

RESOLUTION NO. 2015-R-34

A RESOLUTION OF THE CITY OF EDGEATER, FLORIDA, URGING THE FLORIDA STATE LEGISLATURE TO UPHOLD THE CURRENT FLORIDA STATUTE PROVIDING FOR PAYMENT OF EXPENSES CAUSED BY THE INTERFERENCE OF UTILITY FACILITIES WITH TRANSPORTATION PROJECTS; REPEALING RESOLUTIONS IN CONFLICT HEREWITH AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, local government relies heavily on its statutorily-authorized police powers to best serve the interests of its citizens; and

WHEREAS, one of the essential functions of local government is to provide for the health, safety, and welfare of its citizens, particularly in the area of physical infrastructure; and

WHEREAS, local government can and must address the critical needs of its citizens by providing safe roadways and transportation corridors for pedestrians and vehicles; and

WHEREAS, under Florida common law, established over 100 years ago, and under statutory law, particularly § 337.403 of the Florida Statutes, local government has utilized its home rule authority to conduct local transportation projects and to require electric and other utilities to relocate utility equipment when necessary for the completion of such projects and to require utilities to pay for such relocations; and

WHEREAS, recent Florida case law directly on the issue of local government's exercise of its authority under § 337.403 upheld that authority and resulted in a judgment in favor of local government and against a utility's distinctions based on equipment locations within rights of way and public utility easements; and

WHEREAS, HB 391 and SB 896, previously considered by the State Legislature, would dramatically and negatively affect local government's ability to fulfill its obligations to its citizens in the area of transportation projects by transferring the costs of utility relocations to local government and its constituent taxpayers, thereby further burdening local government and its taxpayers with heretofore non-existent costs; and

WHEREAS, in particular, HB 391 and SB 896 would prevent local government from requiring utilities to pay the costs of relocation unless the utilities are in a "right-of-way" as opposed to the current common sense requirement for utility relocations occurring "upon, over, under, or along" a roadway; and

WHEREAS, additionally, HB 391 and SB 896 would require local government, and not the utility, to bear the cost of relocating a utility's equipment if such equipment is located within a utility easement, regardless of the private or public nature of the easement; and

WHEREAS, the expense of relocating a utility's equipment in the public easement/right of way will greatly increase the costs of completing transportation projects at a time when local governments continue to struggle with funding for such projects; and,

WHEREAS, local transportation projects often are the catalyst for economic development and the result of growth within a community, which benefit the utility in terms of expanded customer base.

NOW, THEREFORE, be it resolved by the City Council of the City of Edgewater, Florida:

Section 1. That the City of Edgewater does hereby encourage the Florida State Legislature to preserve Florida common law and statutory law by not agreeing to take up these matters or any further attempts to limit local government's ability to serve its citizens.

Section 2. All resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

Section 3. This resolution shall take effect immediately upon adoption.

After motion by _____ and Second by _____

_____ the vote on this resolution was as follows:

| | <u>AYE</u> | <u>NAY</u> |
|------------------------------|-------------------|-------------------|
| Mayor Michael Ignasiak | _____ | _____ |
| Councilwoman Christine Power | _____ | _____ |
| Councilwoman Gigi Bennington | _____ | _____ |
| Councilman Dan Blazi | _____ | _____ |
| Councilman Gary T. Conroy | _____ | _____ |

PASSED AND DULY ADOPTED this 16th day of November, 2015.

ATTEST:

**CITY COUNCIL OF THE
CITY OF EDGEWATER, FLORIDA**

Bonnie Brown
City Clerk

By: _____
Mike Ignasiak
Mayor

Robin L. Matusick
Paralegal

For the use and reliance only by the City of Edgewater, Florida. Approved as to form and legality by: Aaron R. Wolfe, Esquire
City Attorney
Doran, Sims, Wolfe & Ciocchetti

Approved by the City Council of the City of Edgewater at a meeting held on this 16th day of November, 2015 under Agenda Item No 8_____.