town of Cicero, Illinois, regarding the regulations and licensing of small cell facilities in the Town, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

(Purpose of Ordinance)

(The purpose of this ordinance is to repeal the existing regulations and replace them with the regulations as set forth.)

Section 82-339.01 Purpose and Scope

The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Town's jurisdiction, or outside the rights-of-way on property zoned by the Town exclusively for commercial or industrial use, in a manner that is consistent with the Act.

This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

Section 82-339.02 Definitions.

For the purposes of this Chapter, the following terms shall have the following meanings:

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes mean the uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant means any person who submits an application and is a wireless provider.

Application means a request submitted by an applicant to the Town for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Collocate or collocation means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications service provider means a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC means the Federal Communications Commission of the United States.

Fee means a one-time charge.

Historic district or historic landmark means a building, property, or site, or group of buildings, properties, or sites that are either: (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the Town pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law means a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

Municipal utility pole means a utility pole owned or operated by the Town in public rights-of-way.

Permit means a written authorization required by the Town to perform an action or initiate, continue, or complete a project.

Person means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Public safety agency means the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has

authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate means a recurring charge.

Right-of-way means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include Town-owned aerial lines.

Small wireless facility means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider means any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the Town.

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

Wireless services mean any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider means a person who provides wireless services.

Wireless support structure means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

Section 82-339.03 Regulation of Small Wireless Facilities.

- (a) Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (I) regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.
- (b) Permit Required. An applicant shall obtain one or more permits from the Town to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) Application Requirements. A wireless provider shall provide the following information to the Town, together with the Town's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
- a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989; and
 - b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility; and
 - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed; and
 - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility; and
 - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge; and
 - g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Town, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(2) Application Process. The Town shall process applications as follows:

- a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.
- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within 90 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Town in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Town. The receipt of the deemed approved notice shall not preclude the Town's denial of the permit request within the time limits as provided under this Ordinance.

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Town fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Town in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Town. The receipt of the deemed approved notice shall not preclude the Town's denial of the permit request within the time limits as provided under this Ordinance.

- d. The Town shall deny an application which does not meet the requirements of this Ordinance.

If the Town determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

The Town shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the Town denies an application.

The applicant may cure the deficiencies identified by the Town and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The Town shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the Town's review period.

The applicant must notify the Town in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Town and the applicant shall enter into a Master Pole Attachment Agreement, provided by the Town for the initial collocation on a municipal utility pole by the applicant. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Town and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

- (3) Completeness of Application. Within 30 days after receiving an application, the Town shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Town must specifically identify the missing information. An application shall be deemed complete if the Town fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Town's permit application form are submitted by the applicant to the Town.

Processing deadlines are tolled from the time the Town sends the notice of incompleteness to the time the applicant provides the missing information.

- (4) Tolling. The time period for applications may be further tolled by:
- a. An express written agreement by both the applicant and the Town; or
 - b. A local, State or federal disaster declaration or similar emergency that causes the delay.

- (5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the Town shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if

the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the Town may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Town may issue separate permits for each collocation that is approved in a consolidated application.

- (6) *Duration of Permits.* The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the Town makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable Town codes or any provision, condition or requirement contained in this Ordinance.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable Town code provisions or regulations in effect at the time of renewal.

- (7) *Means of Submitting Applications.* Applicants shall submit applications, supporting information and notices to the Town by personal delivery at the Town's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

Section 82-339.04 Collocation Requirements and Conditions.

- (a) *Public Safety Space Reservation.* The Town may reserve space on municipal utility poles for future public safety uses, for the Town's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Town reasonably determines that the municipal utility pole cannot accommodate both uses.
- (b) *Installation and Maintenance.* The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
- (c) *No interference with public safety communication frequencies.* The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The Town may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

- (d) Prohibited collocations. The wireless provider shall not collocate small wireless facilities on Town utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the Town utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

- (e) Compliance with codes. The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
- (f) Compliance with design standards. The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Town ordinance, written policy adopted by the Town, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

- (g) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Town may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the Town, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

- (h) Height Limitations. The maximum height of a small wireless facility shall be no more than 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

- (1) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Town, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the Town, provided the Town may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

- (2) 45 feet above ground level.

- (i) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a special use permit or variance in conformance with procedures, terms and conditions set forth in Section Appendix A - Zoning of the Town of Cicero Code of Ordinances (the "Town Code").

- (j) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Town and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- (k) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- (l) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (m) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Town and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Town grants an extension in writing to the applicant.

Section 82-339.05 Application Fees.

Application fees are imposed as follows:

- (a) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures. These fees are based upon an approximation of costs to process and review said applications that meet and exceed these costs, including but not limited to review by appropriate Town departments as well as review by the Town's consulting engineer.
- (b) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (c) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (d) The Town shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - (1) Routine maintenance; or
 - (2) The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Town at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with subsection d. under the Section titled Application Requirements; or
 - (3) The installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

- (e) Wireless providers shall secure a permit from the Town to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Section 82-339.06 Exceptions to Applicability.

Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

- (a) Property owned by a private party or property owned or controlled by the Town or another unit of local government that is not located within rights-of-way, or a privately-owned utility pole or wireless support structure without the consent of the property owner; or
- (b) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
- (c) Property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

Section 82-339.07 Pre-Existing Agreements.

