



BOARD OF SELECTMEN
P.O. BOX 725
FITZWILLIAM, NH 03447
(603) 585-7723 Fax: (603) 585-7744
Email: fitzwilliamnh@fitzwilliam-nh.gov

BOARD MEETING MINUTES
April 18, 2016

Selectmen Present: Susan Silverman, Nancy Carney, Chris Holman

Ms. Silverman called the meeting to order at 7 p.m.

PRIMARY:

***** APPROVE MANIFESTS**

Mr. Holman made a motion to approve the manifests. Ms. Carney seconded. Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 3-0

***** REVIEW SIGNATURE FOLDER – The Selectmen reviewed and signed.**

7:15 PUBLIC HEARING
- Pole Licenses

Ms. Silverman opened the public hearing at 7:15 p.m. and the public hearing notice was read.

See attached letter from Eversource, which is made part of the official public hearing minutes.

Ms. Silverman made a motion to adopt the revised Pole and/or Conduit License. Mr. Holman seconded. Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 2-0

There being no further public comment, Ms. Silverman closed the public hearing at 7:21 p.m.

7:30 MEET WITH CHIEF LEONARD DISALVO
NON-PUBLIC SESSION RSA 91-A:3 II(a) – PERSONNEL MATTER

At 7:25 p.m. Ms. Silverman made a motion to go into non-public session under RSA 91-A:3 II(a). Mr. Holman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

At 7:48 p.m. Ms. Silverman made a motion to leave non-public session and seal the minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Mr. Holman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

***** CONSTRUCTION PERMIT**

- **Map 12, Lot 43**
- **Map 14, Lot 38-01**
- **Map 11, Lot 38-03 – EXTENSION**

Map 12, Lot 43 – Ms. Carney made a motion to approve the permit for Map 12, Lot 43. Mr. Holman seconded. Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 3-0

Map 14, Lot 38-01 – Mr. Holman made a motion to approve the permit for Map 14, Lot 38-01. Ms. Carney seconded. Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 3-0

Map 11, Lot 38-03 – Extension – Mr. Holman made a motion to approve the permit extension for Map 11, Lot 38-03. Ms. Carney seconded. Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 3-0

***** PRIMEX CONFERENCE**

Ms. Favreau asked for permission to attend the Primex Conference and Orientation for New Members to be held on May 10 -11, 2016.

Mr. Holman made a motion to approve Ms. Favreau attending the Primex Conference and Orientation on May 10 - 11, 2016. Ms. Carney seconded. Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes. Approved – 3-0

***** NON-PUBLIC SESSION RSA 91-A:3 II(a) – PERSONNEL MATTER
- Summer Recreation Employment**

At 7:21 p.m. Mr. Holman made a motion to go into non-public session under RSA 91-A:3 II(a). Ms. Silverman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

At 7:23 p.m. Ms. Silverman made a motion to leave non-public session. Mr. Holman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

***** NON-PUBLIC SESSION RSA 91-A:3 II(c) – WELFARE REQUEST**

At 7:08 p.m. Ms. Silverman made a motion to go into non-public session under RSA 91-A:3 II(c). Mr. Holman seconded and the motion passed 3-0. Roll Call vote: Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes.

At 7:13 p.m. Ms. Silverman made a motion to leave non-public session and seal the minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Mr. Holman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

***** NON-PUBLIC SESSION RSA 91-A:3 II(c) – ELDERLY EXEMPTION**

At 7:13 p.m. Ms. Silverman made a motion to go into non-public session under RSA 91-A:3 II(c). Mr. Holman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

At 7:14 p.m. Mr. Holman made a motion to leave non-public session and seal the minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Ms. Silverman seconded and the motion passed 2-0. Roll Call vote: Mr. Holman - Yes, Ms. Silverman - Yes.

***** NON-PUBLIC SESSION RSA 91-A:3 II(a) – PERSONNEL MATTER**

At 7:51 p.m. Mr. Holman made a motion to go into non-public session under RSA 91-A:3 II(a). Ms. Silverman seconded and the motion passed 3-0. Roll Call vote: Ms. Carney – Yes, Mr. Holman - Yes, Ms. Silverman - Yes.

At 8:25 p.m. Ms. Silverman made a motion to leave non-public session and seal the minutes as disclosure would adversely affect the reputation of the person other than a member of the board. Mr. Holman seconded and the motion passed 3-0. Roll Call vote: Ms. Carney - Yes, Mr. Holman - Yes, Ms. Silverman - Yes.

