

Planning & Development Committee
March 18, 2015 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Greg Verga; Vice Chair, Councilor Paul Lundberg; Councilor Steven LeBlanc
Absent: None.

Also Present: Councilor Cox; Linda T. Lowe; Chip Payson; Jim Destino; Tom Daniel; Bill Sanborn;
Gregg Cademartori; Matt Coogan; James Pope

The meeting was called to order at 5:30 p.m.

**1. Memorandum from General Counsel & Recommendation of the Land Disposition Committee re:
City Council acceptance of the Lobsta Land Request for Easement**

Councilor Verga disclosed that in December 2013 he had a financial business arrangement as a real estate agent to rent an apartment owned by Corey Grammas, owner of Lobsta Land, but that upon the rental of that property their business arrangement ceased and has no bearing on the matter before the Committee.

Attorney Chip Nylén, Jr., Lynch, DeSimone & Nylén, LLP, representing The Trio Building d/b/a Lobsta Land Restaurant (Lobsta Land), owner, Corey Grammas, explained the following: That the restaurant has experienced several years ago a Title 5 issue as the restaurant is physically below groundwater level. Gateway Consultants was retained by Lobsta Land to work with the city's Health Department (HD) and the Department of Environmental Protection (DEP) to identify a new leaching area just off of Rust Road. Lobsta Land purchased that small piece of land which perked. In order to lay pipe from the restaurant to the new leaching area subsurface pipe will have to be installed crossing Ye Old County Road. It was recounted that prior to the easement request being submitted, Lobsta Land went before the HD and the DEP for permitting and was approved, and then went to the city's Department of Public Works for further determinations. It was reiterated that the pipe will be installed subsurface and in a conventional manner with a pump chamber because of the leaching area's higher elevation. The easement itself is for 3,000 square feet skirting along the edge of the roadway. The pipe was noted to be two 3-inch lines to build in redundancy. He assured that the roadway will be restored to its original condition upon completion of the work pointing out two manholes for access points. The easement allows for the excavation, installation and maintenance of the pipes, he noted.

Mr. Nylén said he submitted the Land Disposition request after obtaining the necessary approvals. He concluded his remark by saying this is a good solution ecologically for the clam warden and as well for the business so there is no seepage into the ground water with minimal disruption to the roadway. He noted that he drafted an easement which was submitted to General Counsel and then General Counsel forwarded the document to the Council for its consideration. He asked that the easement be granted.

Chip Payson, General Counsel conveyed he worked with Mr. Nylén and said this easement seems cut and dry, and that there is language that assures the applicant will restore the road to its condition prior to the pipe being placed, and in all the easement is agreeable to the city.

Councilor Verga noted the cutting into the road and its restoration will follow the DPW guidelines. Mr. Nylén assured that all the requirements and specifications will be adhered to.

Councilor LeBlanc said his parents who live nearby went through a similar situation nearby and expressed his understanding of the situation. Citing he holds a commercial clamming license and expressed his appreciation that this work being done helps to protect the environment.

Ms. Lowe said that when Mr. Nylén submitted the Land Disposition request in January he submitted a \$200 check which they agreed was probably not necessary but was placed on file. The nominal fee for the granting of the easement is \$1, and **Ms. Lowe** handed the \$200 check back to **Mr. Nylén** as it was no longer necessary. She also noted that the easement document on Page 4, Sec. 11 says that the applicant "agrees to" join the sewer, but that the ordinance says "shall" and the words "agrees to" should be removed and replaced with "shall" to comply with the ordinance.

It was noted by **Councilor Verga** that the Committee was in receipt of an email (on file) from Ward 5 Councilor, William Fonvielle indicating he supported the granting of the easement to Lobsta Land, a business in his ward.

MOTION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council pursuant to GCO Sec. 2-3(2)(d) grant to The Trio Building, Inc., d/b/a Lobsta Land Restaurant, the easement entitled, "Easement to Trio Building" on Ye Old County Road as shown on the plan entitled, "Utility Easement Exhibit Plan" as prepared and stamped by Gateway Consultants, Inc. dated January 5, 2015 and as described in the easement submitted with The Trio Building, Inc.'s request for the disposition of said easement for a nominal fee of \$1.00. The Trio Building, Inc., d/b/a/ Lobsta Land Restaurant shall pay all costs to record said plan.

