

**Planning & Development Committee**  
Wednesday, July 22, 2015 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room – City Hall**  
- Minutes -

**Present:** Chair, Councilor Greg Verga; Vice Chair, Councilor LeBlanc; Councilor Fonvielle (Alternate)

**Absent:** Councilor Lundberg

**Also Present:** Councilor Cox; Linda T. Lowe; Jim Destino; Chip Payson; Tom Daniel, Gregg Cademartori; Mike Hale

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

1. *CC2015-007 Request informal review under GZO 1.11.3 with City Staff for informal review of Sections 5.13 Personal Wireless Service Facility and to retain expert legal counsel in order to amend & update the Zoning Ordinance and that the P&D Committee or its designated member work together with city Planning Director and General Counsel with outside expert legal counsel to recommend to the City Council amendments to Sec. 5.13 of the Zoning Ordinance so that it is compliance with current applicable federal laws & regulations*

**Chip Payson**, General Counsel, advised the Committee that the City is looking to redraft Section 5.13, Personal Wireless Service Facility of the Zoning Ordinance to reflect changes wrought by the federal Telecommunications Act passed in 1999 and subsequent updates. He said he has been tasked along with assistance from Gregg Cademartori, Planning Director to bring someone on board that has expertise in this area and how to move strategically forward. As a result they asked Jeffrey L. Roelofs, a highly experienced Environmental and Land Use attorney to review that section of the Zoning Ordinance and then to speak with the P&D Committee first before undertaking substantive work on a redraft and will then work with city staff to draft a product for the review by the P&D Committee.

**Jeffrey L. Roelofs**, Environmental and Land Use Attorney reviewed his resume noting that he has practiced law for 20 years and did a great deal of land use and environmental work including the citing of wireless service facilities (cell towers) having worked with telecommunications companies, Cingular and AT&T Wireless which ended when he left Anderson and Krieger in 2007 and opened his own practice in Newburyport. He is doing some work for Verizon Wireless only with respect to environmental due diligence, but no citing of cell towers.

He noted since he was involved in siting towers, there have been significant changes in the federal law. He noted that one of the things that drove the city's interest in getting this review undertaken was because there are federal changes in the law that require cities to expedite the review of existing facility modifications and colocations with a 60 day time period to review for certain eligible modifications. If not approved within that time period, he pointed out, it is determined the application is incomplete but no further decision is rendered, then the application is constructively approved. There are consequences for not having a process in place to deal with these sorts of requests, he said.

**Mr. Roelofs** indicated to the Committee he will be looking into adopting provisions tailored to those eligible requests. The Council needs to decide what department is going to process those requests in the first instance with a 60 day time period from start to finish. He suggested that it didn't make sense those matters be retained by the Council, and so they would explore whether such matters should go to the Building Department, or whatever other Board or Commission should render these kinds of decisions. He noted it has been acknowledged that Gloucester has a burdensome process related to the permitting of new cell towers, but those are permitting are of concern to the community, and he acknowledged it is important to get it right from the outset. The ordinance has certain requirements that don't give the Council flexibility to make adjustments. Filing requirements don't make sense in all situations, he said, and again, have no flexibility as the ordinance currently stands. There are also installations in the city that might be proposed that aren't so concerning to people, concealed installations, building mounted, on roof tops and in steeples. He then asked a series of questions whether the Council wanted all aspects whether a new colocation to a tower or a new tower permitting to have the same filing requirements and whether they want all the permitting to remain with the Council or whether colocations of already existing facilities could be shifted to the Planning Board in an effort to simplify the permitting process as a few examples of what could be done depending on the judgement of the Committee. He also mentioned setback and height issues which could be addressed as well.

**Mr. Roelofs** concluded his remarks by saying that there are ways to simplify the process and that he will work with the Committee to set the review process up in a productive working methodology. He suggested that one of the

Councilors on P&D would be helpful in working with them in order to help facilitate the review to highlight the particular areas of concern to the Committee.

