

Cable & Telecommunications Commission

Meeting Minutes

March 1, 2022

A meeting of the Cable & Telecommunications Commission was held on Tuesday, March 1, 2022 at 7:00 p.m. via Zoom. Chairperson called the meeting to order at 7:00 p.m.

Present:

Steve Robinson, Chair
JR Bailey
John Chaput
Paul Davidson
Greg Lapin
Adam Simon
Ken Urbaszewski

Absent:

Alan Barasky
Neil Charak

Also Present:

Andrew Lichterman, Assistant Village Manager
Justin Keenan, Assistant to the Village Manager

Call to Order: 7:00 pm

Welcome new commissioners

a. Paul Davidson

Mr. Davidson has been involved in IT operations and communications for his entire career. He believes it is important to consider how the town is looking at cable and telecommunications, especially with more people working from home.

b. JR Bailey

Mr. Bailey is also on the Family Days Commission. He is a Vice President of an electrical manufacturer and deals with telecommunications and utilities every day. He believes this is in line with his line of business.

Mr. Lichterman noted Justin Keenan will assume the role of Staff Liaison for this commission. Two commissioners have resigned, John Sanner and Andrew Richter. Former commissioner John Sanner has moved out of Deerfield and Andrew Richter has become the West Deerfield Township assessor, so there could be a conflict of interest. The commissioners wished them well.

Document Approval

Commissioner Lapin moved to approve the minutes from the September 10, 2019 Cable & Telecommunications Commission. Commissioner Simon seconded the motion. The motion passed on a voice vote.

Mr. Keenan noted one of the now resolved issues from the 2019 meeting includes T-Mobile going forward with new terms for the further lease on the monopole. The Commission had agreed to a new set of terms that were submitted to T-Mobile, but they said they did not want to extend the lease longer. Mr. Lichterman added T-Mobile said they would not agree to a 10-year lease. The current lease will expire in 2024.

Mr. Keenan explained the Verizon small cell pole attachment agreement was approved by the Village Board on October 7, 2019. The Commission's comments were incorporated into the recommendation. Mr. Simon noted the statute governing small cells has been amended since 2019. He explained there used to be a provision stating if a provider wanted to put up a new pole, they could ask them to look for existing poles within 100 feet of the proposed location. That has been expanded to 250 or 400 feet so there are less new poles added and less visual clutter. Mr. Keenan reported Verizon has been approved at multiple locations to install fiber optic lines for small cell sites.

Public Comment:

There was no Public Comment on non-agenda items on email, via Zoom or in person.

Business

1. Village Hall Monopole Update

Mr. Keenan reported the Village Hall monopole was installed in 2008 as part of an agreement with Verizon Wireless. Over time, the canisters have deteriorated and one of the cellular providers expressed concern with the fiberglass canisters at the top of the monopole. The Village hired Fullerton Engineering to complete a structural analysis of the monopole. They determined the fiberglass canisters are in deteriorating condition and should be removed. The issue is if the canisters are opened and closed, they will eventually not close or break, so the Village needs to completely remove them.

The Village is getting quotes on new fiberglass canisters, installing them and painting the monopole. The Village hopes the cellular providers perform upgrades while the canisters are off the monopole. Mr. Keenan believes the time frame for completion will be July or August. The paint on the monopole needs to be hand rolled due to the proximity to Village Hall, the library and the police department.

The commissioners discussed the color of the paint. Mr. Keenan explained the intent was to bring it back to the original condition. Commissioner Chaput suggested the white color might be best for the equipment because a dark color may capture the heat and be detrimental to some of the field lines. Mr. Keenan noted the only exterior-mounted equipment is for the police and fire departments. They will be removed and only three antennas will be re-installed. He noted the rest of the monopole, including the structure and foundation, passed the inspection.

Mr. Lichterman reported the Village is making a significant investment of more than \$100,000 in the monopole, between painting and replacing the canisters. The Village currently receives \$150,000 in revenue from this site.

2. Northshore Gas Monopole Inquiry

a. Feasibility study for proposed monopole in Reservoir 29!

Mr. Lichterman received a letter from North Shore Gas over the summer inquiring about Reservoir 29 along Pfingsten and Lake Cook Road. They are trying to install their own infrastructure for efficiency. North Shore Gas requested an easement adjacent to the Crown Castle monopole location in the southwest corner along the spur, at no cost to them. They offered that we could put police communication equipment on the monopole at a small cost, however, the Village expects economic terms. Mr. Keenan believes the tower would be 195 feet, and it would solely be for their equipment. The Village will need to speak with Crown Castle to ensure it would not interfere with their monopole.

Commissioner Simon is not in favor of providing the easement at no cost. Mr. Lichterman asked them for a letter with their business terms. He noted the 195 feet is massive and asked if they could do two smaller poles. Mr. Lichterman questioned how the Commission would like to respond. Ch. Robinson asked about the Crown Castle monopole. Mr. Lichterman believes it is 120 feet. Mr. Keenan explained the top of the water tower is 191 feet, so it would be a few feet taller. Ch. Robinson noted it would be self-supporting so there would not be any guide wires to hold it up. Commissioner Davidson believes it would be an "A" shape and would need the height to get the most distance. Ch. Robinson questioned why the Village would do it for free when there is time, effort, property, etc. to consider. Mr. Lichterman explained the site is very tight and is covered in lead. The designated spot is the only spot that is not lead contaminated. Commissioner Chaput believes they should be charged similar to Crown Castle. Ch. Robinson noted it is a different business model, but they are saying the existing public facilities are not working for them and they can do it more efficiently if we give it to them. Commissioner Simon believes the Village should communicate a realistic target with them. Ch. Robinson suggested restricting them from adding any cellular carriers to the pole. Commissioner Davidson believes there should also be a clause stating if the Village chooses to put public safety on there, it would be at no cost to the Village.

