

**Planning & Development Committee**  
November 10, 2015 – 5:30 p.m.  
**1<sup>st</sup> Fl. Council Committee Room – City Hall**  
-Minutes-

**Present:** Chair, Councilor Greg Verga; Councilor Steven LeBlanc; Councilor Paul McGeary (alternate)  
**Absent:** Councilor Lundberg  
**Also Present:** Councilor Bob Stewart (entered the meeting at 6:24 p.m.); Linda T. Lowe; Chip Payson; Gregg Cademartori; Bill Sanborn; Councilor-Elect Sean Nolan; Councilor-Elect Val Gilman (entered the meeting at 6:24 p.m.)

The meeting was called to order at 5:33 p.m.

1. *PP2015-006: Joint Application of National Grid & Verizon New England to install 80 ft. +/- of new electrical duct in the roadway from P3390 in a SW direction on Middle Street to MH95 on Western Avenue intersection – A Public Hearing*

This public hearing is opened at 5:34 p.m.

Those speaking in favor:

**Peter Glynn**, representing National Grid, explained that National Grid is seeking permission to install 80 +/- conduit on Middle Street from around the Joan of Arc Statue to the intersection at Western Avenue on the Boulevard. This conduit to be installed is to replace some very old conduit and will help to isolate any outages to keep other customers on.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

**Councilor LeBlanc** said that Western Avenue is fairly new and wished to see it kept in very good condition. **Councilor McGeary** reviewed submitted three photographs (placed on file) of the affected areas with Mr. Glynn who pointed out there will be a road opening.

There is no way to do this work without opening a trench, **Mr. Glynn** confirmed, in response to **Councilor McGeary's** question, adding that open trench work will not be begin until the spring, after March 15.

This public hearing is closed at 5:36 p.m.

**MOTION:** On a motion by Councilor LeBlanc, seconded by Councilor McGeary, the Planning & Development Committee voted 3 in favor, 0 opposed, to GRANT the petition of National Grid and Verizon New England, Inc. to install 80 feet +/- new duct beginning at a point approximately 110 feet north of the centerline of the intersection of Western Avenue and continuing approximately 80 feet in a southwest direction from P3390 (Middle Street) to MH95 (Western Avenue) on the Western Avenue intersection including the necessary sustaining and protecting fixtures as shown on Plan #14604460 entitled "Underground & NG Pole Petition" dated 09/15/2015 with the following conditions:

1. Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.
  2. Proposed excavation may only occur during accepted road opening and construction season, 15 March – 15 November. No winter construction shall be permitted.
  3. In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.
  4. All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day, to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2-inches, totaling 4-inches.
  5. All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.
2. *Application for License of Flammables and Combustible Liquids, Flammable Gases and Solids re: 21 Great Republic Drive*

**Sam Santuccio**, Facilities Manager, representing Gloucester Seafood Processing, Inc. (GSP), and 21 Great Republic LLC explained that there will be 13,400 lbs. of liquid ammonia which was confirmed by **Michael Jenkins**, Vice President associated with Gloucester Seafood Processing, Inc. It was noted that the previous seafood processing company at 21 Great Republic Drive also had a flammables license in their name for a similar product but not the amount that GSP will be holding.

**COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor LeBlanc, the Planning & Development Committee voted in favor, 0 opposed, to recommend that the City Council GRANT 21 Great Republic LLC, as owner, for Gloucester Seafood Processing, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 21 Great Republic Drive for the storage of 13,455 pounds of Combustible Liquids—under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder.**

This matter will be advertised for public hearing.

3. *CC2015-037 (LeBlanc) Request City Council amend GZO Sec. VI definition of “Junk Yard” and Amend GCO Chapter 19, Sec. 19-30(b), Sec. 19-32, Sec. 19-1, Sec. 19-1(3), Sec. 19-1(4)*

**Gregg Cademartori**, Planning Director, reported to the Committee, in lieu of a memorandum of recommendation from the Planning Board, that the Planning Board heard this matter at their November 5 meeting and advised there was very minimal discussion on the matter. He noted that Councilor LeBlanc was in attendance and spoke to the matter as well. He said the amendment doesn't extend the area that junk yards are allowed within the community, it is purely definitional. He advised the understanding is that this revised definition will make it more explicit for the Building Inspector, as the city's Zoning Officer, to be better able determine what uses fall under that definition. He said the Board voted to recommend the Zoning Ordinance amendment as presented.