**Councilor Verga** said foremost the Committee wants to ensure the city is in compliance with the federal Telecommunications Act. He added that they also need to simplify the permitting process as much as possible without taking away public input. He pointed out that many surrounding communities have much less onerous Personal Wireless Service Facility Zoning Ordinances. He indicated to Mr. Roelofs that there is Council precedent on ceding permitting to other boards and commissions, and whatever can be passed on appropriately to another board or commission to make permitting easier for the end user he said is agreeable to him. **Councilor Fonvielle** added that new cell tower permitting should remain with the Council, but agreed that an additional colocation on an existing facility could be moved off to another appropriate Board.

**Mr. Roelofs** said he would come back with conceptual proposals and will work through the draft to ensure the comfort level of the Council. **Mr. Payson** requested that a Councilor from the P&D Committee work with Mr. Roelofs, he and Mr. Cademartori as it would be extremely helpful to have the interests of the Council expressed to them in their discussions. **Councilor Verga** expressed his agreement. **Mr. Roelofs** said if there are certain areas they want to incentivize where proposals are lacking, it is possible to draft something for that. **Councilor Verga** remarked that areas without current sited cell towers are the most sensitive to this process. He said that he wished to insure this ordinance was drafted in the right way and would give the consultant and city staff adequate time to discuss the matter and write a first draft for presentation to the Committee.

**This matter is continued to September 16, 2015.**

- 2. CC2015-008 Request the P&D Committee, Community Development Director, Planning Director & the Building Inspector, in regard to City "Permitting process" work together to structure a proposal to retain a consultant on zoning in Massachusetts & review the GZO in order to recommend revisions to the Ordinance which will facilitate permitting & request that the Administration fund the proposal***

**Jim Destino**, CAO reported that no consultant has been hired by the city as funding is not available. He pointed out that there is a difference between permitting and the review of the total Zoning Ordinance. **Councilor Verga** recalled that they were to start with a review of the Zoning Ordinance and thought they would obtain outside help in order to assist in the streamlining of the city's permitting process. **Mr. Destino** highlighting the consultant retained to review just one section of the Zoning Ordinance said this made clear how difficult it is to change the Zoning Ordinance holistically. He pointed out there has been progress made in the area of customer service for permitting with facilitation at the City Hall Annex at Pond Road in assisting permit applicants. Much of this effort will be available to potential permit applicants on line with a new software system being readied for launch, as well as a pamphlet, he said. He reminded the Committee that amendment of the Zoning Ordinance is the purview of the Council.

**Councilor Fonvielle** recalled that the starting point of the Zoning Ordinance came from the Building Inspector and that he didn't necessarily agree that an overall review was appropriate but indicated that certain sections did need to be reviewed. **Mr. Destino** said if the Council wants such a review undertaken then they will need to guide the Administration as to how it could be paid for.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Verga, seconded by Councilor Fonvielle the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council permit the withdrawal of Council Order 2015-008 (Verga) related to a review of the city's Zoning Ordinance in order to assist in streamlining the city's permitting processes from Council consideration.**

- 3. Memorandum from General Counsel: grant of easement to National Grid for 10 Concord Street***

**Mr. Payson** said this easement is in response to a request from National Grid to provide power to the new West Parish Elementary School.

**Councilor Verga** asked were there plans for redoing the sidewalks from West Parish to Concord Street and Essex Avenue which are in poor condition. **Mr. Destino** said Mr. Hale had to leave the meeting earlier, but would make that inquiry to him in order to advise him of the Public Works Director's response.

**COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, 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 National Grid (d/b/a Massachusetts Electric Company) an easement to install and maintain electric poles referred to as the “Overhead System” and install and maintain buried wires and cables referred to as the “Underground Electric Distribution System” on city property at 10 Concord and as submitted by National Grid as shown on the plan entitled, “Electric Distribution Trench Sketch, Plan Number 16905744” and as described in the easement submitted with National Grid’s request for disposition of said easement for a nominal fee of \$1.00. National Grid shall record the Easement at the Southern Essex County Registry of Deeds and shall pay all costs to do so including providing copies to the City of Gloucester.**

**4. Memorandum from General Counsel: acceptance of an easement for 58-60 Commercial Street**

Responding to direct questions from the Committee, attorney for VJ&E Realty LLC (Mortillaro Lobster), 58-60 Commercial Street (Mortillaro property), **J. Michael Faherty** explained that many years ago when cold storage was added to the Birdseye building, an easement was granted to Mortillaro property across the street. Over time it was overburdened with pipes being connected in that area. In particular a pipe runs diagonally through the Mortillaro property through the sea wall. In conjunction with the Fort infrastructure project currently underway, it was agreed that instead of having the easement run straight through the property, the easement would instead run along the sideline of the Mortillaro property to the east owned by John B. Nicastro, Trustee. An agreement has also been reached in terms of the drainage basin and catchment area which is reduced. The drainage easement catchment area agreed upon is that so the water is coming through that drain pipe that which is in front of the Beauport Hotel (opposite the Mortillaro property) and also in front of the Mortillaro property. Before the Committee is a Drainage Easement for acceptance by the Council, and upon acceptance of the easement and the installation and the line becoming active, then the city would agree to release its easement running through the center of the property because that line will no longer be connected to anything. The parking lot of the Mortillaro property when the work is finished all the surface water run-off will go to the catch basin and end in the city system.

**Chip Payson**, General Counsel, said the easement is standard from the city’s perspective and recommended acceptance of the Drain Easement.

**COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Fonvielle, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept a Drain Easement for the property at 58-60 Commercial Street and as shown on the plan entitled, “City of Gloucester Massachusetts, “The Fort” Infrastructure Replacement, Proposed Drain Relocation at #60 Commercial Street,” (undated) by AECOM, granted to the City of Gloucester by VJ&E Realty LLC, Vincent Mortillaro, Manager, for a nominal consideration for a permanent easement fifteen (15) feet in width (and 138 feet in length +/-) for the installation, maintenance, repair and replacement of a twelve (12) inch PVC drain line and a temporary construction easement ten (10) feet in width (and 134 feet in length +/-) in addition to the width of the permanent easement for the installation of the twelve (12) inch PVC drain line.**

**COMMITTEE RECOMMENDATION: On a motion of Councilor LeBlanc, seconded by Councilor Fonvielle, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council extinguish the previous existing easement on the property of 58-60 Commercial Street with supplementary documents to be prepared by General Counsel.**

**5. CC2015-022 (Stewart) Amend GZO Sec. VI “Definitions,” Sec. 2.3.1 “Residential Uses,” and Sec. 2.4.4**

**Councilor Verga** pointed out that this matter is going go before the Planning Board, and until a recommendation is received from that Board, the Committee will refrain from further debate on the matter until an opinion has been obtained.

**This matter is continued to August 19, 2015.**

**6. CC2015-023 (Verga) City Council work together with Planning Board, Conservation Commission, ZBA, BOH and Administration to develop a new city permitting guide which will facilitate the land use permitting process for residents & local businesses**

**Councilor Verga** reviewed a 1990's introduction to city permitting. **Tom Daniel**, Community Development Director said process improvement is in the offing with the implementation of new permitting software. That will be used as the basis for updating the circa 1990's city permitting guide. The software has its own customer user guide, he pointed out. **Mr. Destino** said that there have been software glitches which the IT Director has been working on and will be online soon. The ViewPermit software is fully customized to the city's permitting process it was noted. **Mr. Daniel** said that ViewPermit can be the basis that they work from to develop the pamphlet. There is an application in the front end, **Mr. Destino** said, so you can see the steps, and also see where the permit application is in the process at any given time.

**Linda T. Lowe**, City Clerk, said based on her experience and that of her department that there are a great many people who want to talk one-on-one and read something in hand at the very beginning of the permit process. To assume the computer software will take into account everything a potential resident applicant may need is not necessarily correct, she said. She added that both approaches are needed.

