



TRANSPORTATION & PUBLIC UTILITIES COMMITTEE

COMMITTEE MEETING

~ MINUTES ~

Wednesday, July 24, 2019

2:00 PM

Sullivan Chamber

The Transportation & Public Utilities Committee will hold a public hearing to receive information about the draft Policy and Regulations for Small Cell Wireless Installations on Public Ways under consideration by the Pole & Conduit Commission and the Historical Commission



CAMBRIDGE CITY COUNCIL
TRANSPORTATION & PUBLIC UTILITIES COMMITTEE
VICE MAYOR JAN DEVEREUX, CHAIR

COMMITTEE MEETING
TRANSCRIPT OF PROCEEDINGS

JULY 24, 2019
2:00 PM, SULLIVAN CHAMBER

VICE MAYOR JAN DEVEREUX: Okay, good afternoon, everyone. I think we'll get started. My name is Vice Mayor Devereux. Um, this is a meeting of the Transportation and Public Utilities Committee, um, and it's being televised and livestreamed and also audio recorded.

Um, I'll read the call of the meeting, which is that the Transportation and Public Utilities Committee will hold a public hearing to receive information about the draft policy and regulations for small cell wireless installations on public ways under consideration by the Pole & Conduit Commission and the Historical Commission. Um, so that's what we'll be discussing today.

Um, I'm joined by two of my colleagues, Councillor Zondervan and Councillor Carlone, and I believe we'll be joined by at least one other, uh, during the meeting. And substituting for the Clerk today is my aide, Liz Walker. Um, so she'll be taking notes. And we have members of the staff who will, uh, introduce themselves and--and speak shortly.

Um, but just to sort of recap where we are, the last time this committee discussed this 5G technology was in October of last year. Um, at that point we had recently

become aware that the FCC had issued new regulations that were due to take effect in January 2019 and the council was trying to catch up on, um, what those actually were because, uh, we were starting to get more and more requests for installations that go through the Pole & Conduit Commission.

And I should add that the City Council does not--is not the permit granting authority in this case, so we don't have any direct control over, uh, whether those applications are approved or not. But of course, we're interested particularly because sometimes residents, um, contact us and say, "What is this thing outside my window?" And, uh, so we need to be knowledgeable about it.

Um, so at that hearing last November, we discussed, um, what sorts of things the city would be allowed to regulate, um, under this FCC law. There's the concept of preemption where the federal, um, pretty greatly restricts how much cities can do. Um, so we're trying to sort of understand that and we asked the city solicitor to look into it, um, and that her response came to us, um, on the Council Agenda of I believe 12-- December 3rd of last year and in the stack of papers you will see, um, her response

and attached to it is the set of draft regulations that the Pole & Conduit Commission has developed, um, in coordination with the Law Department and the Historical Commission.

So, it's been discussed, um, at least once in both of those commissions and is now I believe regarded as our interim regulations. And maybe we can talk a little bit about the process of how these regulations become final, but my understanding is that these regulations that you have here, um, are what we are following now to approve current applications for 5G small cell installations. So, I hope I've accurately described where we are.

Um, I read through the regulations, um, it seems to me that, um, a lot of the questions that we had about aesthetics and notice to, uh, residents and abutters and, um, noise and other things that--that we had asked about at our committee hearing have been addressed in these regulations. And I know they've been through at least one set of revisions. So I guess what I would like to do is to sort of go through the regulations and have, um, I believe Stephen Lenkauskas, our city electrician, who is one of the members of the Pole & Conduit Commission, um, will be the--

the primary person sort of telling us about how these regulations have been developed and we can sort of do some questions and answers, and law and historical can weigh in.

Does that sound like a good way to--to attach us? And then we will at some point open to public comment to hear what, uh, members of the public would like to say. So, would you like to go first, Nancy? Go ahead.

CITY SOLICITOR NANCY GLOWA: Thank you. Through you, Madam Chair, yes, um, so the Law Department has worked closely with the, um, staff in the different departments related to the Pole & Conduit commission and has, uh, provided advice to different members of the--of the Pole & Conduit Commission at different times. Uh, we've also worked with the Historical Commission, so, um, a number of city staff members were involved in preparing various aspects of the, um, regulations that were presented to the Pole & Conduit Commission and adopted by the commission as their--as its interim policy on June 10th.

I think, uh, there have been comments submitted both orally at the Pole & Conduit Commission meetings and, um, in writing from various providers, um, and perhaps others interested in this process.

Uh, I think that there's--there is not consensus between the city representatives and all members of the provider community as to what the scope of our authority is in regulating these installations. Um, it's also in fact a matter of, um, litigation before the Ninth Circuit right now and so, it's--it's still not a completely settled area of the law as far as, you know, what--what the bounds of our authority are, um, as you noted, Madam Chair, uh, by City Ordinance, the Pole & Conduit Commission was established as the permit granting authority and it grants--grants of location to utilities and providers for placing conduit on under or over public ways within the city and considers applications for those at regularly scheduled public hearings.

We have, um, Stephen Lenkauskas, City Electrician as one of the members of the Pole & Conduit Commission here today. Um, there are three members in total, the other members, the Chair Nicole Murati Ferrer, who is also the Chair of the License Commission, and Police Commissioner Branville Bard. And because it's a three-member commission, we could only have one of them, um, at this council meeting without, um, there being an open meeting law issue. I'm

sorry, I misspoke, I was thinking of the License Commission. Commissioner Bard is the third member of the License Commission.

