



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

Edward L. Roberge, PE
City Engineer

**CITY OF CONCORD
POLES AND WIRES COMMITTEE**

MEETING MINUTES

**DECEMBER 16, 2016 – 2:00 PM
2ND FLOOR CONFERENCE ROOM, CITY HALL**

ATTENDEES

Ed Roberge, City Engineer
Heather Shank, City Planner
Paul Gendron, City Surveyor
Sue Golden, Deputy Assessor
Richard Wollert, Concord Fire Department
Jennille Smith – Permitting Manager - Mobilitie

CALL TO ORDER

Ed Roberge called the meeting to order. Mr. Roberge noted that Chip Chesley, Director of General Services was not in attendance. Paul Gendron introduced Jennille Smith, Permitting Manager of Mobilitie, who was in attendance for the Mobilitie application on the agenda.

APPROVAL OF 6/24/16 MEETING MINUTES

Mr. Roberge opened the item. Heather Shank moved to approve the 6/24/16 Poles and Wires Committee meeting minutes. Seconded by Mr. Roberge. The motion to approve the minutes was unanimously approved.

Mr. Roberge asked Paul Gendron to briefly outline the agenda. Mr. Gendron stated that there were three items on the agenda. One item for Mobilitie, one item for segTEL, Inc., d/b/a FirstLight Fiber, and one item for Unitol Energy Systems, on behalf of the Concord Black Ice Pond Hockey group.

FINAL APPLICATIONS

1. Mobilitie, also known as NH Communications Backhaul Networks, LLC, Request for Licensure of a Utility Pole within a City Right-of-Way
Loudon Road (NH Route 9)

Mr. Gendron stated that Mobilitie, also known as NH Communications Backhaul Networks, LLC, and Interstate Transport and Broadband, has submitted an application for a one hundred twenty (120') foot tall utility pole in the Loudon Road ROW just west of its intersection with NH Route 106. Mr. Roberge stated that the Committee had reviewed the application and that due to Mobilitie being a private entity and not a public utility, the Poles and Wires Committee has no authority to license the pole within the public ROW. He stated that public utilities are under the purview of this Committee. Ms. Shank stated that this type of application is more appropriate for private property under the City's zoning ordinance and planning board regulations. Mr. Gendron then distributed an email written by Ms. Shank which states the following:

As the City does not support private entities within the right of way for this type of use, an appropriate course of action for the applicant would be to find a location on private property and apply for a Conditional Use Permit from the Planning Board, in accordance with Section 28-5-23 of the Zoning Ordinance regarding Wireless Telecommunication Equipment.

Other pertinent regulations for the applicant to review and comply with include:

- Section 28-9-4 (b) of the Zoning Ordinance pertaining to Conditional Use Permits;
- Section 33.09 of the Site Plan Regulations pertaining to Wireless Communication Towers;
- Section 34 of the Site Plan regulations pertaining to Conditional Use Permits; and, in particular,
- Section 34.09 of the Site Plan Regulations pertaining to Conditional Use Permits for Wireless Communications Equipment.

Ms. Smith then stated that Mobilitie is not looking to place these poles on private property and asked whether the City would allow the poles on public property. Mr. Roberge stated that that question is not for this Committee, but should be addressed to the City Manager. Ms. Smith stated that Mobilitie is looking to work with municipalities and their goal is to put these poles close to the public ROW or on public property near the ROW, under a license agreement. She stated that their goal is to build as many as possible, and that they have hundreds of approvals across the USA, but none in New Hampshire.

Ms. Smith shared a picture on her phone of a new pole recently constructed in what she thought is Georgia. She indicated that a purpose of the pole is to increase wireless capacity by renting space to companies like Sprint, Verizon, or AT&T.

Rick Wollert asked Ms. Smith how Mobilitie works. Ms. Smith stated that Mobilitie owns

the pole, that they license space from the municipality, that they lease to one, two, or three wireless carriers, and that Uber is looking to utilize the system. Mr. Wollert asked if the process is similar to a mall with stores, where one entity owns the mall and leases space to different stores. Ms. Smith agreed stating that Mobilitie leases space to carriers.

Mr. Roberge stated that the City doesn't typically lease City property to private entities. He indicated that he would reach out to Deputy City Manager Carlos Baía to get in touch with Ms. Smith. Ms. Shank stated that other private telecommunications are on private property and it would be setting a precedent if the City allowed Mobilitie on public property or within the public ROW.

Ms. Smith stated that their product is a new way of looking at utilities, particularly because of mobile applications and the new wave of utilities. She indicated that fiber backhaul gives power to the pole. She stated that these new poles will replace cell towers and utility poles.

