

RESOLUTION NO. 17-100

A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, GRANTING PERMISSION TO VERIZON WIRELESS TO INSTALL SMALL NETWORK NODES ON EXISTING UTILITY POLES IN THE PUBLIC RIGHT-OF-WAY

Councilman Zipprich offered the following resolution and moved its approval:

WHEREAS, New York SMSA Limited Partnership d/b/a Verizon Wireless, ("Verizon Wireless"), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

WHEREAS, Verizon Wireless has entered into agreements with parties that already have the lawful right to maintain utility poles in the public right-of-way pursuant to which Verizon Wireless may use such poles erected within the public right-of-way in the Borough of Red Bank; and

WHEREAS, Verizon Wireless has expressed to the Borough of Red Bank its intention to install small network nodes on existing utility poles located in the Borough of Red Bank in order to enhance its commercial mobile service; and

WHEREAS, New Jersey law permits such use by Verizon Wireless provided that it obtains the consent of the municipality wherein the installation of such facilities will be located; and

WHEREAS, pursuant to New Jersey law, Verizon Wireless has requested permission from the Borough of Red Bank for said installations;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey that permission and authority are hereby granted to Verizon Wireless and its successors and assigns, to use utility poles that have already been erected by parties that have the lawful right to maintain poles within the public right-of-way in the Borough of Red Bank, subject to the following:

1. Verizon Wireless, and its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way; and
2. Verizon Wireless, and its successors and assigns, shall comply with all applicable Federal, State, and Local laws requiring permits prior to beginning construction, and shall obtain any applicable permits that may be required by the Borough of Red Bank for any installation(s) of its facilities; and
3. Such permission be and is hereby given upon the condition that Verizon Wireless, and its successors and assigns, shall indemnify, defend and hold harmless the Borough of Red Bank, its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Verizon Wireless or its agents in connection with the use and occupancy of existing poles located within the public right-of-way in the Borough of Red Bank; and
4. Verizon Wireless shall, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence and Verizon Wireless shall include the Borough of Red Bank as an additional insured; and
5. Verizon Wireless shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations,

arising from its construction, installation or maintenance of its facilities;
and

- 6. Notwithstanding any provision contained herein, the permission and authority granted to Verizon Wireless herein extends only to Verizon Wireless's use of utility poles already erected and existing in the public right-of-way and shall not be construed or interpreted to allow Verizon Wireless to erect or construct any new utility pole(s) in the public right-of-way without separate and express permission from the Borough of Red Bank; and
- 7. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles Verizon Wireless is using.

Seconded by Councilwoman Horgan and approved on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Yngstrom	(x)	()	()	()
Councilman Zipprich	(x)	()	()	()
Councilwoman Horgan	(x)	()	()	()
Councilwoman Schwabenbauer	(x)	()	()	()
Councilman Taylor	(x)	()	()	()
Councilman Whelan	(x)	()	()	()

Dated: April 26, 2017

I hereby certify the above to be a true copy of a resolution adopted by the Council of the Borough of Red Bank, in the County of Monmouth, at a meeting held on April 26, 2017.

Pamela Borghi, Municipal Clerk