

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0406 / FRANCHISE – CELLCO PARTNERSHIP, D/B/A VERIZON WIRELESS		

TO

DATE:

The Honorable President and
 Members of the City Council
 City Hall, Room 400
 100 North Holliday Street

October 10, 2019

At its regular meeting of October 3, 2019, the Planning Commission considered City Council Bill #19-0406, for the purpose of granting a franchise to Cellco Partnership, d/b/a Verizon Wireless, a Delaware general partnership, to construct, install, maintain, repair, operate, relocate, replace, and remove certain Communications Facilities in and across certain streets and Public Ways and Park Properties, subject to certain terms and conditions; and providing for a special effective date.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #19-0406 and adopted the following resolution; eight members being present (seven in favor, one recused):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #19-0406 be passed by the City Council.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

- cc: Mr. Nicholas Blendy, Mayor's Office
 Mr. Matthew Stegman, Mayor's Office
 Ms. Nina Themelis, Mayor's Office
 The Honorable Edward Reisinger, Council Rep. to Planning Commission
 Mr. Colin Tarbert, BDC
 Mr. Derek Baumgardner, BMZA
 Mr. Geoffrey Veale, Zoning Administration
 Ms. Stephanie Murdock, DHCD
 Ms. Elena DiPietro, Law Dept.
 Mr. Francis Burnszynski, PABC
 Mr. Liam Davis, DOT
 Ms. Natawna Austin, Council Services
 Mr. Dominic McAlily, Council Services



Bernard C. "Jack" Young
Mayor

PLANNING COMMISSION

Sean D. Davis, Chairman

STAFF REPORT



Chris Ryer
Director

October 3, 2019

REQUEST: City Council Bill #19-0406/ Franchise – Cellco Partnership, d/b/a Verizon Wireless:

For the purpose of granting a franchise to Cellco Partnership, d/b/a Verizon Wireless, a Delaware general partnership, to construct, install, maintain, repair, operate, relocate, replace, and remove certain Communications Facilities in and across certain streets and Public Ways and Park Properties, subject to certain terms and conditions; and providing for a special effective date.

RECOMMENDATION: Amendment and Approval

STAFF: Matthew DeSantis, AICP

PETITIONER: The Administration, on behalf of the Department of Transportation (DOT)

HISTORY

- On June 11, 2015, the Planning Commission recommended amendment and approval of City Council Bill #15-0528, which was for a Franchise for Extenet Systems, Inc. That Ordinance has been enacted as of August 17, 2015 via Ordinance #15-400.
- On August 27, 2015, the Planning Commission recommended amendment and approval of City Council Bill #15-0551, which was for a Franchise for Crown Castle NG Atlantic, LLC. That Ordinance has been enacted as of November 6, 2015 via Ordinance #15-428.
- On March 28, 2019, the Planning Commission approved the Aesthetic and Design Standards for Small Cells on public rights-of-way.

ANALYSIS

Background: In 2015 and 2016, the City granted franchise agreements to three third-party wireless telecommunications infrastructure providers: Crown Castle, Extenet, and Mobilitie/Technology MD. As wireless telecommunication technology has evolved, there has been a greater and greater need to provide additional “small cell” antennas in order to provide both wireless coverage and capacity. These small cell facilities are much smaller than traditional cell tower installations, emit at much lower power levels, and have a much smaller range. These three franchisees (though the vast majority belong to Crown Castle) have to-date installed close to 600 wireless telecommunication facilities throughout the City within the public right-of-way. The installations are most usually attachments to existing City light poles, consisting of an antenna at the top and associated radio equipment mounted on the pole or nearby on the ground.

Federal Law: The Federal Telecommunications Act of 1996 prohibits local governments from discriminating between different providers of personal wireless services and prohibits local jurisdictions from altogether banning the construction, modification, or placement of these kinds

of facilities in a particular area. Additionally, an Order adopted by the FCC in September 2018 imposes additional restrictions on local governments regarding the deployment of wireless infrastructure and how fees may be collected.

Local government does, however, maintain the authority to regulate the time, place, and manner of specific wireless telecommunications facilities. The Planning Commission approved Aesthetic and Design Standards for Small Cells on March 28, 2019. This documents governs such aspects as general equipment design, compatibility with surrounding infrastructure, minimum distance separation from residential lots, and minimum distance separation from other wireless infrastructure. The Department of Planning currently reviews each location proposed for installation of a small cell facility and ensures that such location is posted for public notice purposes. All of these variables currently in place will continue to guide the deployment of additional wireless facilities by Verizon Wireless.

The Department of Planning recognizes the importance of Baltimore having access to modern, state-of-the-art telecommunications infrastructure that is high-speed, reliable, and deployed in an equitable manner throughout its various neighborhoods. It is important to residents, business owners, and visitors that the City stays competitive with other jurisdictions in providing this kind of vital utility that people have come to rely on.

Proposed Franchise: Unlike the current franchisees which provide the infrastructure and then lease space to wireless carriers, Cellco Partnership, d/b/a Verizon Wireless (Verizon) seeks the right to install and maintain its own equipment for the benefit of its customers. This request for a franchise will allow Verizon Wireless to attach small cell equipment to publically owned infrastructure, such as street light poles, within the public right-of-way as well as public park properties.

Staff understands that the Franchise will be for a ten-year period, with three five-year renewals. Each installation will require a separate attachment agreement, conduit lease agreement, and that all costs will be borne by Verizon Wireless (to include working directly with BGE for power).

Attachment Agreement: The franchise bill itself is a blanket agreement that will permit Verizon Wireless to utilize public ROW and park properties for the deployment of their infrastructure – the associated Attachment Agreement is what governs the actual attachments that will be used on City poles. The substance of the Attachment Agreement is not within CCB #2019-0406 but rather is a separate document. Verizon Wireless is proposing to deploy both 4G and 5G equipment as a part of the attachment agreement. The majority of their proposed installations consist of only 5G equipment and a minority will consist of both 5G and 4G equipment on a given pole.

Section 1.3 already covers this

~~**Proposed Amendment**~~

~~Staff recommends a minor text amendment in order to explicitly reference the Small Wireless Facilities: Aesthetic Requirements document that was previously approved by the Planning Commission.~~

- Section 11.1 New Poles: "...and shall comply with all applicable laws, including the Small Wireless Facilities: Aesthetic Requirements ("New Poles")."

A similar text amendment was included in a recent revision to Crown Castle's franchise agreement and it is fitting that this bill language should include the same for consistency.

Community Notification: Notice this Planning Commission hearing was delivered to approximately 16,026 e-mail addresses through the GovDelivery service.



Chris Ryer
Director