

Town of Bedford
Poles and Wires Committee
FEBRUARY 10, 2022 Minutes

Town Meeting Room at BCTV – 9 A.M. – 10 Meetinghouse Road

Committee members present: Lori Radke (Town Council), Jeff Foote (Chairman, Public Works Director).

Staff present: Jillian Harris (Assistant Planning Director), Christine Szostak (Land Use Executive Assistant).

Applicant(s) present: David Creer (Community Relations Specialist - Eversource), Marc Pilotte (Manager of Field Engineering & Design - Eversource), Ronald Pepin (Field Design Supervisor - Eversource) and Michael Taube (Installations - Eversource).

I. Call to Order and Roll Call:

Chairman Foote introduced members of the committee and called the meeting to order at 9:00 am. He announced committee member Becky Hebert, the Planning Director, was absent for this meeting.

Ms. Harris read the agenda.

II. Old Business & Continued Hearings:

Cellco Partnership d/b/a Verizon Wireless (Applicant) – Request for the installation of small cell equipment on an existing utility pole located within the Right-of-Way adjacent to 187-189 South River Road, Lots 22-22 & 22-87.

Ms. Harris stated that the committee did receive a request for postponement from the applicant on this application. Mr. Foote asked when did the committee receive the request that the cellular equipment applicant asked for another delay? Ms. Harris stated we received it last evening.

Eversource and Consolidated Communications (Applicants & Owners) – Request for post-approval of the installation and replacement of new utility poles and wires within the Rights-of-Way of Carriage Lane, Newbury Lane, McAfee Farm Road and Joppa Hill Road from Route 101 to N Amherst Road.

Ms. Harris stated that this application was continued from the January 13, 2022 Poles & Wires committee meeting.

Chairman Foote asked for a motion regarding the Verizon small cell installation application.

MOTION: Ms. Radke moved that the committee postpone the application to the March 10, 2022 meeting for the Cellco Partnership, Verizon small cell installation. Mr. Foote seconded.

All in favor – Motion passes.

Mr. Foote then stated the next item is, under old business, Eversource and Consolidated Communications request for post-approval for the installation and replacement of new utility poles and wires on Carriage Lane, Newberry Lane, McAfee Farm Road and Joppa Hill Road. He then asked if the applicant was there today. The answer was yes, and the Chair asked the applicant's representative to state his name.

My name is David Creer. I am the community relations specialist for Eversource Energy and currently cover Bedford. I have a crew with me and we can introduce them as we need them. Mr. Foote stated at the last meeting...do you have something you want to share before we start inquiring? Mr. Creer answered sure, I think at the last meeting one of the major issues that was discussed was what our plans would be if we were granted some of the waivers we asked for; specifically the notification requirements. We are still working out the operational details of that, but it does seem that we can pretty readily adjust our notification system that we currently use to notify customers of upcoming outages for maintenance projects like this, to adjust the timing and the scope so that they would get notice before we would come and sit before this committee, so that if anyone from the public needed to say anything they would be aware of the meeting.

Mr. Foote then said at the last meeting, this committee asked you to provide some additional information and specifically one of the things I asked for was the cost of this project because there was some discussion on your end about the fees etc., related to that and if you can elaborate on that for me for starters. Mr. Pilotte addressed the committee at this time and introduced himself as the Manager for the Field Engineering and Design Group at Eversource. He said Mr. Chair, I apologize but I have to respectfully decline to provide that information. We don't provide that information because of competitive reasons/resources. Disclosing that type of information could put us at a competitive disadvantage, which is not in the best interest of our customers. So, I have to respectfully decline. Mr. Foote responded so a rate payer, if they make an inquiry on what it costs for a project you will not share that information? Mr. Pilotte replied that was a project that went out to bid, a competitive bid, and we don't share that information because it could put us at a competitive disadvantage. Mr. Foote asked how is that? Mr. Pilotte answered it's a disadvantage. Other contractors could see what the cost is and adjust their dollars when they put in to bid on a project. Mr. Foote stated that is contrary to what we do here in the public. We want people to see what other people are bidding so, generally that results in lower prices. Frankly I am shocked. Ms. Radke asked if that was normal practice. Mr. Foote stated apparently. Mr. Pilotte asked that we don't share that information? Ms. Radke said yes. Mr. Pilotte replied that is correct. Ms. Radke mentioned we do it as a transparency to the public as well. Mr. Pilotte stated we want to get the best price for our customers, that's why some of these projects are not done in house. And they are put out to bid.

