

RESOLUTION NO. 106-2016
**AUTHORIZING VERIZON WIRELESS TO JOINTLY USE POLES
WITHIN THE PUBLIC RIGHT-OF-WAY OF THE BOROUGH OF SEA BRIGHT**

Councilmember Leckstein introduced and offered the following resolution for its adoption; seconded by Councilmember Kelly:

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 an agreement with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Verizon Wireless may jointly use such poles erected within the public right-of-way in the Borough of Sea Bright; and

WHEREAS, New Jersey law permits such joint use provided that there is the consent of the relevant municipality:

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey that:

1. Permission and authority are hereby granted to Verizon Wireless and its successors and assigns, to jointly use poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Borough of Sea Bright, subject to the following:
 - A. 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.
 - B. 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 Sea Bright.
 - C. Such permission be and is hereby given upon the condition and provision that Verizon Wireless, and its successors and assigns, shall indemnify, defend and hold harmless the Borough of Sea Bright, 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 poles located within the public right-of-way, except to the extend resulting from the acts or omissions of the Borough of Sea Bright.
 - D. 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. Verizon Wireless shall include the Borough of Sea Bright as an additional insured.
 - E. 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.

F. This permission is limited to the use of said poles for small network nodes, limited to one node per pole.

G. Verizon Wireless agrees to reimburse the Borough of Sea Bright for any reasonable engineering or legal fees incurred in connection with the installation of these facilities.

H. Notwithstanding any provisions contained herein, neither the Borough of Sea Bright nor Verizon Wireless shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.

I. In the event that the Borough of Sea Bright requires that any pole containing a small network node be relocated, the relocation of the Verizon equipment will be done at Verizon's sole cost and expense.

J. The instrument shall be adopted on behalf of the Borough of Sea Bright by the Borough Council of the Borough of Sea Bright and attested to by the Borough of Sea Bright Clerk who shall affix the Borough of Sea Bright Seal thereto.

K. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles Verizon Wireless is jointly using.

BE IT FURTHER RESOLVED that the Borough Council of the Borough of Sea Bright authorizes Verizon Wireless to jointly use poles erected within the public right-of-way of the Borough of Sea Bright by parties that have the lawful right to maintain such poles.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the following:

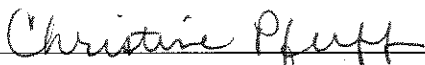
- 1. Borough Attorney
- 2. Borough Police Chief
- 3. Public Works Director

Roll Call:	Bills,	Keeler,	Kelly,	Lamia,	Leckstein,	Rooney
	Absent	Yes	Yes	Absent	Yes	Yes

June 21, 2016

CERTIFICATION

I, Christine Pfeiffer, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 21, 2016.


Christine Pfeiffer, Borough Clerk