

Select Board Special Meeting
Friday March 29, 2019 9 AM
Town Offices, Nowak Room
Final Minutes

Call Meeting to Order

Members present: Anne Surman, Kathy Corson, Julie Gilman, Niko Papakonstantis, and Russ Dean were present at this meeting. Molly Cowan was not present. The meeting was called to order by Ms. Corson at 9 AM.

Ms. Corson said that this was a public hearing pursuant to the provisions for RSA 231:163 and 43:2 for the purpose of considering amending all existing pole licenses to include language regarding taxation pursuant to RSA 72:23 and acknowledging the licensee's statutory obligation to move the licensed poles, conduit, and equipment upon order of the town.

MOTION: Ms. Surman moved to open the public hearing pursuant to RSA 72:23 in regard to pole licensing. Mr. Papakonstantis seconded. All were in favor

Joe Lessard of MRI, the Town's Assessor, said that statute 72 deals with persons and property liable to taxation, and section 23 provides for property to be exempt. He read 72:23:l(b)1:

All leases and other agreements, the terms of which provide for the use or occupation by others of real personal property owned by the state or a county, city, town, school district, or village district, entered into after July 1, 1979, 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.

Mr. Lessard said that courts have ruled that in order for that license to have the wording for them to provide payment of taxes, there needs to be a public hearing by this Board to determine whether it's in the public interest to add a ruling about taxation to the pole license. The language has been in the contracts, but there is no record of a public hearing to determine if it's in the public interest and to add the language. Affected companies have been notified of this meeting, which is about taxing users of the public rights of way other than the municipality.

Ms. Surman asked if they were talking about taxing companies like Comcast, Unitil, and Fairpoint to use the poles. Mr. Lessard answered that the taxation of Comcast is taken care of by wording in their franchise agreement. For Unitil and Fairpoint, the license has had the wording but it's unclear if there was a hearing. Mr. Dean added the language has appeared in these licenses for years.

Ms. Corson opened the hearing to the public. There were no comments.

MOTION: Ms. Gilman moved to close the public hearing. Mr. Papakonstantis seconded. All were in favor.

MOTION: Ms. Gilman moved to declare that all outstanding pole licenses issued by or under the authority of the Select Board of Exeter or its predecessors in office acting under the provisions of RSA 231:161(b), or its predecessor statutes, are hereby changed to incorporate in each such pole license in effect as of April 1, 2019 and effective as of such date, the following changes by inserting therein the following language:

In accordance with the requirement of RSA 72:23, I(b), this license is granted to the licensee(s) subject to the condition that the licensee(s) and any other entity using or occupying property of the municipality pursuant to this license shall be responsible for the payment of, and shall pay, all property assessed real and personal property taxes no later than the due date. Failure of the licensee(s) to pay duly assessed personal and real property taxes when due shall be cause to terminate this license.

In accordance with the requirements of RSA 72:23, I(b), the licensee(s) herunder and any other entity using or occupying the property of the municipality pursuant to this license shall be responsible for the payment of, and shall pay, both current and potential real and personal property taxes when due. Furthermore, in accordance with the requirements of RSA 72:23, I(b), the licensee(s) and any other entity using and/or occupying property of the municipality pursuant to this license shall be obligated to pay real and personal property taxes on structures or improvements added by the licensee(s) or any other entity using or occupying the property of the licensor pursuant to this license.

The Petitioner hereby acknowledges its statutory obligation pursuant to RSA 231:177-181 to relocate the poles, structures, conduit, and equipment license hereunder upon written notice from the town.

The Licensee is required to provide the town in writing the names and contact information for any additional provider(s) authorized now or in the future to place equipment at these location(s).

All new pole licenses issued on or after the effective date of the above amendment, or subsequent amendments of existing pole licenses, should contain the amended language. Mr. Papakonstantis seconded. All were in favor.

MOTION: Ms. Surman moved that to amend the licenses is in the interest of the public good. Mr. Papakonstantis seconded. All were in favor.

MOTION: Ms. Surman moved to adopt the resolution as presented at the public hearing, and to sign after adopting. Mr. Papakonstantis seconded. All were in favor.

MOTION: Ms. Surman moved to designate the Town Manager to sign the pole licenses with regard to this RSA. Mr. Papakonstantis seconded. All were in favor.

MOTION: Mr. Papakonstantis moved to adjourn. Ms. Gilman seconded. All were in favor and the meeting adjourned at 9:13 AM.

Respectfully submitted,
Joanna Bartell,
Recording Secretary