Mr. Lichterman explained Crown Castle is a cost share structure. The Village monopole leases are negotiated directly from the Village. Most of the leases started at \$35,000 to \$40,000 and are currently up to between \$47,000 and \$56,000. There is a base fee plus a \$5000 signing bonus due to administrative and attorney fees and a 10-year guarantee with 3 percent annual escalators.

Mr. Keenan explained staff is looking for a recommendation from the Commission. The commissioners want to ensure this would not interfere with Crown Castle or other carriers in the immediate area and would need the frequencies of what is going up. They believe the aspect of public safety should be in the letter. There should be language stating they are obligated to ensure they have the right licensing and have been cleared to operate at that frequency and environment. It should also hold the Village harmless. Ch. Robinson believes the Village should get an amount similar to the cellular leases. Mr. Lichterman questioned whether the Village should get 90 percent of the market rate, as they are a public utility. Ch. Robinson asked about the Village's underlying costs as a base to determine what the bottom is. Mr. Simon has seen situations where ComEd has shared their wireless networks with municipalities, but not with other utilities. Mr. Lichterman noted the last lease this Commission negotiated was the AT&T lease in 2018 at \$38,000 with a 3 percent annual escalation. The 2022 lease term would be \$42,700. Commissioner Davidson noted AT&T sells to consumers while this system would be back-end equipment. Mr. Simon noted letting them use the land is an opportunity cost for the Village as we cannot put another cellular tower there. Ch. Robinson suggested asking for the fair market value and then let them tell the Village why they cannot pay fair market value. They are using a different price structure, but their service is still being paid for by consumers. The commissioners suggested telling North Shore Gas what the cellular providers are paying (fair market value) and have them make an offer.

Commissioner Urbaszewski moved to respond in writing outlining factual premises of market value. Commissioner Simon seconded the motion. The motion passed by the following vote:

AYES: Bailey, Chaput, Davidson, Lapin, Simon, Urbaszewski, Robinson (7)

NAYS: None (0)

3. Cable Franchise Fees

Commissioner Urbaszewski questioned the number of customers that are being lost due to the streaming trend. The cable franchise fee has doubled in the past 15 years. Ch. Robinson noted the Village used to get a monthly report showing the number of homes in Deerfield and the number of subscribers. Commissioner Davidson noted the information does not reflect that streaming service requires internet service. Ch. Robinson noted the Commission's purview is only television service as the Commission does not have any oversight of Internet service. Mr. Lichterman noted the City of Chicago charges an amusement tax for Internet streaming services. Commissioner

Simon noted the City of Chicago streaming is broad as it applies to Netflix, Xbox, Hulu, Spotify and others. Eventually, if the Commission believes the Village is losing cable TV subscribers and therefore franchise fees are declining, the Village can add a fee to fill in for the lost revenue.

Ch. Robinson noted the Village does not know the percentage of subscribers. The commission can speculate that there are fewer subscribers but the homes that are subscribing are taking more of the cable package which offsets the numbers. In addition, the price for cable has increased. Commissioner Davidson noted ATT is decreasing in numbers while Comcast's numbers are increasing. He believes the Village is turning into a single provider. Commissioner Simon noted the IML has been pushing municipalities to implementing a streaming tax to offset the decline; however, the municipality has to collect the tax. Mr. Lichterman believes the Commission should monitor this. Ch. Robinson would like to bring this to the Board's attention. Mr. Lichterman explained the Board gets the minutes from the commission and he will bring it up at a staff meeting as well.

Ch. Robinson questioned if the Village would be approached for 5G wireless; and if so, would it be a game changer where streaming is concerned. Commissioner Davidson noted T-Mobile is currently advertising their Internet services which are 5G, so it already is coming.

4. Comcast Franchise Agreement Negotiation

a. Current contract expires in September

Ch. Robinson noted the past few renewals have been rubber stamped. The commissioners questioned why Comcast wants to work with municipalities rather than the State. Mr. Lichterman noted one Village got an HD government channel in their negotiations. Commissioner Simon noted there are a number of criteria that need to be met before full HD is met. In addition, Comcast is managing a fixed asset. They need to determine whether giving HD capacity to a municipal channel is more important than allocating that capacity to high-speed Internet. The commissioners questioned whether it is necessary to have HD capability and what the expense would be to have HD capacities. The commissioners would like to see municipal channel viewership.

Mr. Lichterman noted that there is language in the new agreement that the Village has access to two channels with the ability to activate the third. There is also language where they can shut down the channel if there is not enough original programming. Ch. Robinson suggested exchanging the three channels to just one HD channel.

Commissioner Lapin asked if there could be language about the depth cable needs to be buried. Commissioner Simon noted they do not use JULIE. The Commission can ask the Village Board to consider an Ordinance requiring all new video service lines on private property to be buried a minimum of 12 inches. The SEC guidelines are 6 inches. Commissioner Urbaszewski asked about requiring Comcast to give a reference

number when offering a credit for service outages. Commissioner Simon noted the credit for service outages is part of the Village Ordinances. If a credit is not received, the Village Manager's office should be contacted. The Village does require a reference number.

Other Items for Discussion

Mr. Keenan noted the Village does not have a franchise agreement with AT&T.

Adjournment

There being no further business or discussion, Commissioner Lapin moved to adjourn the meeting. Commissioner Simon seconded the motion. The motion passed unanimously on a voice vote.

The meeting was adjourned at 8:49 pm. The next meeting of the Cable & Telecommunication Commission is scheduled for May 3, 2022 at 7:00 pm.

Respectfully submitted,

Justin Keenan
Assistant to the Village Manager

Transcribed by:
Jeri Cotton