OTHER BUSINESS

Southwest Region Planning Commission Information Session – April 27, 2016 @ 6:30
Monadnock Regional School Board Meeting, Emerson School – April 19, 2016 @ 7:00 – Ms. Silverman and Mr. Holman would attend.

PIPELINE

ON-GOING BUSINESS

Prime Wetlands Study

Ms. Silverman made a motion to adjourn the meeting at 8:25 p.m. Mr. Holman seconded and the motion passed. 3-0

Submitted by:

Sheryl White
Secretary to the Board of Selectmen

Susan Silverman, Chairman

Nancy Carney, Vice Chairman

Chris Holman
Board of Selectmen



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Christopher J. Allwarden
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April 12, 2016

Board of Selectmen
Town of Fitzwilliam
PO Box 725
Fitzwilliam, NH 03447

Re: Notice – Public Hearing to Amend Pole and Conduit Licenses

Hearing Date: April 18, 2016

Dear Board of Selectmen:

The undersigned is legal counsel to Public Service Company of New Hampshire, d/b/a Eversource Energy (“Eversource”). Eversource has received your notice of a public hearing at which the Town of Fitzwilliam will take up the matter of a petition by the Board of Selectmen for the universal amendment of existing pole and conduit licenses in the Town, to require the payment of properly assessed property taxes, and to require licensees to provide information pertaining to entities attached to their poles or conduits.

This is to advise that, to the extent the proposed amendments seek to make language changes to the pole licenses of Eversource consistent with RSA 72:23, and the rulings of the New Hampshire Supreme Court in N.E. Tel. & Tel. Co. v. City of Rochester, 144 N.H. 118 (1999) and Verizon New England v. City of Rochester, 151 N.H. 263 (2004), Eversource does not intend to raise a legal objection to the amendments. However, this should not be construed as a waiver of Eversource’s rights to protest, seek an abatement of, or otherwise legally challenge as excessive or disproportionate the assessment by the Town of Fitzwilliam of any incremental property tax upon Eversource’s use or occupancy of the public right of ways in Fitzwilliam, and Eversource fully reserves all such rights.

Eversource does, however, object to the proposed amendments to include the requirement or condition that the licensee (1) notify the Town Clerk within 90 days of the date of amendment of the poles or conduits being used by other attaching parties, their identities, and the property and equipment attached, and (2) update annually on or before April 1st the information provided to the Town Clerk, including the location of additional attachers, and any attachers that have removed or added new attachments.

RECEIVED
APR 18 2016

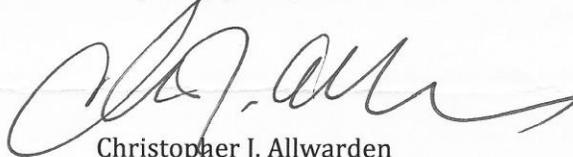
These conditions are not revisions required under RSA 72:23, or the New Hampshire Supreme Court cases interpreting that statute, in order to legally assess and tax either the facilities or equipment of Eversource, or the use and occupancy of the public right of way by Eversource. Furthermore, such other attachers, to the extent they may exist, are required to license or permit their facilities located within the public rights of way with the Town of Fitzwilliam pursuant to RSA 231:159, et seq., just as Eversource is. Consequently, the identity of attachers utilizing the public rights of way, whether by attachment to existing utility poles, conduit or otherwise, should be obtainable from Fitzwilliam's own public highway licensing records. Eversource is not aware of any statute or other provision of law in New Hampshire which authorizes the Town of Fitzwilliam to compel Eversource to provide this information as a condition of a pole or conduit license.

We also bring to your attention that, in accordance with the requirements of RSA 374:34-a, public utilities such as Eversource must provide non-discriminatory access to their distribution poles and conduit to certain third parties seeking to use them for attachment of their own lines, cables and appurtenances. Under existing regulations of the New Hampshire Public Utilities Commission (Puc 1303.08), such third parties are required to clearly label their attachments with owner identification. This affords another means by which the Town may obtain its own information pertaining to attachers utilizing the public rights of way.

Under the above circumstances, Eversource maintains it is neither legally necessary, nor fair or reasonable, to require Eversource to provide or report to the Town information about others using Eversource's poles or conduits licensed in the public right of way. Such a license amendment is not required in the public good.

As Eversource is unable to send a representative to your hearing, Eversource respectfully requests that this letter be included in and made a part of the record of the minutes of the hearing of this matter on April 18, 2016. Thank you.

Very truly yours,



Christopher J. Allwarden
Senior Counsel, Legal Department

cc: Jeana Delisle, Eversource