As a follow up, Ms. Radke said with that not being a public document or being able to be reviewed, and maybe you pick someone that is higher, that you would charge the customers higher to pay for that. I am just speculating that that could be a possibility, without seeing them. Mr. Pilotte stated not that I am aware of, no. Mr. Creer then stated that as a regulated utility all of our costs and projects do go for some review before the Public Utilities Commission, to make sure what we are doing is, following what is in the best interest of our customers. Ms. Radke stated so there is another set of eyes before you make a decision. Mr. Creer said yes. Mr. Foote then stated you said some of your projects. Mr. Creer replied, maybe I mis-spoke, but what I mean is our costs, in total, are put before the Public Utilities Commission. This is a little outside of my wheelhouse, but all of our costs are eventually there. I don't know how detailed they get with each individual project in front of the PUC, I don't know if they would say oh you know this specific maintenance project, why did it cost this, whatever. Or is it just our cost of all of our maintenance projects is put before the PUC to make sure that it is reviewed. He asked if that made sense. Mr. Foote replied so what you are saying is if I wanted to know the information I have to file a RTK (Right-to-know) with the PUC? Mr. Creer said I am not saying that, I'm not sure how that process would go and how the PUC, how detailed the information is that they get. I just know that we are reviewed by the PUC to make sure all of our costs are in the best interest of our customers. Ms. Radke then asked Mr. Foote what was the purpose of wanting the cost? Mr. Foote replied, part of the argument, a month or so ago, was that this project, some of the waivers they were requesting...Ms. Radke said one of them was fees, correct? Mr. Foote replied fees and some of the things that the Poles & Wires Committee determined were necessary as part of the application, and they talked about these being additional costs for the project. Then they moved forward with this and are asking for us to accept this after the fact, and obviously they moved forward and there were some poles that they are going to have to re-locate as a result of not working with the Town...so I am sure there is a cost associated with that. I was just looking for the cost of the project so that the rate payers could see what was done and what it cost them. Ms. Radke said I see, that is fair. I was just curious.

Continuing, Ms. Radke asked if they have paid the fee, is that correct? Ms. Harris responded yes, the fee has been paid. Mr. Foote then said are you acquiescing on that request for the fee reduction? Mr. Creer stated without waiving any future rights we have decided to pay the fee. Mr. Foote said okay. He then stated I think I read that you requested that we waive certain items in your application, some of our requirements from the application. Is that true? Mr. Creer answered yes. Ms. Radke stated I think one of them was notification, is that correct Jillian? Instead of sending them certified, you are asking for a waiver to send them through US mail, is that one? Mr. Creer answered yes, first class mail. That way the customer does not have to go to the Post Office to pick it up. We found this to be equally as effective in providing notice to our customers.

Ms. Radke then asked Ms. Harris if that waiver request was just for this project, or all projects moving forward? Mr. Foote stated just this project. Ms. Radke then stated that you are going to contact customers again if you are moving poles, is this correct? I am trying to figure out why this is here, if they have already done the work. Mr. Foote stated this project is somewhat atypical, in the past we have generally collaborated with Eversource and the other utilities and they would contact us and we would contact them, schedule a site visit, we would walk through it and it certainly that was a way to alleviate some of these requirements, and we are still willing

to do that, on a case by case basis. So, as far as a blanket waiver, this is a great example as to why we typically would not give that. We want to be part of it, we want to see what they are proposing in the field and that has really worked well for more than a decade. Mr. Creer then stated we recognize that. We did not communicate as well as we should have here and we are looking forward to that relationship going forward. We will be more active in reaching out to you before projects are starting and so that we can talk about these things. Ms. Radke then said, so this waiver is just for this particular project. If you were to come back in another five to six months it is a whole different project; you may ask for that again but I don't feel comfortable with a blanket waiver.