TJ Shea is the Superintendent of Streets and he is the third Commissioner on the Pole & Conduit Commission. So, with that, uh, I think that the--the regulations are fairly comprehensive. There's a lot of information about, um, types of equipment where, you know, how far apart and where things would be situated. Um, applicants must fill out an application and submit materials in advance. Those materials are then submitted to the board at its public meetings and--and decisions are issued. So, I don't know whether you had wanted us to sort of talk through every single aspect. I don't know whether Steve is prepared to do that. I'm not really-- It's--it's the Pole & Conduit Commission's regulations, but we'd be happy to answer questions and I don't know whether Steve wanted to add anything to that opening.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Yes, if I could. Um, in regards to small cells, this is not something new for the city. Um, they actually started almost 11 years ago, uh, with the installation of approximately 35 or 40

and, uh, over the last three or four years, they've increased to almost 130 or so that--that are in the city right now. Um, so it's really nothing new but they were only allowed to be going--to be installed on wood utility poles because they were considered a utility and, um, what brought a lot of this on is the expansion and the need for coverage for cell phones and--and many other internet of things that are coming down the road. Uh, these are not for 5G yet, but I would assume that at some point they could probably be converted to 5G. 5G is not--is not deployed in this region as of yet.

VICE MAYOR JAN DEVEREUX: Okay, thanks. So, I'll stop referring to them as 5G small cells.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: It does give people a little nervous.

VICE MAYOR JAN DEVEREUX: 5G ready. I mean, we, we-- I don't know something like that. Okay.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Well the infrastructure would be in place for 5G, um, but right now I would--I would-- I believe it's most likely 4G.

VICE MAYOR JAN DEVEREUX: Okay. And so, formerly they were only allowed on the wooden utility poles, now, they're

gonna be allowed on any like a city-owned street lamp or light pole.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Back 11 years or so ago, they were only applying to be installed as a utility on a utility pole, there was never a mechanism in place to allow them on city polls, um, because they're the city property and--and if, um, there wasn't a need for at the time but there becomes to be a need for it now just for coverage.

VICE MAYOR JAN DEVEREUX: Right. So, they--they will--they are and will be installed on the metal light poles now or can be if--

CITY ELECTRICIAN STEPHEN LENKAUSKAS: That's--that's their hope, yeah.

VICE MAYOR JAN DEVEREUX: That's their--

CITY ELECTRICIAN STEPHEN LENKAUSKAS: That--that's--

VICE MAYOR JAN DEVEREUX: Their goal? Is that what you're--

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Yes, their goal. Yeah.

VICE MAYOR JAN DEVEREUX: Okay. I understand, um, and at one point in the regulations, it talks about, uh,

putting them underground, if possible. Are any of these installations underground?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: I think that the--the underground portion would be to get the--the controls or the equipment underground not to be mounted on the pole or in plain sight. There will always be at this point anyways, technology being that there will only be a-- they'll always need an antenna up above ground at this point unless technology changes. But the goal was to try to not have as much clutter seen and--and on these metal poles, which all other utilities are underground, including electrical transformers and anything else that would service say, an underground street rather than bringing stuff above ground. So, it was our intent to try to get as much equipment below grade rather than above grade.

CITY SOLICITOR NANCY GLOWA: Madam Chair, if I might just add another comment that might be helpful, um, with respect to this relatively new FCC ruling that is presently being challenged, one of the significant aspects of the ruling is that, uh, the FCC, uh, found that or has held that the street polls are, um, to be made available to these providers by the city not as an owner of the pole,

but as, uh, a utility or, you know, service amenity. So, although we have the authority to regulate certain aspects of the placement, um, we--we cannot simply say, "Well, this is our property. We'll give you a license agreement, um, in unlimited ways that we choose to." Uh, there are various, uh, issues that can or cannot be, um, considered as part of the grant of approval for placing these infrastructure elements on city owned poles. So, that's and as Steve noted that these weren't previously put on city poles, they were primarily on the wooden utility poles. So, those are two pretty big differences.

VICE MAYOR JAN DEVEREUX: Thank you. I'll take this opportunity to welcome Councillor Kelly and also Lisa Peterson, Deputy City--City Manager who's just joined us. Um, okay. So, uh, either my colleagues want to ask any questions about these and then I guess we'll get into some of the other issues. Go ahead Councillor Carlone.

COUNCILLOR DENNIS J. CARLONE: Thank you, Madam Chair. Just some obvious ones. I've read the regulations and I heard what Steve has mentioned. So, I'm--I'm I right to say that the only thing visible will be antennas on our-- Assuming we allow or it's agreed that they can go on the

ornamental lampposts, did I hear that correctly?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: I believe in the--in the regular--in the policy, it's if--it's feasibly possible.

COUNCILLOR DENNIS J. CARLONE: Oh, okay--okay. Well, I know you know, all of you know that the boxes on wood poles have created a number of nuisances not to mention they're as ugly as imaginable. You wonder what it is. Um, but I recall, the gentleman came at a previous meeting, Madam Chair, maybe it was two groups came but they were talking about sizable boxes on grade--on the grade, um, in Boston or where they enlarge the acorn fixture, uh, column if you will or post. But this theoretically might allow it. But we're encouraging you work with what you have. Am I reading that correctly?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: I think--I think that we were trying to not have them on the acorn style poles and by doing that is limiting the size and the type of antenna. Um, as far as the larger boxes that you see at the bottom of some of these polls like in Boston, that is one method of their installation.

COUNCILLOR DENNIS J. CARLONE: I see. And the 1907 is

not mentioned as far as how they would work on that. I mean, we specifically call out the acorn I assume for balance so the antenna can come up. But the 1907 isn't mentioned at all. It was not how you deal with it. It's mentioned, but not whereas pole design and overall height, uh, a specifically calls out the acorn. And I would imagine we have a preference. Maybe not as good as the acorn of how that's treated. Oh, I don't have the graphics that, uh, that the solicitor has.