**Councilor LeBlanc** noting that the current Zoning Ordinance definition is vague, he said he worked with Matt Coogan, Senior Planner to refine the final draft language pointing out that this is the language the Planning Board recommended. **Linda T. Lowe, City Clerk**, added that this matter also has to go to the O&A Committee to amend the Code of Ordinances relative to the fees associated with the permitting of junk yards.

**COMMITTEE RECOMMENDATION: On motion by Councilor LeBlanc, seconded by Councilor McGeary, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GZO Sec. VI definition of “Junk Yard” by DELETING the definition of “Junk Yard” and by ADDING: “Junk Yard” shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily, stored in the open air or under a roofed structure rather than within a fully enclosed building.”**

This matter will be advertised for public hearing.

4. *CC2015-039 (McGeary) Amend GZO Sec. 5.5 “Lowlands Requirements” (Also referred to PB) (Cont'd from 10/22/15)*
5. *CC2015-040 (Ciolino) Amend GZO to create an “Atlantic Road Overlay District” (Also referred to PB) (Cont'd from 10/22/15)*

**These matters are continued to December 9, 2015.**

6. *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 (Cont'd from 10/22/15)*

**Jeff Roelofs**, Special Counsel to the city on Personal Wireless Service Facilities, updated the Committee saying that a great deal of process has been made and handed out to the Committee the first draft of the revised Zoning Ordinance Section 5.13 Personal Wireless Service Facility (PWSF) which was seventeen pages, and noted five of those pages contain a new section for the purpose of compliance with the new federal laws. He also gave the Committee a one-page summary of the GZO Sec. 5.13 Personal Wireless Service Facility draft ordinance.

The "Outline of Draft Wireless Ordinance – Version 11/5/2015 was then reviewed by Mr. Roelofs as follows:

## **5.13 WIRELESS COMMUNICATIONS FACILITIES**

### **5.13.1 Purposes**

### **5.13.2 Applicability**

### **5.13.3 Definitions**

### **5.13.4 Required Review and Approvals**

#### **5.13.4.1 Facilities Allowed by Right**

#### **5.13.4.2 Facilities and Modifications Allowed by Planning Board Special Permit**

#### **5.13.4.3 Facilities or Modifications Allowed by City Council Special Permit (CCS)**

#### **5.13.4.4 Eligible Facilities Requests Allowed by Administrative Review**

### **5.13.5 Planning Board Special Permit Review**

#### **5.13.5.1 Application Requirements**

#### **5.13.5.2 Independent Peer Review**

#### **5.13.5.3 Design Guidelines**

#### **5.13.5.4 Mandatory Filings**

#### **5.13.5.5 Special Permit Conditions**

### **5.13.6 City Council Special Permit Review**

#### **5.13.6.1 Application Requirements**

#### **5.13.6.2 Independent Peer Review**

#### **5.13.6.3 Balloon or Crane Tests**

#### **5.13.6.4 City Council's Waiver Authority to Avoid Violations of Federal Law**

#### **5.13.6.5 Location and Design Guidelines**

#### **5.13.6.6 Mandatory Filings**

#### **5.13.6.7 Special Permit Conditions**

### **5.13.7 General Requirements Applicable to All Facilities**

### **5.13.8 Eligible Facilities Request – Administrative Review and Determination**

#### **5.13.8.1 Purpose**

#### **5.13.8.2 Definitions**

#### **5.13.8.3 Application Contents**

#### **5.13.8.4 Review Process – Inspector of Buildings**

#### **5.13.8.5 Timeframe for Review**

#### **5.13.8.6 Final Decision**

## **DISCUSSION:**

The overall structure of the draft ordinance is completely different from what the Zoning Ordinance Section 5.13 is now. Highlighted was Sec. 5.13.4 describes and categorizes the various types of wireless facilities, and depending on what category the applicant comes under, the applicant will know what facilities are allowed by right, require a Special Permit (SP) from the Planning Board (PB), or require a SP from the City Council (CC). Also highlighted was a provision related to eligible facilities requests. Those are the recently adopted federal rules related to modifications to existing facilities. These are found at the end of the ordinance section 5.13 because they are lengthy and a discrete type of review process.

*Sec. 5.13.5 Planning Board Special Permit Review:* For anything from that section that triggers a Planning Board Special Permit Review, subsection 5.13.6, the applicant will find the application requirements, an independent peer review subsection 5.13.6.2, some design guidelines in subsection 5.13.5.3. If the applicant determines their application falls under the Planning Board process the section lays out the application requirements. The crux of this ordinance is in the subsection 5.13.5.4 Mandatory Findings. The ordinance tries to simplify the process but to keep the PB and the CC with the authority they need to prevent undesirable facilities, and ones they do want are done properly. Those two bodies have to make the correct findings and be completely comfortable with

something before it is approved. **Mr. Roelofs** said this provides both the PB and CC with more flexibility to allow the city to have some flexibility to that applicants aren't going to the Zoning Board of Appeals (ZBA) before the go before the Special Permit Granting Authority (SPGA) to obtain variances that really should be reviewed by the SPGA. There is a list of potential special permit granting authority conditions the SPGA can impose which gives the SPGA a map of things to be thought about when writing a decision.

