

8-B

MOTION:

**December 13, 2016
Regular Meeting
Res. No. 16-**

SECOND:

RE: AUTHORIZE EIGHT COUNTY-OWNED PROPERTIES LOCATED WITHIN VARIOUS RIGHTS-OF-WAY TO BE INCLUDED IN SPECIAL USE PERMIT APPLICATIONS AND MINOR SITE PLANS SUBMITTED BY MOBILITIE, LLC – COLES, NEABSCO, OCCOQUAN, POTOMAC AND WOODBRIDGE MAGISTERIAL DISTRICTS

ACTION:

WHEREAS, Mobilitie, LLC (Mobilitie), has installed eight poles with wireless omnidirectional telecommunications antennae in public rights-of-way at the following locations: 14640 Minnieville Road (Coles Magisterial District); 14800 Darbydale Avenue (Neabsco Magisterial District); the intersection of Darbydale Avenue and Westminster Lane (Neabsco Magisterial District); 2651 Prince William Parkway (Occoquan Magisterial District); 14065 Shoppers Best Way (Occoquan Magisterial District); 15221 Dyers Road (Potomac Magisterial District); the intersection of Dumfries Road and Four Seasons Drive (Potomac Magisterial District); and 2200 York Drive (Woodbridge Magisterial District); and

WHEREAS, Mobilitie installed the poles in the above-referenced locations without obtaining zoning approval as required by the County's Zoning Ordinance; and

WHEREAS, the County issued Violation Notice and Correction Orders (VNCOs) to Mobilitie for installing the poles without the required zoning approval, Mobilitie has appealed those VNCOs to the Board of Zoning Appeals; and

WHEREAS, Mobilitie is interested in resolving the matter without having to litigate in the Board of Zoning Appeals, and has prepared special use permit applications and/or minor site plans that would be necessary to receive proper zoning approvals; and

WHEREAS, the underlying fee title to the rights-of-way running beside the above-referenced properties lies with the Board of County Supervisors; and

WHEREAS, Mobilitie is requesting the Board's permission to include the County-owned properties in the proposed special use permit applications and/or minor site plans to allow for planning and zoning to proceed for the eight poles; and

WHEREAS, Mobilitie recognizes that the Board's consent to include the County land in the proposed special use permit applications and/or minor site plans does not constitute approval of the poles installed by Mobilitie, nor does it obligate the Board to approve any special use permit applications or County staff to approve any minor site plans filed by Mobilitie;

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NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby authorize County-owned property to be included in the special use permit applications and/or minor site plans filed by Mobilitie, LLC, and authorizes the County Executive to sign the Mobilitie, LLC, applications and related documents necessary to include the County property;

BE IT FURTHER RESOLVED that this action does not relieve Mobilitie, LLC, from complying with all regulations, ordinances or adopted standards, and does not prejudice the Board's rights in its consideration of Mobilitie, LLC's applications in any way.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

ATTEST: _____

Clerk to the Board



COUNTY OF PRINCE WILLIAM

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Cheryl A. Walton	Katherine E. Barron
Jacqueline W. Lucas	Angela R. MacFarlane

December 6, 2016

AGENDA DATE: December 13, 2016

TO: BOARD OF COUNTY SUPERVISORS

FROM: CURT G. SPEAR, JR. *Curt Spear*
Senior Assistant County Attorney

RE: AUTHORIZE EIGHT (8) COUNTY-OWNED PROPERTIES LOCATED WITHIN VARIOUS RIGHTS-OF-WAY TO BE INCLUDED IN SPECIAL USE PERMIT APPLICATIONS AND MINOR SITE PLANS SUBMITTED BY MOBILITIE, LLC – COLES, NEABSCO, OCCOQUAN, POTOMAC AND WOODBRIDGE MAGISTERIAL DISTRICTS

Mobilitie, LLC (“Mobilitie”), is a wireless telecommunications company that is seeking to establish service in various locations across the country. Without obtaining zoning approval, Mobilitie installed eight wooden poles in various rights-of-way within the County¹. The poles are of varying heights (approximately 40 to 46 feet) and each contains a wireless omnidirectional antenna on the top. The County has issued Violation Notice and Correction Orders (“VNCOs”) for the poles. Mobilitie has appealed those VNCOs, and the matter is currently scheduled to go to the Board of Zoning Appeals on January 23rd. However, in an effort to come into compliance with the Zoning Ordinance, Mobilitie has prepared several special use permit applications and/or minor site plans for each of its poles in order to obtain the necessary approvals.

An issue has arisen with respect to the appropriate signatories on the applications. While the poles would be owned and operated by Mobilitie, they are located in various public rights-of-way. While these roads are in the VDOT system², the Board owns the fee simple title in these underlying rights-of-way. Because the Zoning Ordinance requires the owner or designated agent of an involved property to sign off on each application, Mobilitie must have the Board’s permission to apply for the required zoning approval for its poles.

¹ The poles were installed in rights-of-way adjacent to the following locations: 14640 Minnieville Road (Coles Magisterial District); 14800 Darbydale Avenue (Neabsco Magisterial District); the intersection of Darbydale Avenue and Westminster Lane (Neabsco Magisterial District); 2651 Prince William Parkway (Occoquan Magisterial District); 14065 Shoppers Best Way (Occoquan Magisterial District); 15221 Dyers Road (Potomac Magisterial District); the intersection of Dumfries Road and Four Seasons Drive (Potomac Magisterial District); and 2200 York Drive (Woodbridge Magisterial District).

² VDOT has issued temporary permits allowing Mobilitie’s poles to occupy the right-of-way, but has conditioned their permits on Mobilitie obtaining zoning approval from the County.

Accordingly, I have prepared the attached resolution for the Board. The resolution would grant Mobilite permission to use the Board-owned rights-of-way at issue in its applications, with the understanding that such permission does not obligate the Board or County staff to approve the applications. In cases where Mobilite proposes to collocate their antennae onto an existing structure in the right-of-way, only minor site plans are necessary, and the approvals will only be granted if all the elements of the County's ordinances are met. Where Mobilite cannot collocate their antennae onto an existing structure in the right-of-way, special use permits are necessary, and the Planning Commission and Board will have the opportunity to consider those applications as part of the normal SUP process.

If you have any questions, please contact me.

cc: Michelle R. Robl
Christopher E. Martino
Christopher M. Price
Stephen L. Donohoe
Steven B. Hall

Attachment: as stated