



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

May 17, 2017

TO: Montgomery County Residents

FROM: Isiah Leggett, County Executive

RE: Meetings with the Federal Communications Commission to Discuss Microtower and Small Cell Wireless Issues

On May 10, 2017, Congressman Jamie Raskin, Councilmember Hans Riemer, and I met with the recently-appointed Chairman of the Federal Communications Commission (FCC), Ajit Pai. We discussed concerns that many members in our community have expressed related to the siting of wireless telecommunications antennas and structures, including the health impacts of antennas, and the potential for proliferation of antennas in residential neighborhoods. We were accompanied by staff members from the offices of Senator Ben Cardin, Senator Chris Van Hollen, Congressman John Sarbanes, and Congressman John Delaney. We also met with FCC Commissioner Michael O'Reilly and 12 staff members from the FCC's Wireless Telecommunications Bureau.

We strongly advocated against potential federal preemption of local zoning authority and review of wireless facilities siting applications. In November 2016, wireless provider Mobilitie filed a petition requesting that the FCC preempt local governments' authority to review wireless facility siting applications through their land use processes. In addition to filing our own comments against preemption, the County joined with over 1,000 other communities as part the Smart Communities Siting Coalition in its fight against preemption.

Our collective message from Montgomery County and our entire federal delegation to the FCC is that preemption efforts at the Federal level on this matter are not in the best interests of County residents. Local governments' balanced approach has not prohibited carriers' ability to provide service. We need to retain our authority to grow access to wireless services while also reducing the adverse impacts of small cell and 5G deployments on our residents and continuing to protect the quality of life in our neighborhoods.

During our meetings, the Montgomery County delegation made five key points:

1. The FCC must complete the 2013 Radio Frequency (RF) Emission Standards proceeding before issuing new time limits for local government action:

- The Commission's failure to issue new standards is raised as an issue in every siting proceeding and the Commission's 20-year old standards undermine public confidence that Commission rules will address current and new wireless technology. Residents are concerned about the health effects of having more antennas in their neighborhoods and closer to homes.
- The FCC, which has exclusive jurisdiction to set RF emissions standards, should update these RF emissions standards.¹
- The FCC should complete the 2013 RF proceeding **before** taking further action to preempt local zoning.

2. FCC rules must preserve sufficient time to ensure public notice and public participation in siting decision:

- The County has a strong track record of providing a streamlined process to replace antennas ("minor modification applications") and to attach antennas to existing structures ("colocation applications"), and meets current FCC-mandated time limits for review. If any new time limits are imposed, sufficient time frames must be provided to allow public participation in the siting of new wireless facilities.
- Shortened time frames are unnecessary and will add costs to application fees as local governments must increase staff to ensure compliance with timeframes.

3. Montgomery County supports appropriate wireline and wireless broadband deployment:

- We have recently attracted \$40 million in new investment to build new low latency fiber connections under the Potomac River to connect Montgomery County businesses with Ashburn VA data centers, and our County is served by 15 wireline broadband providers, 4 major wireless carriers, and 3 cable operators.
- The County has a successful 20-year track record of reviewing over 2,900 tower siting and small cell applications, and a current deployment of over 1100 wireless antennas at over 500 locations.

4. The FCC should not mandate preemptive zoning ("deemed granted"):

- This will drive up costs to process applications and there is no evidence that carriers face systemic delays.

5. The FCC must not allow industry to conflate regulatory fees with rent

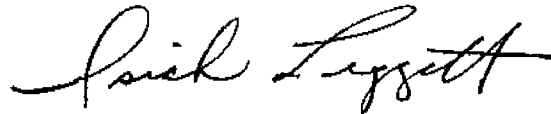
- Regulatory fees, such as permit and zoning hearing fees, are already cost-based. Use of rights of way should be non-discriminatory and reasonable, but need not be cost-based, similar to the federal policy of charging carriers for spectrum, using market-based

¹ Congressional staff shared with the Commission that they are hearing from constituents regarding RF concerns in numbers equal to calls to support net neutrality.

pricing, not cost recovery. The County, residents and businesses have made significant investments in many areas of the County that are now attractive to wireless carriers. It does not have the effect of prohibiting the provision of telecommunications service to ask these commercial businesses to pay reasonable rent for use of public property, such as rights-of-ways and streetlights.

My staff is in the process of drafting changes to our telecommunications siting policy to address microtower and small cell antennas in our community by way of a Zoning Text Amendment (ZTA). The ZTA will seek to balance the federal mandate to allow wireless providers to provide service in all communities while protecting our residential neighborhoods. The new policy will be discussed a community meeting on June 14, 2017 at 7 pm in the Executive Office Building Cafeteria at 101 Monroe Street in Rockville.

Sincerely,

A handwritten signature in black ink, reading "Isiah Leggett". The signature is written in a cursive style with a large, sweeping initial "I".

Isiah Leggett,
County Executive