CITY SOLICITOR NANCY GLOWA: Madam Chair, through you, this is not part of our submission. This is just notes of staff. I don't know whether, um, we can make copies, but these are not all. You know, one of the things I would just like to say is that the regulations are what they are. They've been carefully reviewed by the Law Department. There is an odd consensus between all members of this world. I mean, this community providers, the city and other municipalities, um, the federal government, the FCC. So, um, we believe that we have a legal basis for saying that these elements should be put either underground or concealed within the pole if, um, feasible. Um, but I think one of the reasons it's a little, uh, delicate to talk

about is because, uh, we feel confident of our position, but the providers would probably respond in a different fashion. And so, there's a difference of opinion about exactly what our regulatory authority is in this regard.

COUNCILLOR DENNIS J. CARLONE: Well, if I could just continue briefly and then I'll--I'll yield. Um, I think the effort is absolutely right on target. I think many of our sidewalks can't handle yet another box except in a few locations. Um, and I--I asked about the graphics that I saw only because nothing tells the story and you're probably not there yet until you see a graphic of--of-- I can imagine what this is, but I'm probably imagining it in the best light possible, um, and as I said, the 1907 fixture, which is unique and important in the city isn't even mentioned beyond the list as far as under pole design and overall height. Um, I'm--I'm just suggesting that, that be included if--if you have a sense of what that is. Thank you, Madam Chair.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you, Madam Chair and through you, um, it--it is a little bit frustrating. I'm sure it's worse for you, um, to be put under this position by the FCC. I--I wonder if you could

tell us a little bit more about what, um, aspects of the FCC regulation are being adjudicated in--in the Ninth Circuit and what we might expect from that--from that proceedings?

CITY SOLICITOR NANCY GLOWA: I think that's a very difficult question to answer. I mean, essentially, uh, the authority of municipalities to regulate these, uh, polls in the public way and--and how much control we have over that is what's at issue. That's the heart of the issue. So, they're--the--the regulation that was adopted is, uh, I think over 100 pages and it's very dense and in some ways it's very technical but the heart of the issue has to do with, you know, who has the authority to, you know, control the use of the public ways. The municipalities and the people who live there or these providers and the FCC, uh, believes that it--it has a mandate which is, um, probably understood and agreed to, um, by the federal legislature that, you know, this kind of communication is necessary in the contemporary world and that there needs to be a facilitation, um, to allow people to have all their cell phones and other internet and electronic connection--and connectivity with one another and with materials and data

and et cetera, and that's obviously something that we as a city would probably agree with and recognize.

So, there are tensions between these sort of conflicting priorities and I think beyond that, this is being, um, you know, vigorously argued and fought at the highest levels at the Ninth Circuit Court of Appeals and we--we don't know if it might go to the Supreme Court and there--there may be some other cases proceeding in other jurisdictions. The Ninth Circuit case is the one that's most prominent and does get to the heart of the issues as I described them earlier but I--I would probably feel more comfortable living it at that if--if that's okay with you.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you, that's very helpful. Um, I do have a couple of specific questions. So, on page seven, it talks about, um, in Roman numeral 10, installations shall not be placed in front or within six feet of a residence's window, door openings, porches, or balconies. Do we think we have any wiggle room on that? Six feet seems like it's very close.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: I think part of that--that dimension, maybe in relation to what a sidewalk might be from front to back in that dimension. Um, I'm not

sure that would have come from otherwise but where most polls are back up front of sidewalk, you know, there's only so much room that they could put it.

COUNCILLOR QUINTON Y. ZONDERVAN: Okay. I guess if--if we think that we could leave more space, I would, um, or just to do so because I--I think 6 feet is--is really close. Like, I'm trying to imagine something 6 feet from my window, that's--it's not very far away. Um, and then number 11, it says--it talks about the street trees would, um, shall not be placed where it would limit the city's ability of plant future street trees based upon the existing city plants for planting of street trees. And so, I guess my question is, where is that documented, what our existing plans are? So that we can be clear on that limitation. Um, in number 14 says installation should not be placed directly in front of a building. Um, I'm wondering if we could use stronger language and say that it will not be placed directly in front of a building. And then the last one, um, talks about the cooling fans and the noise ordinance and my concern there is that we've heard some complaints that the initial installation needs the specifications but then wear and tear and so forth, causes

it to get louder and louder. And then, um, there is a sufficient remedy. So, I'm wondering if we could add something to the end of that paragraph that says shall not exceed the levels allowed in the city's noise ordinance and shall be subject to the full enforcement provisions of the noise ordinance so that we can, um, make it clear that we intend to fully enforce our noise ordinance, uh, once this equipment is installed and operated.

CITY SOLICITOR NANCY GLOWA: Um, Madam Chair, if I may, um, so this is a policy of the Pole & Conduit Commission. So, it-- I think that it may not technically be in the right position to be sort of mandating whether, uh, these entities are subject to other municipal codes. I would say that the municipal code is applicable in general, so I don't know. Um, I mean, we could--we could perhaps suggest as the Pole & Conduit Commission adds something saying must comply with all other applicable, um, city requirements such as the noise ordinance. But, um, but as far as declaring in the Pole & Conduit Commission policy that it shall be enforced, I think perhaps might be a little in excess of--of the Pole & Conduit authority. So, perhaps we could just make a general reference to the noise

ordinance.

COUNCILLOR QUINTON Y. ZONDERVAN: Thanks. Yeah, I--I understand that. I mean, I agree because even this reference is somewhat redundant because presumably the noise ordinance is applicable whether it says it here or not. Um, I'm just--I'm flagging this issue about making sure that it will be enforced, uh, for the residents to have some peace of mind around that. Thank you.

