

1. Requested Motion:

Meeting Date: April 18, 2011

Approve Century Link's request to install fiber optic cable underground/overhead along North Estero Blvd, once Southwest Utility Systems, Inc. has received final acceptance of the North Estero project.

Why the action is necessary:

To provide direction to staff and utilities regarding construction work along North Estero Blvd.

What the action accomplishes:

Affirms the Town Council position on allowing non-emergency utility work within the limits of the North project.

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other – Utility Request

4. Submitter of Information:

- Council
- Town Staff - Public Works
- Town Attorney

5. Background:

CenturyLink recently brought forward a request to place fiber optic cable underground within the North Estero Blvd. project area to provide service to 500 Estero Blvd. Based on direction received by Town Council at a workshop held prior to beginning construction on this project, staff requested that the utility make a request directly for Council action. Prior to beginning the North Estero Blvd. project, Council requested that staff provide specific information to all utility companies that have/or plan to have infrastructure within the project area to make necessary improvements prior to the project being started. This information was conveyed to all known utility companies at the pre-construction meeting and reiterated periodically at bi-weekly construction meetings. Although Century Link relocated a considerable amount of infrastructure required due to project conflicts, they did not make any provisions for fiber optic cable nor bring the request forward until now. As stated in the attached letter, Century Link is willing to accept liability for warranty issues that will be voided due to this work. SUSI has addressed some warranty concerns associated with this request, which Century Link has addressed. Attached is back-up documentation associated with this request.

6. Alternative Action:

Do not approve or approve the request with certain conditions.

7. Management Recommendation:

Approve.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

- Approved Denied Deferred Other

TOWN OF FORT MYERS BEACH



MEMO

DATE: April 22, 2011

TO: Terry Stewart, Town Manager

FROM: Cathie Lewis, Public Works Director *Cathie*

SUBJECT: Century Link Request to Install Fiber Optic Cable – North Estero Blvd.

Attached you will find a request made by Century Link to install underground fiber optic cable to the property located at 500 North Estero Blvd. Since that initial request there have been numerous conversations and meetings regarding it. Although placing the conduit underground is Century Link's preferred method of installation it is possible for the cable to be installed overhead on the FPL poles, this would then only require some underground work.

Southwest Utility Systems, Inc. (SUSI) has provided a letter addressing concerns they have associated with this work, which is attached for your review. As you know Southwest Utility Systems, Inc. has a one year warranty period on all work performed. By allowing Century Link to install cable, or portions of cable, underground it will cancel the warranty wherever Century Link starts and stops its' bore. My understanding is that small equipment will be used that will require shorter bore segments. Century Link is willing to warranty those areas for a period of two years.

I also asked the Town Attorney to provide an opinion, attached, of the Town's ability to restrict any work within the right-of-way for a certain period of time due to the recent road project. It is my understanding that the Town cannot restrict this type of work pursuant to the new legislation that is referenced in the attached memo. However, the Town can require certain things of a utility company when working within the Town rights-of-way.

Resulting from the last meeting associated with the request, Century Link has provided a letter dated April 21, 2011 attached, confirming what they have agreed to provide. You will note that they have agreed to install all the infrastructure at this juncture, instead of just installing for the service at 500 North Estero, they will cover the cost of the Town's inspector for the duration of the project, provide a full set of construction drawings prior to beginning construction and as above stated warrant their work for a period of 2 years from completion. Consideration is being given by Century Link, at the Town's request, to locate their infrastructure under the landscape areas vs. the sidewalk.

Please let me know if you have any questions regarding this information.

Attachment

pc: file

TOWN OF
FORT MYERS BEACH

MAR 23 2011



CenturyLink™

Cathie Lewis

RECEIVED BY

Public Works Director

Town of Fort Myers Beach

2523 Estero Blvd.

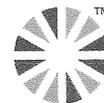
Fort Myers Beach, Florida 33931

RE: Directional Bore Estero Blvd.

Ms. Lewis,

I am responding to your request for CenturyLink's desire to directional bore under the eastside (Bayside) sidewalk to one of our customers, Verizon, located at the Gateway Condo's, at 500 Estero Blvd.

After numerous meetings and conversations I would like this opportunity to give to you the pros and cons of directional boring vs. aerial construction. CenturyLink has approximately seven existing crossings to various condominium associations. For CenturyLink to go aerial on the N/E side of Estero Blvd. we would have to riser down to the existing crossings and place a fiber loop in a proposed flush mounted CDR vault that would be placed in the sidewalk and then riser up to the aerial attachment and continue on to the next crossing. This would continue until all seven crossings are completed and we reached 500 Estero Blvd. When we placed the road crossings we did not place them next to the existing poles, so a few are up to 30 feet away. The reason for that was we were under the impression that all the poles were coming down. For CenturyLink to go aerial we will have to bore/ bury along the Ocean side in the FPL easement to our crossing at the 7-11 by Lagoon Street. The existing crossing has electronic markers on the ends and one end is close to the Trolley stop. That creates another problem with the Oceanside sidewalk. If we pass by the Trolley stop to the end of the county parking lot then there is no crossing in place across Estero Blvd. at that location to utilize to cross over and go aerial. We would have to bore under Estero Blvd. Aerial construction is subject to the elements and is prone to being damaged far greater than buried construction. All utilities are encouraged to 'harden' their plant which includes replacing aerial with buried when feasible.