Mr. Foote stated and frankly, much of the things that we do with the utility companies, a lot of this, could be alleviated administratively, if we have the communication which we always had in the past. Ms. Radke said right. Mr. Foote continued and said for much of this, I'm not really seeing any heartburn over the first waiver regarding the stamped plans by a surveyor. In this case, photos I think, the poles are in, so this is after the fact and then they had some step down transformers close to Middleton, where the poles are left at less than 150' apart. So, those are all things that I would consider necessary to do what they needed to do. Ms. Radke said okay. She then said what you are saying, going through all of these, the stamped plans from the surveyor/engineer is another waiver correct? Mr. Foote said correct. Ms. Radke clarified that Mr. Foote was willing to waive that waiver. He said that was your call. Ms. Radke then stated they talked about the photos and (just going through the four of them), 150' apart. She asked if those had to be closer so they could talk to each other, is that correct? Mr. Creer replied I am not the engineer. Mr. Pilotte stated yes, we talked about this at the last meeting. We replaced the single phase open wire up there with a covered three wire and spacer cable configuration and basically that is a much stronger, it is covered wire, so it is less resistant to trees causing an outage. Because of the spacer cable configuration, and the limited span lengths, sometimes we have to take a long span and when we replace it with spacer cable we have to shorten up the span. That's due to following our standards and designing the structure so that it meets worse case ice loading should we ever get into that situation. So that's standard practice. In the case of Joppa Hill Road, we had a couple of long spans where we had to put a new pole in the middle to cut the span in half, for those construction reasons. Up by Middleton, where we had to install the step transformers, again, putting in a bank of step transformers requires us to have some high side protection on a separate structure as well as low side protection on a separate structure, so in order to facilitate that in that area we needed to add a couple of new poles, which are in fact less than the 150' span.

Mr. Foote stated Jillian's report mentions that we met in the field and there were three poles that the parties on site agreed to relocate. I'm asking what is the status, what is the plan on that? Mr. Creer stated my understanding is that we are working with Consolidated in order to get those poles moved, so we are in the process of moving those back. If you need more details I can invite Ron to come up here. Mr. Foote said if he is willing to share that information I would appreciate it. He then said if it is easier Mr. Pepin, you can grab that microphone as well. Mr. Foote asked Ron to state his full name. He answered Ronald Pepin. He said we found the original request that the Town had submitted for moving that pole at the corner of Evergreen and Joppa Hill and we added to that now the other poles that were identified as being deficient in the off sets. I have assigned Michael Taube to work with CCI to get those poles relocated and

pushed back so that they do meet the requirements. At this time, I do not know the status of communication with CCI. Mr. Foote said so, and I am not trying to put you on the spot regarding that, but, it is February 10th today...is it reasonable that, can you say that all of the relocations will happen in six months? Mr. Pepin stated that would be very reasonable as far as I'm concerned. I think it should happen sooner than that. I do know that we also discussed relative priorities of projects and there was a desire on the Town's part to take care of two other locations prior to the Joppa Hill Road site. So I do not want to lose focus on those either. Mr. Foote stated we appreciate, I think I was told that you, that there were some pole sets actually on Meadow in the last week. I haven't been down there to verify that myself, but that is my understanding there were some pole sets on Meadow and I think we talked about other projects, we talked about Polly Peabody, Meadow and some extraneous poles that I had in my email from a month ago on Wallace Road. I think a couple of your folks, I saw them heading that way after the last meeting so I'm sure you have those on your radar as well. Mr. Pepin replied yes, those are all on the radar, Polly Peabody, that was an older job that we found the old paperwork for that and we had to make some adjustments to it based on current supply chain issues that we are going through with regards to the availability of transformers, but I am expecting that to be released to construction within the next couple of weeks. Mr. Foote said thank you. We appreciate that. So, you are very confident that all of the poles on this project that we are here for today on Joppa Hill Road, and associated roads, that work you will collaborate the work with Consolidated Communications and that work will be complete in six months? Mr. Pilotte replied I am confident, but obviously I cannot speak for CCI. With everything that has gone on, our inclination may have been if CCI is not getting the job done, let's go and set the poles our self. I think I want CCI to have some skin in this game and do what they are supposed to do by their contractual obligations that we have between the companies. Mr. Foote stated I know, it's a struggle for all of us. Mr. Foote then asked if anyone in the audience was there from CCI that would like to speak on this, and there was no one from CCI in attendance. Mr. Foote then said thank you, I appreciate your efforts.