COUNCILLOR CRAIG KELLEY: Thank you. And, um, this reminds me an awful lot of our negotiations with Comcast and our inability to say no to internet service providers but to negotiate what the yes, looks like. Um, and I get this sense here that we--we can't say no, unless the courts decide otherwise in some other part of the country. And so, the question is what does our yes look like? And I don't know enough to decide that this is the best yes possible. But I agree for example with the Councillor Zondervan that noise is likely to be a challenge even if we do have really good language because if this stuff is up 25 feet and figuring out where the property lines are and so forth can become very complicated. So, I have--I don't really have any questions. I just--I appreciate it's complex and I

appreciate being kept up to date on it. And if we can change city ordinances to strengthen our position, I'd be super happy to do that if anyone has any brilliant ideas. Is that a sort of an accurate characterization of our power in this relationship with the FCC and whoever might want to come and put up the devices?

CITY SOLICITOR NANCY GLOWA: Through you, Madam Chair, I would say yes, essentially, uh, these--the transmission of--of these signals is required to be permitted in, you know, Cambridge as well as elsewhere. So, the--the question is how we can regulate how it's done and we are exploring every avenue to give advice to the Pole & Conduit Commission and have worked with the other city departments on, you know, how far we can go. And that's what I think the goal of the commission is, is to regulate as much as possible. I think the Historic Commission may want to speak to that. They have similar concerns from aesthetic point of view and historic considerations and historic places like Harvard Square, etcetera. So, these are all concerns that I think city staff have been, um, made aware of by the council and others and is sensitive too, in terms of, uh, trying to move forward, um, in protecting the city's rights

to the fullest extent we can, but it is still somewhat, um, influx, uh, in terms of what--what the legal parameters are.

COUNCILLOR CRAIG KELLEY: Thank you, through you, Madam Chair and the-- I--I had misread I guess the email, I didn't realize it was a draft regulation I thought it had been adopted something like June, 26 but it's-- at this point it's still in draft form.

CITY SOLICITOR NANCY GLOWA: Through you, Madam Chair, no, this is--this is an interim policy that has been adopted by the Pole & Conduit Commission on June 10th.

COUNCILLOR CRAIG KELLEY: Okay. So, it's not draft, it's interim. Okay. Um, it has a number of things like where feasible or should as opposed to musts. So, because I don't want anyone thinking that there's guidance here, but there's not necessarily a lot of teeth and I think we'll sort this out as time goes on. And I'm not blaming anyone. We're in an awkward position. But I'd hate for people to have expectations that somehow we've got a very strong regulation. Thank you.

SUPERINTENDENT TJ SHEA: Madam Chair, I should weigh in with the Historical Commission's view or--or at least my

view of Historical Commission's jurisdiction. Um, which in the historic districts, uh, in this case around Cambridge common, um, and Brattle Street at Fresh Pond Parkway, we have authority over publicly visible exterior features and structures, uh, including street furniture, um, uh, such as light poles, um, and utility poles that we've exercised for more than 50 years, um, actively. And so, um, we haven't-- And the historic district reviewed these kind of antenna-- these kinds of antenna installations yet, but we have in the Conservation District where we have in Harvard Square where we have similar authority under, uh, city ordinance over structures including street furniture, um, and we do have almost uniquely one wooden utility pole on South Street, um, that, um, now bears a small sail antenna and one of those ventilated boxes, um, uh, that came before the commission for some alterations to that installation recently.

And the commission at a public hearing and granted a certificate to the--for the two permit the proposed, um, installation. So, um, the commission has, um, reviewed and adopted the same interim policy that the Pole & Conduit Commission has adopted. We want to be speaking with the

same voice, but the commission's review of these installations would be based on their appropriateness. Uh, we'd be concerned in, um, premises like Harvard Square with the proliferation of additional utility structures, um, or the inappropriate alteration of existing, um, street lights. Um, and in the residential neighborhoods where most of the wires are buried, we'd be very concerned about installations of new poles, uh, for the installation of not utility, uh, telephone or--or light services, but just for antennas that would be a major concern, um, in the residential neighborhood west of Harvard Square.

VICE MAYOR JAN DEVEREUX: Thank you. So, hypothetically, if there were not a pole available in the in a place where they felt that coverage was essential, they would be able to add their own pole?

SUPERINTENDENT TJ SHEA: Well, hypothetically, that hasn't come up yet, but they seem to have the authority to do that. But perhaps Steve has a perspective on that.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: As a utility, they could petition the Commission to add a pole, yes.

SUPERINTENDENT TJ SHEA: The-- We have a--a large number of streets in Cambridge where the utilities were

buried. The--the state allowed the city to designate those utilities in the 1920s and 1930s, um, so that all the previously overhead electrical, telephone and telegraph wires had to be buried at the universe at--the utilities expense. Um, and, um, uh, when that window closed, uh, those corridors were in place and had been in place ever since. And so this would be a--a kind of a major disruption of those overhead utility free corridors. If the utilities--if, uh, providers were able to install poles where none have existed and for the last, uh, 60 or 70 years.

VICE MAYOR JAN DEVEREUX: Do we, do we have a map of what those utilities corridors are or?

SUPERINTENDENT TJ SHEA: I'm sure Steve has some list but Mass has Harvard Street Broadway, um, Brattle Street--

VICE MAYOR JAN DEVEREUX: Main Street doesn't have-- Main Street has no, no poles. The City Council in the 1920s designated those corridors as ones where overhead utilities should be--should be removed. There are, um, quite horrifying photographs of streetscapes in the 1920s with enormous utility poles with just stacks, 20 or--20 or so horizontal members bearing wires that were seen as a major, um, as a major blight on--on the city at the time. And this

is a national thing. Um, so, uh, getting rid of those where they could be getting--gotten rid of cost effectively was sort of a major was pretty beautiful objective.