2. *CC2015-001 (Verga) Request P&D & O&A Standing Committees together and in connection with City Council Order 2014-039 regarding the position of the Executive Director of the Fisheries Commission, assure that the structure of the Fisheries Commission be consistent with the requirements of the Special Acts governing the commission particularly the requirements of Chapter 361 of the Acts of 1980 and Chapter 740 of the Acts of 1981 (Cont'd from 01/21/15): Update by Chair*

Councilor Verga confirmed that State Rep. Ann-Margaret Ferrante has recommended the development legislative language to amend the Special Acts surrounding the Fisheries Commission and the position of its Executive Director to make it workable, which will be submitted to her office. To that end, Mark Ring, Fisheries Commission Chair had sent draft language to General Counsel which is under review at this time.

3. *Discussion of City permitting processes: Report by Director of Community Development and Planning Director (Cont'd from 02/18/15)*

Tom Daniel, Community Development Director, conveyed the following information regarding customer service the city already does or has in the works with permitting: There is a pre-application meeting process available for anyone who submits a permit application. The appropriate department representatives will be in the room to learn about the project, to provide feedback and discuss what is involved in the city permitting process.

He pointed to several permitting process improvements as follows: The way abutters' lists are generated has been improved. There is new permit software coming on line in the next several months to help staff in managing and tracking projects but will also help applicants to submit their applications electronically. The software is being used mostly in this area and many local contractors will already be familiar with it. A permitting guide done some years ago had been mentioned, and he indicated that once the permitting software is implemented the permitting guide can be updated and made available to the public. The information exists currently but is in several different places, he said.

He noted that Attorney Joel Favazza brought up at the last P&D meeting, and was something he and the Planning Director and the City Clerk have been talking about for several years and budget cycles, is that the zoning code is not in the Muni-Code system and as it is now it is cumbersome to work with because the Zoning Ordinance is not a single updated document. He recounted that the past two budget cycles didn't yield funds to put the Zoning Ordinance on Muni-Code, but they've identified money to direct towards that project. These are opportunities for improvements for customers, he said, to make the process easier.

Mr. Daniel recounted that after the last P&D meeting, a definition of the problem, and an element of the issue was the customer service piece, but the overall what is the heart of the issue the Committee wants them to focus on because depending on what it is it drives different areas. He also recalled one of the matters talked about was the regulatory framework where they gave the example of the City of Chelsea which is highly consolidated which is different from Gloucester. In looking at the city's permitting process here for commercial projects, he said the bar isn't as high in terms of the process people have to go through. If looking at housing projects, a lot of relief is often sought, he noted. If the issue comes down to the Building Code or by Statute -- it is what it is and there is no flexibility which also came up in previous conversations. He said an attorney may be frustrated by it, but it isn't something that the city can change. It is not timing delay or wrong information but is what it is, he noted.

Councilor Verga read a portion of Councilor Fonvielle's email which indicated that he felt an outside consultant should be retained to aid in the review of the city's permitting process. **Councilor Verga** expressed his agreement with Councilor Fonvielle adding that an outside set of eyes would be helpful. **Mr. Daniels** asked then what would be the question the Committee is looking to focus on. He asked whether such a review should be concentrating on things like the process to apply to build a deck as opposed to a process required for building a hotel. He explained that there aren't a lot of Major Projects that come to the city and pointed out that it is a cumbersome process but highlighted that it comes back to regulations that dictate that process. He said building

permits issued for decks are far more plentiful. He reiterated he was asking for a sense of the core issues to be studied by a consultant's review.

Councilor Lundberg expressed his concern that in hiring an outside consultant to look at a particular problem, the Committee will have to be very specific – the permitting process for a deck is a specific -- and this sort of review has to be that specific. They would have to then educate the consultant completely as to what the Committee is looking for and what they're looking at, and such a review is a big undertaking, he pointed out. **Councilor Verga** said that is what they're looking for and likening it to some degree to the review process for the School Audit. He indicated it should be a broad review in order to determine what processes can be tossed, and learn how far beyond the regulations the city goes in its permitting process in comparison to other communities. He said the review should yield suggestions for ways to make it easier for applicants to obtain their permits. He added it was his sense that in comparison to other communities the city could be losing business to those communities where the permitting process is less cumbersome. He said he didn't think handling such a review in house was the way to go.

Councilor Le Blanc expressed his agreement that there are other communities with other thought processes regarding permitting and this is where an outside person would be helpful.