CenturyLink™

If CenturyLink were permitted to bore under the existing bayside sidewalk we would stop at each existing street crossing, place a flush mounted CDR vault and continue on to 500 Estero Blvd. We realize that the sidewalk is new and still under warranty. Wherever Centurylink places their CDR Vaults we will be liable for the warranty at those locations until it expires. We have to abide by the Public Service Commission rules and regulations, so we plan on doing the work right the first time.

Please do not hesitate to contact me at the below numbers,

Very Truly Yours,

Ronald Popp

CenturyLink Engineer

239-336-2162 Office

239-357-8922 Cell



April 20, 2011

Ms. Cathie Lewis
Town of Ft. Myers Beach
2523 Estero Blvd
Ft. Myers Beach, FL 33931

Ms. Lewis:

I am writing you in regards to work that Centry Link is proposing to do in the right of way on North Estero Blvd.

As you are aware Southwest Utility Systems, Inc. does have a few concerns in regards to this work being done.

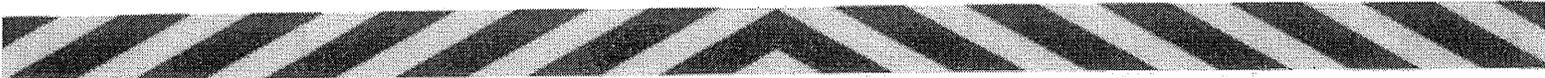
- 1.) Southwest Utility Systems, Inc. would like to request a copy of the proposed plans and copies of as-builts / bore logs.
- 2.) This work would cancel Southwest Utility Systems, Inc warranty on anything that is located in or near their work zone.
- 3.) Southwest Utility Systems, Inc. would prefer for Centry Link to wait to begin construction after we have reached final completion. This will insure that everything that is our responsibility to be repaired will have taken place prior to Centry Link mobilizing. This will avoid any disputes over who bear the responsibility of any repairs.
- 4.) Southwest Utility Systems, Inc. would like to request that a final inspection / punchlist be created at the completion of Centry Link's work to identify all repairs. Southwest Utility Systems, Inc. would like to take part in the final inspections.

If you wish to discuss this further or have any questions, please feel free to contact me at 239-267-0200.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett Eckenrode", with a long horizontal flourish extending to the right.

Brett Eckenrode
Purchaser





Cathie Lewis
Public Works Director
Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach, Florida 33931

April 21, 2011

RE: Directional Bore Estero Blvd.

MS. Lewis,

Request:

Centurylink requests permission to place fiber cable by way of directional bore of a 2 inch pipe from Time Square to Bowditch Park.

General Information:

1. The placement of this pipe will allow fiber service to existing customers as well as for future growth.
2. Centurylink has existing conduits across Estero Blvd. and does not anticipate any additional crossings.
3. The boring will be at the necessary depth to avoid conflict with existing facilities.
4. Centurylink will provide the City of Fort Myers Beach, a full set of construction drawings, showing all existing and proposed facilities.
5. Centurylink will, at its expense, provide an inspector to represent the City of Fort Myers beach.
6. Centurylink anticipates starting within 30 days of approval and complete within 60 days.
7. Centurylink's contractors are required to warrant their work for 2 years from completion.

Benefits: The value of placing Centurylink's facilities underground include but not limited to the following:

1. Safety to the public and Centurylink personal.
2. Placement of underground facilities allows Centurylink to provide its customers , (city, state, federal, and private) and your constituents, a higher degree of security of their sensitive data and communications.
3. Allows the City of Fort Myers Beach and Centurylink to comply with PSC Rule 25-6.034 (Standard of Construction.)
4. Requires less maintenance, hence fewer bucket trucks, equipment and personnel on the
5. Improve aesthetics of the beach front.

Centurylink respectfully request your approval.

Ronald Popp

A handwritten signature in black ink that reads "Ronald Popp".

Centurylink
Access Engineering

TO: Cathie Lewis, Public Works Director

FROM: Marilyn W. Miller *MWM*

DATE: April 22, 2011

RE: Century Link Installation of Fiber Optic Cable in Town Right of Way

Century Link has requested permission from the Town to install fiber optic cable in the North Estero Boulevard right-of-way and you have asked me for an opinion concerning the Town's ability to regulate that activity.

Several years ago, Florida enacted the Communications Services Tax Simplification Law. That law pre-empts to the State of Florida many regulatory aspects relating to communications services providers. Since the enactment of that law, for example, local governments may no longer regulate those providers through franchise agreements that contain franchise fees. The only regulatory power that local governments still possess is specified in Section 337.401, Fla. Stat., entitled "Use of right-of-way for utilities subject to regulation; permit; fees."

As we discussed, Section 337.401, states that local governments may "prescribe and enforce reasonable rules of regulations with reference to the placing and maintaining along, across, or on any road..under their respective jurisdictions any electric transmission, telephone, telegraph, or other communications services lines..." Such rules and regulations which govern the occupation of roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county.

Since the Town did not elect, at the time the law was originally enacted, to impose a permit fee, no such fee can be imposed by the Town. The Town does, however, receive an additional increment of tax from communications providers in lieu of those permit fees.

Based on the foregoing, the Town can require detailed plans concerning the placement of the lines or conduits and can impose conditions on installation of those lines as long as those conditions are reasonable and related to proper management of the Town right-of-way. The town cannot, however, charge any permit fee for the installation.

If you have any questions concerning the foregoing, please do not hesitate to contact me.