VICE MAYOR JAN DEVEREUX: Okay. Um, just to go back kind of, um, Nancy that you--you don't want to talk in depth about this litigation just for those of us who aren't sort of following things that are in--in--in the courts, who--who brought the suit in the Ninth Court. I mean, what is-- Can you tell us like, what's the name of the case and who brought it and like where it stands and how we know sort of track it.

LEGAL COUNSEL PAUL KAWAI: So, through you, Madam Mayor--Vice Mayor, my name is Paul Kawai, I'm with the Law Department. Um, so it--it was brought by both conglomerate of cities and towns, um, and, uh, wireless carriers. Um, the conglomerate of cities and towns are mostly challenging the standards that the FCC order has determined interpreted a congressional statute, which says that you cannot-- Cities and towns cannot effectively prohibit, uh, wire-- wireless services. And the FCC has interpreted that to say that cities and towns cannot materially inhibit wireless services.

Um, so it gives us very little room to deny these applications unless, um, it's based on aesthetics which must be published. Um, the regulations must be published, so, um, long and short of it is we--we the cities and towns are, uh, challenging to the Ninth Circuit, their interpretation of a congressional statute, um, whereas the wireless providers appealed also, um, and are challenging, uh, saying the FCC order didn't go far enough and saying that if we, uh, wrongfully deny one of these applications, then we should have to pay for their attorney's fees if they win in federal court. So, it's a dual appeal.

Um, it initially was brought in multiple jurisdictions, but, uh, the Ninth Circuit, um, uh, it's a multi-district litigation. They--they determined that they would consolidate all the cases in the Ninth Circuit and multi district litigation. Um, so they're currently briefing everything now, uh, and depending how the Ninth Circuit, uh, rules, it could be better for the city's or it could be worse for the cities. We're hoping that, um, they, uh, determine the standard in favor of the cities, uh, but as of now, uh, we have a very difficult time denying these unless, uh, they are not in compliance with our, uh,

published regulations.

VICE MAYOR JAN DEVEREUX: Okay, thank you. Well, to my eye, it looks like we've published regulations and--and they make some asks of the utility companies but they don't seem to prevent them from doing it. So, I'm sure that's the intent. I mean, of--of the way you--you were trying to navigate this to have some local control, but not to prevent them from doing it. Um, can I ask a question about co-locating? Um, there's several references in this to trying to ask the utilities, and I'm assuming this means when one company wants to put their box and another company says, "Well, we want coverage there too." So, the preference is for them to essentially co-locate on the same pole if possible. Is that--is that right in my understanding what that means?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: That's correct. The--the majority of the installations that are out there now have multiple carriers within them. They--they--they supply--they supply the services to a number of carriers. That's why some of these, um, these shrouds, these cabinets are getting larger because they're picking up another customer. So, rather than having, uh, to sell companies and

then they're adding a third. So, they are collating-- they're co-locating their equipment and--and vendors but that comes to a--at a cost of the providers by hiring a third party to transmit and receive their data and pass it on. So, I think the goal--the goal of most of the providers to have their own sites. And we're encouraged collating with others--co-locating with others.

VICE MAYOR JAN DEVEREUX: So, when we say that like a cabinet has to be no bigger than, you know, this size. If there were more than two installations, would it--would there be two of those cabinets just trying to picture it. It's really hard without any visuals to know what it is, we're saying we want to see versus what is possible to see.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: For each carrier, it would--it would increase in size. They couldn't use the same equipment for--for two different carriers.

VICE MAYOR JAN DEVEREUX: So--so one pole could suddenly have two or more of these big boxes on it with fans. And I mean, I understand why you'd want to co-locate it, but it would also be more for the person who happened to live with their window, potentially 6 feet from it. It would be a lot.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: The alternative to that, if they weren't to co-locate, then they would more than likely petition for a closer--a pole close to that location because it's all determined upon location and service to the, you know, everybody where there's a lot of people is more service and more different. Not everybody has one carrier. So, they would look to the closest spot where that data is, you know, the people are hungry for that data.

VICE MAYOR JAN DEVEREUX: But in another place in this, it talks about trying to have a minimum of 150 feet between installations, so--

CITY ELECTRICIAN STEPHEN LENKAUSKAS: That would--it would--it would limit 250 feet according to this policy. So, they would have to be at least 150 feet away.

VICE MAYOR JAN DEVEREUX: Okay. Um, go ahead. Go back around.

COUNCILLOR DENNIS J. CARLONE: So, building on the 150 feet, let's say there's five carriers. That means just about every fixture will have one of these. I'm--I'm just putting numbers together. And obviously the more carriers, the more antennas and boxes.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: That's correct. If you, um, took a look around other communities as in Boston, you'll see many in a block--in a block stretch and they're all different carriers.

COUNCILLOR DENNIS J. CARLONE: Uh, Steve you mentioned or--or the--the document mentioned and I think you highlighted that the goal or maybe the Solicitor Nancy did. The goal is to put the equipment below grade but ventilating--ventilating equipment doesn't work below grade at least not efficiently. So, that box would still be somewhere, correct?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Correct.

COUNCILLOR DENNIS J. CARLONE: Wow. Um, oh and I had another point. Oh, um, you could say this is stupid and too expensive. I get that. I remember when-- We all have seen those boxes on the tops of buildings for cell services, why can't they use the tops of buildings? It's access?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: I think the technology to bring the amount of data that--that everybody's looking for, it's a densification of an area where it pulls it as close as you can. And then in some cases these cell sites are back hauling it to those

facilities on top of buildings to get the data out from there.