Councilor Lundberg said they need to be practical. He said he would have to see what the RFP would look like and asked who would draft it. Both **Councilor Verga** and **Councilor Lundberg** agreed this will need to be a more in depth conversation about what is necessary to be contained in the RFP and to determine what has to be contained in it.

Gregg Cademartori, Planning Director said anyone that looks at the city's zoning code will say that the city is much more on the facilitating side for commercial and industrial zoning than they are for residential or mixed use. He advised that if a consultant is hired, they will ask the staff what they get in terms of feedback and what is people hesitating about going through the city's permitting process. He said most importantly it goes directly back to the City Council and support of the Planning Board for a recommendation if there is an overarching goal they're driving at to facilitate commercial development but pick the use whatever it may be. In the Zoning Code, commercial uses other than a couple of tiers or thresholds once passed go to the Building Inspector for a building permit. The only addition in recent history is that potentially having a site plan review which is not for a special permit, but is designed to be a facilitating process bringing in other agencies that would otherwise grant a permit later down the road -- be it the Public Health Department or utility connections. Those, he said, are two distinct things in terms of promoting and facilitate housing or commercial development. He expressed his opinion there was a lot of room for discussion on the housing side of things. He asked the Committee what the feedback is in order to target where the review effort might be with regard to commercial/industrial permitting. **Mr. Cademartori** indicated he reviewed the previous P&D minutes on this discussion and noted the discussion was broad ranging and all over the map with no specifics offered.

He said related to residential permitting that someone building a deck might be surprised by the necessary parameters. He reiterated it is about targeting what the Committee wants to facilitate. There are a lot of suggestions the staff can offer on particular uses. He also pointed out the community engagement over hotels, shopping centers, assisted living centers and thresholds and that was put in place. There are a lot of different levels, and he said that it would be helpful to understand who's making the comment, and what is the goal? He said if the Committee wants to facilitate more commercial/industrial development, there would be some suggestions. On the housing side there are likely a lot of suggestions.

Mr. Cademartori said if they think there is some outside need, there may be an opportunity for language and language and crafting, but there is a depth of city staff expertise that could provide feedback if they knew exactly what they were getting at. He pointed out that "permitting" is a very broad. **Councilor Verga** indicated he agreed with Mr. Cademartori's assessment. **Mr. Cademartori** continued that if a lot of the feedback is dealing with smaller projects, the fact is that the Building Code is the Building Code, and there is no flexibility. He suggested that a lot of times people are caught off guard when they have to enter into that process but he said that is the same in every community. He said if they understood better where the areas are that people are talking about be it the larger projects or the smaller projects, they would know where to target that review. He urged the Committee to focus on specific areas they wish to examine rather than undertake a broad review.

Councilor Cox said she felt that a better use of a consultant would be to craft a survey to be sent to the last 100 permit applicants in order to determine what the perceived or actual problems are. She likened the perception of the permitting process issues to the city's downtown parking. She indicated there is actually quite a bit of parking downtown, but it depends on how far you are willing to go to get to your destination from an available parking space. She said if this is a first-time permit applicant who thought it would be one stop, a stamp for an okay and walk away with a permit, it doesn't always work that way. She said she didn't realize that by changing out a window in her home she needed a permit to do the work. She added that people may not know they have to pull

permits or a contractor doesn't give them good information. The city, she said, needs to determine what the root problem(s) is first, and such a survey would give them that information. She suggested that such a survey could be done anonymously and by being anonymous more people may be more willing to be candid. She expressed her agreement that there were things in the Zoning Ordinance that could be streamlined. But instead of having a consultant come in and watch each of the permitting steps are, they need to get to the root of the problem, which a survey would help with. **Councilor Cox** also expressed her agreement with Mr. Cademartori that the first step is to find out succinctly what the actual problems are. **Councilor Verga** said the Committee needs to reach out to Chamber of Commerce members, who were going to have to give the Committee specifics, but had yet to do so, and indicated that would have to be one of the next steps as well. **Councilor Lundberg** said he liked the idea to survey the last 100 permit applicants as a first step.

Bill Sanborn, Building Inspector said one of the problems in general is the nature of the different people who pull permits. People who come from outside the city are amazed by how quickly they can get a building permit with their biggest complaint is that they have to wait two days for the permit to show up. He said the biggest problems stem from homeowners who have never pulled a permit and needs one for an 8 ft. x 10 ft. deck, has to go to the Health Department for one permit, and to the Conservation Commission because they're abutting a wetland, and don't understand that there is nothing that can be done about the process because it is about codes and regulations that must be complied with. He said that it appears no one seems to be able to pinpoint the actual issues because there are so many different avenues to take through permitting. These are complaints that can't be fixed. The regulations and codes dictate those processes.

