

BOARD OF SELECTMEN
PUBLIC HEARING
AUGUST 28, 2019
MINUTES

CALL TO ORDER: VanCor called the meeting to order at 4:00 PM. Present were Norman VanCor, Jeanny Aldrich, Alissa Thompson, Susan Rigg and Kenneth Cook.

PUBLIC HEARING:

VanCor: We will now conduct a hearing on a Petition to universally amend the pole and conduit licenses and other agreements to allow for the use of the Town's rights-of-way that the Board of Selectmen or its agents has issued for poles and conduits in the public rights-of-ways, to require payment of the properly assessed property taxes and notify the Town of additional attachers on the poles and conduits, as required by the New Hampshire law. The Board of Selectmen received the Petition on July 25, 2019 from Kenneth Cook. I will not read the whole Petition out loud, because it is lengthy, but there are copies available here.

Vancor: Ken Cook, would you like to address the Board and explain why the licenses and agreements need to be amended?

Ken Cook: The amendments proposed are in the public good because they would change the licenses and agreements to comply with the requirements of New Hampshire law by referencing the statutory scheme which authorizes the Town to tax entities with poles and conduit in the public rights-of-way and others using the rights-of-way. Additionally, the amendments would require the license holders and those with such agreements to notify the Town of additional attachers on the poles and conduits and other users of the rights-of-way who have perhaps avoided taxation until now. Properly assessing property taxes against all entities using the public rights-of-way is required under the law and is in the public good.

The law of New Hampshire is clear at this time that licenses such as those held by License/Agreement Holders are required by law to include a section requiring the licensee to pay properly assessed real and personal property taxes. Specifically, I point the Board to the cases of N.E. Tel. Tel. Co. v. City of Rochester, 144 N.H. 118 (1999) ("Rochester I"), Verizon New England, Inc. v. City of Rochester, 151 N.H. 263 (2004) ("Rochester II"), N.E. Tel. Tel. Co. v. City of Rochester, 156 N.H. 624 (2007) ("Rochester III"). This requirement also covers others with agreements with the Town to use the right-of-way, such as gas or water companies.

Additionally, RSA 72:23, I(b) currently requires that all leases or other agreements for the use or occupation of real property owned by the Town "shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date" and further requires all leases or other agreements to provide that the lessee has an obligation to pay real and personal property taxes on structures or improvements added by the lessee."

The law also requires that if the lessee or person using or occupying the property fails to pay the duly assessed real and personal property taxes on the due date, the tax collector must notify the Town, and the Town must terminate the lease or agreement. RSA 72:23, I(c).

The Petition to the Board of Selectmen is to universally amend the licenses and other agreements it has issued for conduits or poles or water or gas pipes in the public right-of-way to include these requirements and the requirement for the licensee to notify the Town of additional attachers on the pole or conduit to confirm to the law.

VanCor asked Thompson if the Town is in receipt of correspondence regarding the issue. Thompson said she mailed certified letters to all parties affected and has had no response. As there were no public comments, VanCor closed the public hearing.

Aldrich made a motion to grant the Petition to Amend Pole Licenses and the Agreements to use the public rights-of-way. VanCor seconded the motion and it passed unanimously by roll call vote.

Van Cor moved to adjourn at 4:07PM. Aldrich seconded the motion and it was approved unanimously by roll call vote.

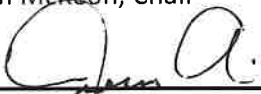
Respectfully submitted,

Susan Rigg

Approved:

Jon McKeon, Chair

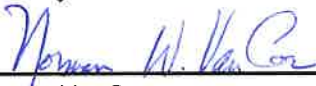
Date



9/18/19

Jeanny Aldrich

Date



9/18/19

Norman VanCor

Date