COUNCILLOR DENNIS J. CARLONE: I see. Thank you. Thank you, Madam Chair.

COUNCILLOR QUINTON Y. ZONDERVAN: Thanks. I share the same concerns and I know enough about this, which is still very little. But as a software engineer, I know that there are better ways to do this. We could have a single box that moves all the data around. We don't necessarily need to have multiple boxes for multiple carriers. Um, that's just how the industry is evolving and I understand we don't have the authority right now to really regulate that, but it would make sense for us to--to try to make that case that, you know, it's--it's a little bit silly, right if there's 10 carriers that want to move this data around and we have to permit 10 boxes for--for each location. And it's--and still it's a little bit nuts. Um, I--I also don't necessarily agree with this mandate that we need to provide all this, um, wireless data and I've worked in the industry, so, you know, it's--it's a bit of an insider's critique, but, um, it's--it's a little bit over the top to be honest and--and again, I understand that we don't have

the power to--to prevent it but it's--it does feel like we're being forced to put up with a lot more than is really necessary. So, I guess I'm just encouraging us to push back as much as we can, um, because I--I don't think we need to--to actually go as far as--as these carriers are trying to push us.

COUNCILLOR CRAIG KELLEY: Thank you. So, my earlier confusion about the interim versus draft was the call of the meeting was about a draft proposal. But I think that was just a mistake and we--we have an interim proposal that is not draft, its final but its interim. It's operational.

CITY SOLICITOR NANCY GLOWA: Yes. Through you, Madam Chair, it's called interim but it is a policy of the Pole & Conduit Commission that is in effect and binding upon people.

COUNCILLOR CRAIG KELLEY: Okay, thank you and then to reiterate my--my earlier point, there are a lot of sugar in here and I'm not blaming anyone for that because I think I understand that we are legislatively very limited. But when it talks about all installations should comply with the following requirements, it says no installations should be located closer than 150 feet radiable from another

installation and any lawyer knows there's a complete universal difference between a shield and a shell or must. So, that's guidance but it's not dis-positive. And the--the importance of emphasizing that I think is--is huge. And that goes to my next question, which is my understanding is that the petitions with someone competition for a new pole or petition for whatever absent some really strange things, those aren't petitions that we get generally to say no one. They're petitions that as long as they sort of have some reason for wanting to put that pole there or whatever and there's not a feasible or reasonable alternative, we don't get to say, no, the way we often view petitions as politicians, which is someone submits a zoning petition, we can say yes or no or variance petition or whatever. Is that correct? These petitions are not quite as discretionary as we might think on this end?

CITY SOLICITOR NANCY GLOWA: Well, their--their applications for a grant, um, and they're--they're governed by laws. So, if you meet the criteria, um, I'm--I'm not prepared to say whether you absolutely have a right to it or not if you meet the criteria, but certainly the guidance from the FCC has been that if we have regulations that we

can use those regulations and rely upon them in denying applications that do not meet our regulations. So, that is very helpful to have. Um, I also can say with respect to the should versus shall or must. Uh, I think it's more directory or directive and that it gives guidance to both the commissioners and the applicants and the public as to what is the goal. And yet, it gives some discretion to the commissioners and how to achieve that goal. So, I think that, um, where there is some guidance from the FCC and the Pole & Conduit Commission is trying to give itself the--the widest discretion legally possible to fashion decisions that will be upheld if challenged that--that was part of the thinking behind using that language.

COUNCILLOR CRAIG KELLEY: Thank you. Through you, Madam Chair. I understand that and I'm not--I'm not faulting anyone. I just-- Sometimes I think people have different ideas of how much power we have and I maybe I'm airing too much on the other side, but I--I don't want people to look at these regulations and hear the word petition and so forth and think that it's kind of like a zoning petition where we can get the petition. We like that, we don't like it. There's--there are a lot of other

moving pieces that guide whether we can or cannot say no or might or might not say no. So, the protection against that extra pole or those things that we think are too close to houses is there but it's not absolute. Maybe we can just say yes and move on. I think I've sufficiently confused the matter.

VICE MAYOR JAN DEVEREUX: That's your role Craig. Okay. Do we have--do we have any understanding from these providers of like what the ultimate plan is? Do we just-- Is it--is it a purely sort of a reactive thing where we wait for the applications to come in and then decide them one by one? Do that--does anyone say, "Here's our coverage plan, here are the areas that we currently consider poor, you know, and here are the areas where we have good coverage or is it literally just every week we get a new application?" It's like, "Okay, now they're working on that street." Is there any effort to coordinate with us how this is working?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: In the--in the past with the carriers that we have out there now, they have come to us with a plan as in the last--the last go around when they added almost 80 sites, they came in with

the plan, um, that they picked up a provider and they did an analysis and this is where they needed--where they're asking for coverage. Um, that can change but at that period of time when they contracted with the carrier, that was the need of the carrier.

VICE MAYOR JAN DEVEREUX: Okay. Because I mean, we do have somewhat close relationships with the other utilities. With like our relationship with Ever Source to be a little closer at these--these days when we're negotiating over the substation, but I mean we do-- The Department of Public Works does coordinate closely with the utility because they know when we're gonna be reconstructing a street and we know when they're gonna be needing to, you know, add service and sometimes it all works beautifully and you actually get things done at the same time. Other times it doesn't, and you're digging up the street again. And, I guess, I'm--I'm just sort of wondering to what extent if since these are being regulated as utilities and they're having an impact on our streets and we're constantly digging up our streets anyway, how we--how we can kind of get some ability to work together so that it isn't purely reactive and we aren't, you know, redoing a sidewalk and

then finding that somebody needs to put in a new pole or install some sort of big bulky box, is that completely unrealistic?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: They are made aware of when we are doing the street over and there's a five year moratorium on digging that street, unless mitigation--mitigating circumstances require them to either grind and overlay that section if--if they are granted to add the Pole & Conduit, um, but other than coming to us with the plan ahead of time, um, you're somewhat right when--when they get a lot of times, they don't know who's asking for this. And not only with small cells with, um, larger buildings that are coming in that are asking for a different carrier, um, they sometimes don't know until that building is being built and now they're looking for redundant service coming in from two different, um, providers for redundancy for their building.