*Sec. 5.13.6 City Council Special Permit Review:* The breakdown within this section is similar to the PB process and does have cross references, but because the CC reviews primarily new towers or modifications to existing towers, there are additional requirements of what has to be submitted for the complete application, such as a provision of a balloon or crane test if the CC wants to have one done. There are different design standards and Mandatory Findings.

*Sec. 5.13.7 General Requirements* is a listing of matters applicable to all wireless communication facilities that encompass some things in the ordinance already.

*Sec. 5.13.8 Eligible Facilities Request – Administrative Review and Determination:* The last section relates to these modifications and the federal law provisions. It is an administrative review process that is proposed be handled by the Building Inspector but there is a detailed review needs to be made in order to determine if a modification qualifies for that provision -- if it doesn't, an applicant will have to file an application with the appropriate SPGA.

In comparison to the current ordinance, which **Mr. Roelofs** said he found to be difficult to understand -- what requirement applies to what kind of facility, as an example? He highlighted that the newly drafted version is now a simplification for all users and provides more flexibility to the SPGA's and to be in compliance with federal law which was a motivating factor in the Committee's seeking a revised ordinance.

**Mr. Roelofs** then briefly reviewed some key provisions in the current ordinance that aren't in the new draft ordinance dated 11/5/2015 and indicating that the very strict height restrictions in the current ordinance are not in this new draft and that in its stead is for each SPGA height is something reviewed then to make a finding that the final chosen height is the right height for a specific location, the least intrusive way to provide coverage. The height limit to 10 feet above the tree canopy is no longer found in the ordinance. Certain screening requirements are removed and will depend upon the settings of the facility. A setback provision that facilities be more than 500 feet from a property line is removed and while appropriate to consider, this gives the SPGA more flexibility to review applications on a case-by-case basis and make setbacks according to the site setting. Many filing requirements are dropped but that it is kept that the SPGA can ask for certain things. There is still a peer review opportunity and that it would be at the applicant's expense. The SPGA can request what other information they think is needed for the permitting body's review. There are some detailed sightline drawings required, species type and height of trees, and at a particular site that may be important and that on some sites it would be a waste of time. It could be just the height of the property, and again, is a case-by-case decision. Basic information about the facility, the structures near the property, compliance with emissions, Radio Frequency study, and a lot of that information is still required, which telecommunication companies do already.

**Councilor McGeary** said that by putting these discretionary requirements into the new ordinance, what does that do in terms of the city's compliance with the Telecommunications Act of 1996. Because there is a discretionary role by the SPGA does it give some applicant a stronger case for an appeal? **Mr. Roelofs** said, "No," it doesn't give them a stronger position, and said that he if is an opponent to a tower, the type approval to challenge is a variance. He said by putting more flexibility into the hands of the SPGA this ordinance would probably require fewer variance requests. It will be same issues up for discussion but be discussed and decided by the SPGA. As related to federal law, the authority is similar to what is in place now but it is being accomplished in a different way.

**Councilor Verga** said that the Committee wants to see the ordinance and permitting process streamlined, but also want to ensure public input whether it is the Council or the Planning Board, but also to say that up front these are the federal guidelines. **Councilor Verga** and **Mr. Roelofs** discussed some matters pertaining to the federal Telecommunications Act briefly.

**Councilor McGeary** and **Mr. Roelofs** discussed permitting towers at higher heights in order for more carriers to be on a tower in order to prevent a second tower being built in the same neighborhood simply to accommodate several more carriers who couldn't fit on a shorter permitted tower. The Committee discussed if a tower is restricted in height but possibly be built so that a tower can be extended by a certain number of feet to prevent the building of a second tower near that new facility to accommodate up to three carriers, for instance, that couldn't be accommodated on the new tower. **Councilor LeBlanc** that language be included as a provision in the new ordinance for the SPGA.