**Councilor Fonvielle** said that one concern about customized software is that when there is a customized program it tends to lock in a bad process that already exists, and while you may increase efficiency with new software, it is still a bad process. He pointed out that in previous P&D meetings there was testimony from staff that they have to start with the whole picture. He said there has to be a basic process that has tangents going off of it with more detail for a hotel permitting than for someone's backyard deck. They need to understand that is and look at how they can on paper streamline the basic process, and then worry about making the software workable. They need to look at the overall picture.

**Mr. Cademartori** reviewed that the city's building permitting process is by state building code and state zoning law. They can't make it any faster or slower, with advertising, public hearings, etc., but there is what is allowed with a building permit and a Special Council Permit. Unless there is some direction as to which types of uses they feel like are being slowed down in the process that needs to be incentivized. He reviewed there were concerns brought to the Council and at the meeting he was at he asked for specifics of what had to be fixed.

**Councilor Fonvielle** recalled that they were told the city's issue is in being competitive with other communities because permitting Gloucester takes so much longer than other communities.

**Mr. Cademartori** said for office use and for industrial use in the business parks there is a building permit process, and if there is a demand they are set up to give approval within 30-60 days to build. From a housing perspective to build a new house and multi-family that is a specific area that can be looked at. He said they are out of the Harbor Plan effort continuing to look specifically at the capacity and permitting process and restrictions and limitations in the Designated Port Area in the area of the Marine/Industrial District that remains to facilitate and incentivize expansion and development in that area which will require three to six months to come up with a proposal for that particular area. As to housing, during the discussions on the Railroad Avenue area that are doing small renovations and modifications, and are all undersized, why do they continue to put them through a three permitting board process when the ultimate goal is safe and efficient housing.

He recalled that the P&D meeting he attended when this discussion was last taken up it was more about some experiences with the city's building permit processes. They all want to be efficient and do have timelines and efficiencies but it is by state law and is what they follow. He noted an effort put forward by Councilor Stewart to amend the Zoning Ordinance regarding multi-families, three-family structures specifically (Agenda Item #5) as a start of some of that input. He suggested a place to start is by looking at the use tables and that could be an exercise of looking at what is permitted by the City Council and what is permitted by City Council Special Permit. He suggested it may be they can work with the Councilors in a subcommittee setting.

**Councilor Verga** recounted his experience with permitting a deck for his home which he said was difficult. Special permits are more rare, he said, and added that it is more about the permitting for a building a home, making an addition, such as adding a deck. **Mr. Destino** said there have been two meetings at Pond Road with all managers talking about permitting with an eye to facilitate the permitting process and its streamlining. He announced there will be a concierge at the front of the Pond Road office who will be trained to assist a potential applicant and be able to explain the process in order to point the prospective applicant to the appropriate department which is one of the steps they are going to take. There will be a person actually answering the telephone for that desk rather than automated phone lines. He suggested that the Councilors look at the use schedule and whether something needs to go to a particular board or commission rather than the Council or stay as it is. He said that what is not talked about is the old infrastructure in the city and how it can impact someone simply building a deck when it is discovered there is an old sewer line running through their property where they want to site the deck. He said the challenge is to catch that kind of a situation in the initial assessment of the permit application. He pointed out that while these things need to be caught ahead of time, but there a lot of moving pieces many times to small building permits. If utilities have to be moved by National Grid it is a long process.

**Councilor Verga** agreed that the concierge is a good start. **Mr. Destino** said they will continue to work on this matter and asked the Council for more details of what they specifically want examined so that they can focus staff on it. **Councilor Verga** said it is residential small projects. He asked that when the ViewPoint software is on line that the pamphlet be updated for the use of the public as well.

**This matter is considered closed by the Committee.**

**A motion was made, seconded and voted unanimously to adjourn the meeting at 6:23 p.m.**

**Respectfully submitted,**

**Dana C. Jorgenson**  
**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Utility map/drawings of 58-60 Commercial Street as submitted by Attorney J. Michael Faherty**