Ms. Harris asked Mr. Foote if she could make a request and get the specific pole ID's that were agreed to be relocated. Mr. Foote stated we have those. Ms. Harris then said if someone could just provide them to me after the meeting that would be helpful. Mr. Creer stated they would make sure she got them. Ms. Radke asked how many of the poles are to be relocated? Mr. Foote stated three. There is one at the corner of Evergreen that Mr. Pepin...Ms. Radke asked the one at the top of the road? Mr. Foote replied exactly and he went back and found his work request from about 2014 and then there were two other poles that were 2, 3, 4 feet that they placed adjacent to the road. We showed them some of the old poles where a plow has come into contact with them and that's why I say six months...six months gets us to the next plow season. Hopefully it's short, the next 4 to 6 weeks with our plowing activities, the weather breaks and it is not so critical for us, maintenance wise, but that's why it's really about winter maintenance for us and site distance, safety for the public.

Ms. Radke asked is that something we should postpone approval until it's done or should we use it as a condition of approval? What are your thoughts? Ms. Harris stated it could be a condition of approval. Mr. Foote then stated I just want to know what the cost of the project is. Ms. Radke stated well it just stepped up, because they have to move some now. It has increased because they have to move those poles and I'm sure they have to inform customers as well that they have

to shut off the electricity to do that. It was mentioned that they were not quite sure because none of the reps were line workers. Mr. Foote said I don't think they were big moves that would require another shut down, are there? It was answered no, I don't believe it would require a shut down. Ms. Radke said very good, shall we discuss the waivers first. Mr. Foote responded at your pleasure. Ms. Radke said lets discuss the waivers first then go on to the...Mr. Foote then said actually, should we open up to the public? Ms. Radke said I was just going to say that.

At this time Mr. Foote opened the discussion up to the public and asked if there were any public comments regarding this project.

Mr. William Granfield approached the microphone at this time. Mr. Granfield said thank you Mr. Chairman. I don't have comments to this particular action. Mr. Foote asked him to state his name for the record. He stated his name and then stated I have comments for the Verizon action, which as we now know was postponed. So I would request that I could still say my comments after this action is done, and I request that mainly because I had to take time off from work to come here and speak today and I can't take more time off from work to come back on March 10th. I would prefer not to submit my comments in writing. Mr. Foote replied you prefer not to make them in writing? Mr. Granfield answered yes. Ms. Radke stated it is not on the agenda to discuss. Mr. Foote said I guess before we started the meeting I didn't ask if the public wanted to make comments, so after this exercise with Eversource, at that point can I open it up to the public for general comments? Ms. Harris said it could be opened up for general comments but we are not opening up the public hearing on that application. Mr. Foote said exactly. Mr. Granfield then said my comments are general. Mr. Foote said let us get through this and I will re-open it up for public comment. Mr. Granfield said thank you and Mr. Foote said thank you and thanks for showing up.

At this time, Mr. Foote said and with that I am going to close the public hearing.

Ms. Radke said let's go through all of the waivers. So, you are looking for some action item on each one, approve or disapprove, I would assume on all of these. Ms. Harris stated you can either take them as a group or you can do them individually. Ms. Radke replied let's do them individually.

MOTION: Motion by Ms. Radke that the committee approve waiver number one, to allow notification by first class mail in lieu of certified mail. The Chairman asked for any more discussion and there was none. **Mr. Foote seconded.** Ms. Radke clarified that this approval was only for this application.

All in favor. Motion passes.

Ms. Radke then clarified we did grant that waiver.

Continuing, Ms. Radke read waiver number two's description. She stated I guess I want to ask the question, this is clearly in our ordinance, and not having been a developer of the ordinance I am just curious to know why this is important. Mr. Foote asked for clarification. Ms. Radke clarified why is it important to have a stamp by an engineer? My assumption is to have somebody outside of their organization to look. Mr. Foote replied I don't think that part of the ordinance is specific to any one group, but at certain times certain utilities or entities will make

improvements which need to be stamped. I think in this case, I think they have adequate resources and experience that if you make a motion I would support waiving it. Ms. Radke replied that was what my question is.

