RESOLUTION 2014-3

Agenda Item

TO: Mayor and City Council

FROM: Mark S. Gaugh, City Manager

DATE: January 21, 2014

RE: Resolution for Opposing Legislation

Issues

The attached Resolution opposes an effort by telecommunication providers to enact legislation that will limit the cost recovery of City assets, such as poles for rental rates, along with general control over publicly owned rights-of-way. We believe the City of Cameron should have exclusive control over its assets and has the right to charge rental fees it believes to be fair for use of City assets. Usage of City rights-of-way for utility location should also be controlled by the City of Cameron, since this land is owned by the citizens of Cameron, and utility rates can be negatively impacted by the legislation.

Recommendation

Staff recommends that the Council approve the Resolution, and that the City Clerk forward a copy of this Resolution to the respective clerks of the Missouri House and the Missouri Senate.

Resolution 2014-3

A RESOLUTION FOR THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI OPPOSING THE PASSAGE OF LAWS BY THE GENERAL ASSEMBLY LIMITING LOCAL CONTROL AND COST RECOVERY FOR USAGE OF CITY-OWNED UTILITY ASSETS

WHEREAS, the General Assembly of the State of Missouri passed two bills – Senate Bill 331 and House Bill 345 – during the Ninety-Seventh General Assembly, First Regular Session limiting the power of municipal utilities to adopt and apply ordinances relating to the cost recovery of municipally owned facility usage by telecommunication and video service providers – bills ultimately overturned for State Constitutional concerns; and

WHEREAS, the Congress of the United States, through the enactment of the Pole Attachment Act of 1978 and, subsequently affirmed in the Telecommunications Act of 1996, explicitly excluded municipal utilities from federal pole attachment regulation because "the pole rates charged by municipally owned … utilities are already subject to a decision-making process based on constituent needs and interests"; and

WHEREAS, the Federal Communications Commission has imposed regulations on for-profit utilities to provide low, utility-subsidized rates for pole attachments in order to encourage and avoid barriers to broadband deployment in under-served and remote areas; and

WHEREAS, low customer density and, thus, low customer subscriptions - not high pole rates, hinder underserved and remote area deployment, areas generally not served in a municipal utility setting; and

WHEREAS, municipal pole attachment rates are designed to recover costs associated with the provision of telecommunication and cable attachment space on poles, thus protecting municipal electric customers from a forced subsidization of cable and telecommunication services by privately-owned companies utilizing publically owned assets, unless a local public interest is considered; and

WHEREAS, local government officials determine pole attachment fees with the best interests of their constituents, customers, and communities in mind; and

WHEREAS, the governing structure of a municipally-owned utility provides for a local review-and-remedy-process for any aggrieved party; and

WHEREAS, municipalities are accountable for their assets, including electric utility poles and other utility facilities, and must bear, first and foremost, the responsibility to ensure the safety and reliability of utility service to the city and its customers, as well as protect the health and welfare of utility lineworkers and employees that must work on and around high voltage equipment as well as high-risk utility elevations, all while avoiding secondary attachments;

WHEREAS, the implementation of state-sanctioned limitations on negotiated municipal pole attachment pricing also restricts the ability of local municipal utilities to effectively negotiate issues impacting public safety, electric reliability, lineman safety, and proper control of city-owned assets; and

WHEREAS, the City of Cameron maintains an electric utility as a proprietary function of government in order to provide an affordable, reliable, customer- and community- focused service operated for the benefit of its citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI, AS FOLLOWS:

SECTION 1. The City of Cameron urges its local legislative delegation as well as the entire Missouri General Assembly to oppose and reject any bill that limits local control of locally-owned municipal assets and to oppose and reject any bill that provides a subsidy, direct or indirect, to cable and telecommunication companies utilizing municipal utility assets which could impact municipal utility rates.

SECTION 2. The City of Cameron urges the General Assembly to pass legislation that protects the municipal utility from unauthorized attachments, untimely transfer requests, uncompensated make-ready work, the boxing in of poles, and requires compliance with safety, interference and liability concerns associated with attachments to municipal infrastructure.

SECTION 3. The City Clerk is hereby directed to forward a copy of this resolution to the respective Clerks of the Missouri House and the Missouri Senate, House and Senate members of the City of Cameron's local delegation representing all or parts of the City as well as to the local media.

PASSED AND APPROVED this 21st day of January 2014.

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Mayor Dennis M. Clark

ATTEST:

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City Clerk/Finance Clerk