A brief discussion ensued related to CLEC's in New Hampshire and whether this application is for a cell tower or a utility. Also discussed were FCC rules and monopolies. Ms. Shank stated that public utilities are regulated for certain reasons including cost to the consumer. Ms. Smith stated that Mobilitie wants to build the network for consumers and end users and that the carriers then service the end users. Mr. Wollert suggested that Mobilitie is not building a network, the licensees are building the network, to which Ms. Smith agreed. Ms. Smith stated that Mobilitie prefers to have their poles in the ROW, and if not in the ROW then on public property, and then on private property as a last resort. Mr. Roberge stated that this is not the jurisdiction of the Committee and that he would speak with Mr. Baía. Ms. Smith asked whether the City would enter into a franchise agreement with Mobilitie. Mr. Roberge stated that the City already has a franchise agreement with Comcast and any future discussions related to agreements would need to take place with the City's Finance Director or the City Solicitor.

Ms. Smith thanked the Committee for its time and stated that she would reach out to Mr. Baía.

2. segTEL, Inc., d/b/a FirstLight Fiber, Request for Licensure of fiber within a City Right-of-Way
South Spring Street

Mr. Gendron stated that this application is for fiber on South Spring Street. He indicated that segTEL / FirstLight is already installed on the west side of South Spring Street. This application is for a short section of fiber crossing the road from a pole at the corner of Marshall Street, to a pole on private property on the east side of South Spring Street at the southwest corner of the federal building property, and the entity being served by the fiber is the Fairpoint property at 12 South Street. The pole on private property has several conduits. Mr. Gendron stated that he does not know what the conduits service, whether the Federal Building, the NEA building south of the Federal Building, and / or the Fairpoint building and cell tower at 12 South Street. He stated that Kiesten Smith of FirstLight has

indicated that they have secured the rights to cross private property to service the property at 12 South Street, but that he had not received any documentation to that effect.

A brief discussion ensued related to co-location and the purpose of getting to the Fairpoint building, entities on the cell tower, whether the Assessing Department was aware of entities other than Fairpoint on the cell tower, and issues related to taxation.

Mr. Gendron indicated that segTEL / FirstLight has secured licenses from Unitil and Fairpoint and recommended that the application be approved.

Ms. Shank made a motion to accept the recommendation. Seconded by Mr. Roberge. The license petition was approved.

3. Unitil Energy Systems, Request for Licensure of conduit within a City Right-of-Way White Street

Mr. Gendron stated that this application is for an electrical riser at the southeast corner of White Park where the annual Black Ice Pond Hockey tournament is situated.

Mr. Roberge indicated that the purpose of the application is to supply power to the Black Ice concession tent and the player's tent. Currently, 2 to 3 large generators are necessary to supply power for the tents. This can be problematic when the area is wet. He also stated that it is disturbing to the residential neighbors during the morning hours when the tournament is active. He stated that he had met with Stan Balch of Unitil, Tom Snow from Tom Snow & Son Construction, and Chris Brown from Black Ice Pond Hockey.

Mr. Roberge referred to an aerial photograph of the area and explained that the original request was for an underground conduit starting at a utility pole near the exit of White Park, and then proceeding southerly to a location near the intersection of White Street and Washington Street where a riser with a receptacle bank would be situated. He stated that Unitil had reviewed this request and determined that due to the location of the nearest transformer being several utility poles north of the White Park exit, this proposal would not supply sufficient power to the proposed riser.

Mr. Roberge explained that there are two feasible options. The first option being the installation of conduit from a utility pole at the intersection of the westerly side of White Street and the northerly side of Washington Street. The second option being the placement of a utility pole at the southeast corner of White Park with power being fed from a utility pole at the intersection of the easterly side of White Street and the northerly side of Washington Street. The placement of a pole would enable the power feed to be placed directly on the pole instead of having a riser. Mr. Roberge indicated that Unitil was donating the work and materials.

A brief discussion ensued relating to whether a floodlight would be placed on the pole, whether the power and floodlight would be exclusive to the hockey tournament or whether

they would be available to others, and whether the donation of the floodlight was included. Mr. Roberge stated that the floodlight would probably be included.

Mr. Roberge stated that it would be a twenty foot tall pole with a photocell light. Ms. Shank asked if the neighbors in the area would be consulted regarding the floodlight and the potential for light pollution. Mr. Roberge stated that there is another pole with a floodlight near the parking lot and that he believes it turns off at 11:00 PM. He also stated that he would consult with Dave Gill, the Concord Recreation and Parks Advisory Council, and the Friends of White Park, so see if they are okay with this proposal.

Mr. Roberge made a motion to recommend that the Committee approve the second option, which is the placement of new pole at the southeast corner of White Park, with overhead power lines being fed from the utility pole at the intersection of the easterly side of White Street and the northerly side of Washington Street, subject to the condition that the Recreation Department discuss the floodlight proposal with the neighbors in the area. Seconded by Ms. Shank. The license petition was approved with the condition.

NEXT MEETINGS

Mr. Gendron stated that he had sent meeting invitations for next year's meetings.

ADJOURNMENT

There being no further items to discuss, Ms. Shank made a motion to adjourn and was seconded by Mr. Roberge.