MOTION: Motion by Ms. Radke that we waive number two, requiring detailed engineering plans to be stamped by an engineer or surveyor. Mr. Foote seconded. All in favor. Motion passes.

Ms. Radke then stated my question on number three, I'm assuming because you didn't take pictures before, so you were not able to meet this particular part of the ordinance; that this is why this is here.

MOTION: Motion by Ms. Radke that we waive number three, requiring photos before and after each new pole. She then mentioned we did get pictures after the fact. A couple of them. **Mr. Foote seconded. All in favor. Motion passes.**

Continuing, Ms. Radke said number four, this one is a tough one. Only because it doesn't look very nice with all of those poles so close together. Based on some information that they are needed for the safety of the poles, for the safety of the wires and the workers, the longer they are my understanding is the more chance of the wires being broken...am I correct? Is that what you were saying? Mr. Pilotte answered it is more of a construction standard. I mean if you put in a small wire you can tend to have a longer span. If you put in a bigger wire, especially a spacer cable which has a high tension messenger, you have to have shorter spans. In the case of up by Middleton, again, we had to add some step down transformers. Mr. Foote and Ms. Radke responded yes. Mr. Foote then mentioned to Ms. Radke that she had a few kids that went through Bedford High School, and did she notice those anymore? Ms. Radke said electricity is very important especially with the development going up in that area, so I will make a motion.

MOTION: Motion by Ms. Radke to waive requiring all new poles to be spaced at least 150' apart. Mr. Foote seconded. Ms. Harris asked and it is in this instance, this application only? Ms. Radke clarified only in this application, all of these are only for this application. Mr. Foote stated exactly. **All in favor. Motion passes.**

Ms. Radke then stated I guess we have some more motions to make here. Is there any more discussion on the waivers? Mr. Foote stated I think, I'm not sure if it should be a condition, but it should be duly noted that Eversource will do their level best to get these poles relocated and get this project complete in six months from now. I guess other than that, I am not going to give up my right to seek what the cost of this project is, so the rate payers and the tax payers will know. Other than that, it is not a condition, just a general statement that I think it is important that people know what the cost of some of these exercises are. Ms. Radke said thank you for that.

MOTION: Ms. Radke made a motion that the Utilities, Poles and Wires committee approve the request for post approval of the installation and replacement of utility poles and wires in the right of way of Carriage Lane, Newberry Lane, McAfee Farm Road,

Joppa Hill Road from Route 101 to N. Amherst Road because the applicant has provided evidence that demonstrates consistency with the Utilities, Poles and Wires equipment (outside of the waivers) ordinance and regulations subject to the following conditions: All work be completed by the applicant within...Ms. Radke asked for clarification and Mr. Foote stated well they started last fall, so come September it will be six months...**Ms. Radke clarified that all work to be completed by the applicant within one year.** Mr. Foote asked the applicant team if they had any issues with the modification of that. Mr. Creer answered I don't think so. Ms. Radke said that includes the moving of those poles. Mr. Foote stated generally I will get on my phone during a meeting but I just wanted to remind everybody about an upcoming utilities meeting that the department has. Did you all receive notification on that? A member of the Eversource team stated it may be in my email, but no I have not received it yet. Mr. Foote said I am trying to find this here, I am quite sure it is coming up. He said our server is down right now so I can't check. Ms. Harris then asked that the condition was for six months, correct? Not one year? Mr. Foote stated yes, six months.

Motion clarification: All work to be completed within six months.

He then said I believe we sent out an invitation for our annual utilities meeting and I believe it is going to be held by the end of the month. Our server is down right now so I can't access it to share with you when that is. But if you do not have something within, or when you get back to our office and by the end of the week, please contact me so I can assure that you do get invited to this so we are not here going through this again. Mr. Creer stated sounds good. Another Eversource Rep asked if the information would be sent in an email and Mr. Foote said yes. After the last meeting, I gave all of the business cards to our Town engineer and she was to include you in that distribution. Mr. Creer stated I have not received it. Mr. Pilotte stated I have not received it as of this morning. I checked my email this morning and it was not there. Mr. Foote replied, okay, I guess we have some work to do. He said I will follow up. Mr. Pilotte replied we definitely want to participate in that. Mr. Foote said thank you, we appreciate that. Mr. Creer commented we will have people there. Mr. Foote said good, and it is going to be ZOOM, so it will be safe. Mr. Creer stated even better; it is much easier on my commute.

