



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 6838, **Version:** 1

Subject:

Fred Poppe Regional Park f/k/a Palm Bay Regional Park / Cellular Communications Tower

Fiscal Impact:

None

Dept/Office:

County Attorney's Office

Requested Action:

Confirm that the location of a cellular communications tower at Fred Poppe Park in Palm Bay will not violate a use restriction set forth in the County Deed conveying the Park to the City.

Summary Explanation and Background:

The City of Palm Bay seeks to locate a cellular tower at Fred Poppe Regional Park (f/k/a Palm Bay Regional Park) (the "Park"). Prior to commencing construction, the City seeks confirmation from the County that a cellular tower at the Park will not violate a restriction set forth in the deed conveying the Park from the County to the City.

The County Deed to the City dated January 26, 2016, provides that, "The [Park] is to be used solely for providing public recreational use and related activities." The Deed contains a reverter clause which states, "In the event that any of such Property is not used or ceases to be used for the stated purpose and under the stated conditions, then all right, title, and interest in such Property shall revert to the party of the first part which shall thereafter have the right to reenter and repossess the Property conveyed herein."

The City asserts that the cellular tower location will not interfere or conflict with public recreational use of the two hundred acre Park. As the attached letter from the City Attorney's Office suggests, the County likely would have allowed a cellular tower when the County owned the Park. At that time, the Brevard County Wireless Telecommunications Master Plan (the "Master Plan") identified the Park as an available site for telecommunications infrastructure. Of course, the County would have needed the City's authorization as the zoning jurisdiction.

The Master Plan proclaims the benefits of leasing publicly owned lands for new wireless telecommunications infrastructure. These benefits include the public owner's ability to assure the community the preference of concealment materials and technologies presently available to the industry, and the public revenue derived from such leases.

Clerk to the Board Instructions:

Please return a memo of the Board's action to the County Attorney's Office, County Manager's Office, and Palm Bay Deputy City Manager Juliet Misconi.