Mr. Sanborn told the Committee that the staff has been asking what is it that the Committee is actually asking them to fix in the permitting process and where the problem is since the last P&D meeting. He said in his opinion after listening to the discussion this evening he didn't think anyone could tell them where the problem was. He said the city permitting departments do a good job of customer service. They do tell applicants exactly what to do and yet applicants don't follow through and then look in askance at the permit granting department, he pointed out.

Mr. Sanborn said the biggest problem of all is the Zoning Ordinance, and the problems all come back to that. He explained that the Zoning Ordinance was originally written in 1965 and went into effect in 1969. He said in his opinion the Zoning Ordinance was written to stop not promote development and is still using that same zoning idea today. He offered the suggestion that a consultant should be retained to review the Zoning Ordinance. He noted that the Zoning Task Force some years ago who put in a great deal of effort, tried to do a good job with their review and had offered many changes to be instituted into the Ordinance, but that mistakes were made on a variety of levels and are still in place today.

Councilor Lundberg said that perhaps that is the area for a consultant to examine to which **Councilors Cox** and **Verga** indicated agreement – and suggested an RFP could be formatted in order to look at the city's Zoning Ordinances and some similarly-sized communities, tell us where the differences are and then to move on suggestions for improvements stemming from that review. **Councilor Verga** added that this would be a good starting point as well. He recalled a Gloucester attorney who had pointed out how inane the setbacks were for multifamily houses, and they can't count on an attorney pointing out zoning flaws once a decade.

Mr. Sanborn said another issue is multi-family houses -- the city has a large stock of old multifamily houses. In order for those multifamily houses to be legal they need a City Council Permit. The Zoning Ordinance only goes back to 1969 and permits weren't recorded with the Southern Essex Registry of Deeds until the 1980's. Legitimizing these multi-families is very difficult to prove because of that, and in order for them to be sold this is a very expensive process because the owners have to show that multifamily use was continuous to 1969. No one has complained about it, but there should be a way to approve these permits without going to the ZBA and the City Council where four months later now the homeowner can sell their house, he said.

The Committee expressed agreement that the zoning ordinance would be a place to start. A Council Order to start the process was suggested by **Jim Destino**, Chief Administrative Officer. The Committee indicated it would work with Ms. Lowe to craft such an Order.

Ms. Lowe reminded the Committee they are also looking to find a more specialized expert for the personal wireless service (cell tower) ordinance because it needs rewriting. She suggested that this should be a separate issue. She said she reviewed the Zoning Ordinances for Framingham, Newton and Salem. By way of comparison, Gloucester's cell tower ordinance is 18 pages long. The other three communities have more recent ordinances which range from four to eight pages only, and she said presumably their ordinances work. This is about refining the city's ordinance to be more modern and in line with other communities and with FCC regulations.

Mr. Cademartori said it will come down to uses and how they're permitted, whether As Right or Special Permit, and how it is permitted, dimensional requirements that back the density of any type of use. He made clear that if the goal is they pick community A where someone says they have an easy time or a more facilitating process

for a certain type of permitting, what they'll probably come back to the Committee is recommendations for a shift in authority. It may be, he said, relieving of Special Permits as of right, or defining standards a little bit more clearly in the ordinance with a little less discretion to whoever is administering that permit. He indicated he had been with the city 10 years and that is what will come back to them. It is going to have to be the Council support to say they're comfortable with either moving this particular use to as of right or potentially to another permit granting authority. He indicated to the Committee that they are still working towards a concrete proposal for Railroad Avenue Area Project. The public asked what the form of a new zoning for that area or other means of permitting be like, and the one question was when will be the public hearing. That is the backbone for a lot of permitting in this community. He said that he could guarantee that from the development community's standpoint exposure in a public hearing is what they would like to avoid literally at all costs. If they go through this effort, that is likely what the Committee will receive and it will be up to the Council to support that effort. **Councilor Verga** acknowledged he understood some control on the Council's part may need to be ceded in order to streamline some permitting processes.