So, a lot of times the utilities that is coming to us, they don't know that far in advance, you know, when that customers come into the door and it's competitive also, so you may have a different provider for that building.

VICE MAYOR JAN DEVEREUX: And just so I understand

when you talk about provider, you're talking about a company like Crown Castle versus a carrier being another-- Like one of the cell phone companies, all of us aren't in this world the same way you are.

CITY ELECTRICIAN STEPHEN LENKAUSKAS: And it's an internet service provider, whether it's Horizon, AT&T. Um, Sprint, um, right down the line, they're all providers of that--of that service but Crown Castle, um, they sell--they like--they're the back or they'll--they'll--they'll contract with a Sprint or with a T Mobile to do that business for them rather than installing their own equipment.

VICE MAYOR JAN DEVEREUX: Okay. Um, sorry, I think one other question and then I'll let someone else, um, at one point it says that we--we don't want to see any of these installations on the double poles. The double poles are typically wood, right? Um, we've been eager to get rid of the double poles, um, is there any way that this could be sort of used to help us advance our--our goal of getting rid of more double poles? Like, if we say that double pole location is the ideal location for you but you can't put it there because it's a double pole but if you're willing to

replace that double pole with a new pole, I mean, is that something that is possible?

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Ongoing, we have been requiring, um, if--if someone's gonna be attaching to a pole, if there's a double pole, they're part of the--part of the condition of the granite location, we will not allow them to attach to a double pole. So, we will ask--we will require them to remove that pole before any equipment is attached to it. And that's the condition of the granite location.

VICE MAYOR JAN DEVEREUX: So, that--that could help us get rid of the double pole unless they said, "Well, there's another pole next to it. So, we'll just put it on that pole."

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Unfortunately, as they add these--these cell sites on wood utility poles, if that pole can't accommodate it, it ends up creating another double pole and--and at the same time-- And then we would ask them--we would, you know, we would-- In the past we haven't, but we would make it a condition of the grant that no equipment be attached to that pole until, you know, there's only one pole. They're not two poles.

VICE MAYOR JAN DEVEREUX: Okay, well, we definitely don't want more double pole situations. Um, so I'm hoping that's not the typical outcome. Um, maybe I'll at this point open it up to public comment and we can hear what members of the public have to say and then go back around. So, I'll do that. I have some several people signed in many of you indicated you don't want to speak, but if you want to change your mind, that's fine.

The first name I have that has or maybe is Isabel Prager. If you are still here and you want to speak, you can, is that you? Okay. Well, don't-- If you--if you're going to speak, you need to come up to the microphone and say your name and address. If you don't want to speak, that's fine. But we can't just have a conversation back and forth.

So, I--I can give you--I can-- Well, you can--you can come to the--to the podium. Turn on a little the microphones so the little green light that-- No, behind you. Just go around behind you see the podium. Maybe that's not a podium. I don't know what it is. Yeah, there's-- there's a little button at the--at the base of the mic and it should be green and then just introduce yourself and you

can ask questions. We won't necessarily answer them because we don't use public comment that way but you can certainly-- And--and keep it to, uh, under three minutes if you can. Can you speak into the mic, too? Pull it down. Thanks.

PUBLIC COMMENT:

Isabel Prager, address not provided, asked the City Council about what was meant by "The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in section." Questioned, what are the safety standards? Is the technology gonna require the trees be removed from the Cambridge streets? She was concerned about how much radiation would the city be exposed to from 5G and the noise, and how much all this is going to interfere with the residents' lives.

VICE MAYOR JAN DEVEREUX: I can't answer that question and--and public comment isn't for a back and forth. You can ask that question and we can make note of it. Again, I can't-- These are--these all just have to go up into sort of rhetorical questions for the purposes of public comments. The next person who signed in is Nancy Ryan.

PUBLIC COMMENT:

Nancy Ryan, address not provided, expressed her concerns about the loud noise in 40 Essex Street, however, her concerns were later addressed when she found out that it was the Crown Castle upgrading equipment. Concerned about the space needed for the installations by the service provider.

VICE MAYOR JAN DEVEREUX: Thank you. And the last hearing was in November of last year when you came to talk about that. So, it feels like a long time ago but, uh, it looks like somebody named H or [inaudible 1:17:13], you want to speak, so go over and just-- But if you could say your address, your city, your name?

PUBLIC COMMENT:

[inaudible 1:17:23], 100 Landsdowne Street, 02139. She opposed the wireless installations, and questioned the City Council of what they were getting into and termed it as abominable. Further added that how electromagnetic radiation is deadly.

VICE MAYOR JAN DEVEREUX: Okay. Thank you. You can leave the comments there and if you want to email us, uh, send them. Okay, thank you. Um, now if you--if you could put those taking-- Okay. Another 30 seconds and then that's

it 'cause you've--you've spoken once and--and the way we do it is, yeah. Okay. Speak into the microphone so people can hear you please.

PUBLIC COMMENT:

Isabel, address not provided, read about the California Governor Jerry Brown and how he vetoed a bill that would have given more power to telecom, commute companies, and less power to local cities and towns and blocking the installation of 5G antennas.