**Mr. Cademartori** added that while he didn't know if there was a saturation of towers in the Overlay District, the General Industrial district on Kondelin Road and in the business park have a number of towers and those areas

are pretty much saturated in the areas that had gaps. This draft ordinance acknowledges the city will see applications in those areas, and they won't be towers that are 10 feet above the tree line -- it is recognition of what telecommunication companies going after in order to meet the telecommunication gaps. He pointed out that the old ordinance looks very specific that you can only do things in certain areas and this new draft takes the restrictions from that and says they may see just about anywhere in the community where the telecoms see a gap in coverage.

He highlighted that it is a new permitting process which differentiates between different types of technologies, and categorizes them -- such as those concealed in a building and meets all the health and safety requirements and is a straightforward process which can act as an incentive. Point-to-point broadband and building mounts, using the example of a permitted situation mounted to a Gorton's of Gloucester building which wasn't much but had to go through a four month process. This will now place such applications into an as-of-right category. This new draft ordinance acknowledges changing technologies and ones that are benign from the aesthetic standpoint. New, large cell tower permitting remains with the Council, and how some of standards of mandatory findings are qualitative but have some power to them.

**Councilor Verga** said this draft ordinance goes some way to addressing the many different types of situations and looks very promising. **Mr. Cademartori** and **Mr. Roelofs** said there is a list to be made of some of the design guidelines in other communities to be provided to the Committee, and there will be a lot of tweaking done to the draft yet. They acknowledged the draft is in its early stages, but it was a comprehensive draft rendering.

This matter is continued to December 9, 2015.

**7. Amend GZO by adding a new definition to Section VI "Definitions" for "Farmers Markets" as referred back to the P&D Committee by the City Council on June 23, 2015 (Cont'd from 10/07/15)**

**Councilor Verga** advised that the Committee had postponed this matter for some time while awaiting the Stage Fort Park Advisory Committee's recommendation (minutes on file) which the P&D Committee had requested. Present and representing the Cape Ann Farmer's Market were Mark McDonough, Nikki Bogin, and Courtney Karcher of the Cape Ann Farmer's Market.

The Committee, **Ms. Lowe**, **Mr. Cademartori** and the representatives of the Cape Ann Farmer's Market discussed issues they had with the definition voted on by the Committee on May 6 (minutes on file) and that they also had issues with the recommendations of the Stage Fort Park Advisory Committee. Although the Committee had recommended a definition to the Council, it had yet to be taken up at a public hearing with the Council because the Planning Board had rejected the original notion of placing the definition in the Zoning Ordinance. **Ms. Lowe** recounted for the Committee briefly the background as to how this matter had come to the P&D Committee because of input from the Special Events Advisory Committee, that there were other permitting processes that are not being followed, and that in turn Councilor Verga had filed a Council Order on the matter.

It was acknowledged that the Department of Public Works has purview over the use of the city's parks and that issues brought forward by the Stage Fort Park Advisory Committee would be something that both groups should perhaps work together to resolve those issues in that venue and this was a separate but related issue from an ordinance amendment.

After discussion of where the ordinance belonged, the Committee determined that since the Planning Board had not recommended an amendment to the Zoning Ordinance, that it would seek an opinion from General Counsel as to where such an ordinance amendment should be placed in the Code of Ordinances. It was suggested that it could be possible to place it in Chapter 11. The issue was whether a number of activities of the Farmer's Market should be regulated. The representatives of the Farmer's Market also expressed concern that the use of the term "non-profit" within the definition is very limiting, that although they are a non-profit. **Ms. Lowe** pointed out there is the second Farmer's Market which takes place on Lexington Avenue.

**Councilor Verga** suggested that it may be appropriate that the Stage Fort Park Advisory Committee ordinance should expand its number of seats to include a representative of the Cape Ann Farmer's Market and suggested that could be done through a Council Order which he would consider after reviewing the Advisory Committee's make up ensure that the adding of another member to it keeps the membership at an odd number. He also pointed out that with the 400<sup>th</sup> anniversary of the city approaching, Stage Fort Park will be the centerpiece of the city's celebrations as it was at its 350<sup>th</sup> anniversary celebration. To that end he said it was in everyone's best interest that they work together to see that accomplished.

This matter is continued to January 6, 2015.

**8. *Acceptance of Private Ways as Public Roadways – Returned from City Council Public Hearing of October 27 at the request of the Administration***

This matter is continued to December 9, 2015 at the request of the DPW Director.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 6:55 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson  
Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Three 11x17 color photographs of the area of work related to PP2015-006 submitted by Peter Glynn, National Grid representative**
- **One page “birds-eye view” of the GZO Sec. 5.13 Personal Wireless Service Facility draft ordinance and the full 17-page version submitted by Jeff Roelofs, consultant to the city of Gloucester for this particular matter**