Ms. Lowe added her support of Mr. Daniel getting the Zoning Ordinance into Muni-Code acknowledging that to undertake such a project costs about \$8,000 to \$10,000. She expressed her hope that the Administration would finally fund the project. She said it was well worth it as it would help staff assist people with zoning questions, and for those people able to use the internet it will allow them to search for current information easily. She added that Muni-Code will also allow the updates to the Zoning Ordinance to be easily added. **Mr. Daniel** expressed his agreement with Ms. Lowe and indicated funds had been identified in this fiscal year and it is expected that project will happen by the end of June.

Mr. Cademartori brought the discussion back to the personal wireless facility overlay district and associated service zoning ordinance, and reported that the Planning Board discussed it very briefly and agrees that was crafted by two attorneys and most legislation coming out related to that is being drafted by expert attorneys. He said he discussed this with General Counsel. He said he didn't know of resources that were available as it isn't something that can be funded in house (i.e. by Legal Dept. funds). He reminded the Committee this was an ordinance created to make it difficult to permit. He noted there may be some consideration from a community benefit standpoint in that there is poor wireless coverage in the city but there is not an ability to facilitate coverage. It is a two pronged issue – what do they have to do to be in compliance with the FCC rules and regulations and what is the convenience to the community and what they need to do to get it. **Ms. Lowe** added that this is a specialized issue and needs a special expert consultant. She suggested this should come from the Planning Board and that funds will need to be identified. **Mr. Cademartori** said it was informally referred to the Planning Board. There is a funding resource issue, and he wasn't sure how to fund the needed expert to craft this very technical portion of the ordinance.

James Pope, IT Director very briefly discussed with Councilor Verga an article the Councilor had forwarded to him related to Comcast and Google.

The Committee agreed that a Council Order will be developed with the assistance of the City Clerk to forward to the Administration regarding the Zoning Ordinance Review. A second Council Order would be developed to initiate a specific review of the personal wireless facility overlay district and associated ordinance with an eye to identifying a funding source to hire a technical expert to draft new ordinance language.

4. Discussion on whether the Special Events Advisory Committee comprised of the City Clerk, Police and Fire Chiefs and DPW Director or their representatives as well as other relevant city staff should be permitted to approve all Special Events on behalf of the City Council

Ms. Lowe reviewed with the Committee that at this time she would recommend the Special Events Advisory Committee (SEAC) be legitimized by adding it to the Code of Ordinances which would spell it out who does what and what the authority limits are. **Mr. Sanborn**, also Vice Chair of the SEAC said that in the past three years of SEAC's existence, virtually everyone coming to that committee for permitting is very satisfied appreciating the advice and having the pertinent city departments represented all in the room. The process, he said, from a city department standpoint has also worked exceptionally well in keeping everyone advised of what is happening when in the city and what resources are needed. It was noted the application fee is only charged if an applicant must appear before the Council. Ms. Lowe acknowledged the organizational skill of SEAC staff member Rosalie Nicastro of the Public Health Department for organizing a shared spreadsheet of all events and what the elements are involved with each of them to allow for accurate tracking and preventing overlap.

Councilor Verga expressed agreement that since the formation of SEAC it helps applicants to be able speak to with all necessary city departments in one room.

Ms. Lowe and **Mr. Sanborn** discussed with the Committee some issues related to the Farmer's Market as a "Special Event" located in season at Stage Fort Park. **Ms. Lowe** and **Mr. Sanborn** advised the Committee that an

ad-hoc subcommittee of the SEAC had studied how Farmers Markets are permitted in other communities. After reviewing the procedures and event permitting processes for Farmer's Markets, it was suggested that a Council Order should be drafted to amend the Zoning Ordinance to contain a definition of a Farmers Market.

There was also a discussion between the Committee, **Councilor Cox, Ms. Lowe** and **Mr. Sanborn** about receiving feedback after permitted events to the SEAC to have on record for the next time applicants come before them for permitting, not only from abutters to the events but from Councilors as well. That in turn precipitated a discussion on whether events should be solely permitted by SEAC or if they still needed Council approval. It was determined that the recommendation to put the final vote in the hands of the P&D Committee, much the same as it is for Pole Petitions, but that if the P&D Committee determined it was necessary a permit could be put before the Council under Committee Report for a final vote.

The Committee would work with Ms. Lowe to also draft a Council Order to craft language for a Code of Ordinance amendment to establish the Special Events Advisory Committee and a second order to draft a definition for a Farmer's Market to be amended to the Zoning Ordinance.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:35 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.