Existing agreements between the Town and wireless providers 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, that were in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the Town's utility poles pursuant to applications submitted to the Town before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this Ordinance.

A wireless provider that has an existing agreement with the Town on the effective date of the Act may accept the rates, fees and terms that the Town makes available under this Ordinance for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Town that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Town's utility poles pursuant to applications submitted to the Town before the wireless provider provides such notice and exercises its option under this paragraph.

Section 82-339.08 Annual Recurring Rate.

A wireless provider shall pay to the Town an annual recurring rate to collocate a small wireless facility on a Town utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the Town utility pole.

If the Town has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

Section 82-339.09 Abandonment.

A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the Town notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the Town to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the Town may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the Town if it sells or transfers small wireless facilities within the jurisdiction of the Town. Such notice shall include the name and contact information of the new wireless provider.

Section 82-339.10 Dispute Resolution.

The Circuit Court of Cook County shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the Town shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

Section 82-339.11 Indemnification.

A wireless provider shall indemnify and hold the Town harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the Town improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the Town or its employees or agents. A wireless provider shall further waive any claims that they may have against the Town with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Section 82-339.12 Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (a) Property insurance for its property's replacement cost against all risks;
- (b) Workers' compensation insurance, as required by law;

OR

- (c) Commercial general liability insurance with respect to its activities on the Town improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Town improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Town as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Town in a commercial general liability policy prior to the collocation of any wireless facility.

If the Applicant is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this section.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Town. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the Town evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Town.

(Repealing)

~~Section 82-339. Definitions.~~

~~Section 82-341 Permit Required; Application and Fees.~~

~~Section 82-341.1 Permit Required; Application and Fees for Personal
Wireless Service in the Right of Way~~

("O" 12-19)

On motion of Trustee Cava seconded by Trustee Banks, the Ordinance granting a special use permit and parking variance for the operation of a temporary staffing agency at 5636 West Cermak Rd, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("O" 13-19)

On motion of Trustee Virruso seconded by Trustee Garcia, the Ordinance granting a sign variance for the operation of a laundromat at 5901 West Roosevelt Rd, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("O" 14-19)

On motion of Trustee Virruso seconded by Trustee Cava, the Ordinance granting a special use permit for the operation of an existing gas station with a consumed liquor retail sales on premises at 1306 South Cicero Ave, was accepted, placed on file and approved for passage by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

RESOLUTIONS

("R" 11-19)

On motion of Trustee Banks seconded by Trustee Porod, the Resolution authorizing, the Town President to enter into an agreement with RKM Fireworks to provide services to the Town (*Fireworks display for the American Fest event held at Community Park on June 23, 2019*), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("R" 12-19)

On motion of Trustee Cava seconded by Trustee Garcia, the Resolution authorizing, the Town President to enter into agreements with American Mobile Staging, Inc. to provide services to the Town (*Staging equipment for the Cinco De Mayo (May 2 thru May 5), American Fest (June 20 thru June 23), Mexican Independence Day (September 12 thru September 15) and Houby Fest (October 4 thru October 6)*), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("R" 13-19)

On motion of Trustee Virruso seconded by Trustee Cava, the Resolution authorizing, and approving the lease of equipment (*One (1) Xerox C60 Color Copier & One (1) Xerox Altalink Cio55 Color Copier*) and authorizing the Town to enter into related agreements for the Town of Cicero (*Chicago Office Technology Group to provide maintenance services and Wells Fargo Financial Leasing, Inc. to provide leasing services*), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("R" 14-19)

On motion of Trustee Garcia seconded by Trustee Cava, the Resolution authorizing and approving the execution of a settlement agreements between the International Association of Fire Fighters Local 717, Raymond Anandel and the Town of Cicero, was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("R" 15-19)

On motion of Trustee Reitz seconded by Trustee Virruso, the Resolution appointing Thomas Kuratoko as Member of the Police Pension Board replacing Alex Rueda, was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

("R" 16-19)

On motion of Trustee Garcia seconded by Trustee Cava, the Resolution authorizing and approving the execution of a settlement agreement in the case of Crown Castle v Town of Cicero, (Case No 2018 CV 07265), was accepted, placed on file and approved for adoption by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

NEW BUSINESS

(32-19)

On motion of Trustee Porod seconded by Trustee Garcia, the Board concurred with the recommendation of the Police & Fire Commission to hire the following four Firefighter Candidates; to be funded by 2018 FEMA Safer Grant:

Steven Krygsheld

Kevin Leahy

Patrick Phillips

James Ciurej

action taken by the following vote:

Ayes: Banks, Cava, Cundari, Garcia, Porod, Reitz, Virruso.

Nays: None.

Chief Buscemi administered the oath of office to the newly hired firefighters.

President Dominick opened the meeting to the public for their comments.

Trustee Cundari announced John Cava's & Victor Garcia's election victory for the Office of Town Trustee.

On motion of Trustee Virruso seconded by Trustee Garcia, the board then stood adjourned at 10:24 A.M. to meet on Tuesday, March 12, 2019 at 10:00 A.M., in the Town Hall, Town of Cicero.

MARIA PUNZO-ARIAS, TOWN CLERK