VICE MAYOR JAN DEVEREUX: Okay, thank--thank you. And if you want to leave that in the basket we can add that to the record too if you'd like. Okay, I haven't seen my email in an hour so I haven't seen it. Okay, thank you. Would anyone else out there like to speak before I put close public comment? Okay, seeing no one, I'll close public comment.

I welcome Councillor Mallon. You've missed a lot of excitement. Um, so, I mean just to reiterate these are not our--it's not our laws, this is federal communications, uh, laws that are obligating us to--to do this. So, we are not, um, the instigators of this, but we're trying to--to navigate it. Um, any further questions or comments from my

colleagues? Councillor Mallon, did you have anything you want to plunge into this? Um, anyone? Sure

COUNCILLOR QUINTON Y. ZONDERVAN: Thanks. I guess I just would add that, you know, as we're thinking about how this all evolves going forward, that this is another reason for us as a city to consider, um, getting into this business ourselves and--and having some sort of municipal broadband system which could include, uh, some wireless technology as well where we could lease out the equipment to these providers as a way to limit how much of this equipment gets duplicated everywhere and as a way to control where it goes and--and what it looks like and so forth. Again, not sure whether and how that interacts with the FCC regulations that are being challenged in court and so on. But--but just in terms of long term thinking, um, we--we don't necessarily have to be always reacting to what the industry and their federal henchmen are imposing on us. It is possible for us to try to get ahead of that and--and maybe, um, have our own system that we can, um, provide in a way that's a little bit less disturbing to our--to our residents. Thank you. Go

VICE MAYOR JAN DEVEREUX: Go ahead, Councillor Kelley.

COUNCILLOR CRAIG KELLEY: Thank you, Madam Chair. We drifted a little bit and I disagree with Councillor Zondervan. So, I--I don't necessarily disagree with, uh, City broadband, but I wouldn't take this as a marching order to--to go forward and, in fact, arguably this is what may replace broadband.

And one of the things we need to worry about is if we're going to drop money into a system and have to own the bonds until they get paid off, we want to make sure that it's not something that gets overtaken by emerging technology. So, um, I wouldn't have brought it up, but since we're on the subject, I did. Thank you.

VICE MAYOR JAN DEVEREUX: Um, well, if I could add one thing just to your--your prior point about being confused about them being called draft regulations. I think at the time that this meeting was scheduled, which was quite a while ago, they were still draft regulations and then they were adopted. So, we have these interim regulations that I'm--I'm guessing will remain in that interim status until this court litigation is resolved. Can or not.

I mean, we are continuing to receive--the Pole & Conduit Commission is continuing to receive applications

and to, you know, permit installations using these interim rules as the framework, correct? And at the moment, that's just sort of going along until there's clarification from this--this litigation at the Court of Appeals, is that right? Or is there anything else that's happening?

CITY SOLICITOR NANCY GLOWA: There may be other reasons to amend the policy. And I think the Pole & Conduit Commission is in the process of reviewing it. So, it's not necessarily completely related to what's happening in the litigation.

VICE MAYOR JAN DEVEREUX: Is there still a comment period on the interim? Right. I mean, what-- I guess trying to understand, I know that the council doesn't have any particular authority to suggest amendments or what would cause the Pole & Conduit Commission to--to amend these interim rules?

CITY SOLICITOR NANCY GLOWA: Well, through you, Madam Chair, there was a public comment period, uh, prior to the hearing. So, on May, 10 they posted notice, um, of the intended policy and I think they gave at least a few weeks for public comment and then adopted the--the regulations. But there was an interest in having the regulations

promulgated as quickly as possible. And, uh, there are some timing factors that, uh, a necessitated having a policy in place as soon as possible. So, I think that it has the Pole & Conduit Commission has discretion to amend it. I'm--I'm not sure that there's a specific timetable or I don't know of any public comment period that they've created. Again, they don't have another public comment period.

VICE MAYOR JAN DEVEREUX: Okay. So, for now this is what we're operating under, correct? I mean, I'm just--I guess--I'm just trying to--to clarify that because sometimes when you talk about interim it's like, "Well, what is-- Interim to what?"

CITY ELECTRICIAN STEPHEN LENKAUSKAS: Yeah, this is the policy that would be following.

COUNCILLOR QUINTON Y. ZONDERVAN: Thank you, Madam Chair, just wanted to briefly respond to my colleague because, um, there--there's no future scenario that we would imagine where wireless would replace, um, fiber. It augments it and it makes the data available, um, in the streets and on the sidewalks and to people who are moving around, but, but it doesn't replace, um, Broadband to the home or to the building and the data still has to move

around over the Broadband. So, so the wireless is just, uh, um, the leaves on the tree, but it's not, it's not the trunk.

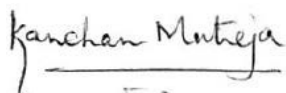
VICE MAYOR JAN DEVEREUX: Okay. Well, ending on a tree metaphor seems appropriate. Um, if no one has any further, uh, comments, I will adjourn the meeting. I thank everyone for participating and ask to keep it surprised if anything happens with this Court of Appeals litigation. Thank you.

The Cambridge City Council Transportation and Public Utilities Committee adjourned at 3:20 p.m. approximately.

C E R T I F I C A T E

I, **Kanchan Mutreja**, a transcriber for Datagain, do hereby certify: That said proceedings were listened to and transcribed by me and were prepared using standard electronic transcription equipment under my direction and supervision; and I hereby certify that the foregoing transcript of the proceedings is a full, true, and accurate transcript to the best of my ability.

In witness whereof, I have hereunto subscribed my name this 15th day of March 2023.

A handwritten signature in cursive script that reads "Kanchan Mutreja". The signature is written in black ink and is positioned above a horizontal line.

Signature of Transcriber