Ms. Radke stated there is a motion on the floor.

Mr. Foote seconded.

All in favor. Motion passes.

Mr. Foote thanked the Eversource team and said I appreciate it.

At this time Mr. Foote re-opened the meeting to the general public for general comments.

Mr. Granfield approached the microphone and said thank you Mr. Foote and Councilor Radke. As I said, my name is William Granfield, I live on 6 Ruth Street. I originally came here to make comments on the Verizon small cell installation, but I will keep my comments general because I understand that this is not on the agenda today, it has been moved to March 10. I want to preface this by saying I apologize if I am telling the Board something that it already knows. I am simply going by the meeting minutes from the November meeting from last year where Verizon was initially in front of the Board. I want to go back in time real quick to May 13, 2020. This is

when the authority for this Board was created by the Town Council. I scanned the meeting minutes, I follow the minutes closely, I don't watch the videos I like to read. There was a lot of discussion about the legal authority of the Poles and Wires Committee, but there was one little section in there that I kind of honed in on because it kind of rang a bell in my mind. Specifically I will quote from the minutes: "Councilor Stevens didn't feel as though the attorney addressed the issue with RSA 12-k. In talking with Chris Bandazian, he brought that up as a problem in regards to the legality of this. The law makes her quite nervous, she doesn't necessarily want to be the first Town in the state to go head to head with the utilities when it comes to this RSA, because it seemed pretty black and white to her as far as what they were able to do and what they were not able to do." So, if you go and look at chapter 12-k, part 10, section 4, this is not withstanding anything to the contrary in this chapter. An authority may not mandate, require or regulate the installation, location or use of a PWSF. As we know is a Personal Wireless Service Facility, on utility poles. The telecommunications Act including facilities used or to be used by a licensed provider or personal wireless service, a personal wireless service facility includes the set of equipment, the network components exclusive of the underlying tower or mount including but not limited to the antennas, accessory equipment, transmitter, receivers, bay station power supplies, cable and associated equipment necessary to provide the wireless services. I go back to the prohibition in which it says it may not require or regulate the installation and location. The meeting minutes to me, at least made it sound like we are really trying to regulate the installation of that tower and I would argue that it is really not within this Poles and Wires committee authority to do just that. Specifically, my comments are more detailed to the actual application, so what I will do is reserve those and I will submit those in writing when they are back on the agenda. But I just wanted to state that up front, that I don't think this Board even has the authority to even hear that application. Just as a general worry of mine, I feel that we just made it so difficult for cell phone carriers to expand in this Town, that we are really setting ourselves up for a lawsuit down the road with an effective prohibition issue, from this committee to the zoning restrictions that were put in in the last five years. It's a big concern of mine. Thank you for hearing me and I appreciate your time. Mr. Foote said thank you very much sir, have a great day. He then asked if there was anyone else from the public that would like to speak and no one replied yes.

At this time, Mr. Foote closed the public comments section of the meeting.

III. New Business:

Mr. Foote then stated there is no new business and asked if Ms. Radke had a chance to review the minutes from January 13, 2022. Ms. Radke said she did.

IV. Approval of Minutes: January 13, 2022.

MOTION: Ms. Radke made a motion to approve the minutes. Mr. Foote seconded. All in favor. Motion passes.

V. Communications:

Mr. Foote asked Ms. Harris if there were any communications to discuss. Ms. Harris answered that our next meeting is March 10.

VI. Other Business:

Ms. Radke stated she had no other business at this time. Mr. Foote stated neither do I.

VII. Adjournment:

MOTION: Ms. Radke made a motion to adjourn the meeting. Mr. Foote seconded. All in favor. Motion passes.

Mr. Foote said thank you very much and have a great day.

The meeting adjourned at 9:40 am.

Respectfully submitted,

Christine Szostak
Land Use Executive Assistant