

Town of Cape Elizabeth Ordinance Committee Minutes

June 9, 2021

7:00 p.m.

Remote meeting

As a result of the COVID-19 virus, the Ordinance Committee conducted the meeting via remote access as provided by Maine law. The Ordinance Committee used Zoom meeting to conduct the meeting and allowed the public to remotely attend and participate. Zoom allowed all Ordinance Committee members and members of the public to hear all discussion and hear votes, which were taken by roll call, as required by law. A meeting link was provided to access the meeting by video/audio.

Members Present: Penny Jordan, Chair
Jeremy Gabrielson
Caitlin Jordan

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of the May 19, 2021 meeting were approved 2-0.

Digital/paper meeting materials

The committee discussed its preference for receiving meeting materials in paper form, digital form or both. Chair Jordan likes paper but only needs certain materials. Councilor Gabrielson and Councilor Caitlin Jordan read all materials online. The committee ultimately agreed that the agenda and ordinance drafts be provided in paper and all else, such as minutes and research materials, in digital only. All meeting materials will continue to be posted to the town website.

Public Comment

Jim Fisher, 9 High Bluff Rd - He is working with Otelco to provide engineering services to upgrade fiber optic and broadband expansion in Cape Elizabeth. Otelco wants to install cabinets in the center of town and there is no language in the ordinance to allow the Planning Board to conduct a review. Otelco will place equipment on a 20' x 20' easement on the site located at 287 Ocean House Rd.

David Allen, Shapleigh - He introduced himself as Vice President for Network and Operations for Otelco, and is available to give an overview and answer questions.

Karl Clapp, Waterboro - He is the Senior Network Architect for Otelco and also available to answer questions.

Wireless Amendments

Ms. O'Meara summarized the current Zoning Ordinance status. She asked if the committee wants to focus on the amendments that facilitate the Otelco proposal or also include amendments in anticipation of 5G. The current ordinance requires site plan review for 5G. Do you want to establish some performance standards to mitigate impacts, and then permit equipment with a building permit, which is a lower regulatory bar?

Councilor Gabrielson confirmed that installation would include cabinets, affixing hardware to a pole, negotiating with the pole owner for permission and property rights.

Chair Jordan stated that Cape Elizabeth needs an overall plan for wireless and we should highlight that for the Town Council. We should eliminate and/or balance regulatory barriers with the desires of constituents for better service. She wants to get ahead of the infrastructure funding curve. Cape suffers from poor wireless infrastructure and should position itself for potential funding sources. It makes sense to make "essential services" a permitted use in all zones.

Councilor Caitlin Jordan observed that it makes sense to put the Otelco base in the Town Center geographically.

Chair Jordan asked about the technology components to be installed.

Mr. Fisher said the site would be installed in the woods at 287 Ocean House Rd. It can be buffered with plantings. There will be two 8' x8' concrete pads installed immediately next to the telephone poles to optimize the shortest distance. There will also be a back-up generator and underground propane tank. The PUC requires that essential communications must have back-up power. The site would be visited 1-2 times a year for maintenance. Otelco will use existing dark fiber (in place but not live) and augment with new fiber installation.

Chair Jordan asked if the land will be leased and Mr. Fisher said it would be purchasing an easement. She asked if the easement is in perpetuity and Mr. Fisher said that as technology advances, it might not be there forever.

Chair Jordan asked if companies like Verizon purchase from you? Mr. Fisher said that we are the supplier and Verizon owns the poles. She asked about the service bundle offered to households? Mr. Fisher said the service is delivered via fiber optic cables. Otelco used to be Pine Tree Communications.

Chair Jordan asked about competitors. Mr. Fisher said Verizon. This is a significant investment to add new lines so service areas are limited from the Sanford/Kennebunk area to the Bangor/Brewer area.

Chair Jordan asked how many base stations are needed per town? Mr. Fisher said this is the only one in Cape Elizabeth.

Councilor Gabrielson supports reducing barriers and likes the basic standards with building permit proposal. He questions if lighting, like a red light he has seen on telephone poles, would be included. Mr. Fisher said there are no lights on the Otelco facility.

Chair Jordan asked if a fence is needed to protect the site from damage? Mr. Fisher said they like to get outside the right-of-way to protect from damage. The cabinets are sealed, and the site includes the generator and propane tank to fuel it. All connections are underground. Chair Jordan asked if other communities are concerned about the propane tank and he said no.

Councilor Gabrielson wants to confirm that these sites will not be installed in a manner that impedes emergency vehicle access to the property.

The committee asked about saturation and limiting how many sites would be installed by neighborhood. Staff noted that providers tend to want to locate their equipment in the same locations because they are looking at area coverage connections.

The committee consensus is to pursue the building permit with performance standards approach, and add essential services as a permitted use in the Town Center and other zoning districts. Staff noted that the generator will only be used during a power outage and for maintenance, so should a decibel level be included in the performance standard. The committee agree to not include a decibel level performance standard.

Staff will research samples of performance standards in other communities. Mr. Fisher said there is no specific language in Gorham, Westbrook, Windham, Cumberland, Brunswick, Bath.

The committee discussed 5G infrastructure preparation. The committee was generally supportive of performance standards to allow addition of antennas and support equipment to telephone poles with a building permit. Mr. Fisher said that CEP goes on the top of poles so the antenna will be lower.

Chair Jordan asked Otelco representatives about examples of 5G. It has been installed in Lewiston by the ice arena. She asked about DAS (distributed antenna systems). Mr. Clapp advised that this is typically installed on building roof tops and angled at 35 degrees. The committee agreed that this does not sound likely for Cape Elizabeth due to the lack of tall buildings.

Councilor Gabrielson would like to start by making sure our ordinance allows the telecommunications that residents want. If there are no improvements, then the Town Council can look at other policies to encourage better service.

Public Comment

Mr. Allen thanked the committee and feels you are on the right track. Otelco needs to start by August or there will be a significant delay. They have a lot of work to do.

Next meeting

The next meeting will be held on Wednesday, June 23rd beginning at 7:00 p.m. The meeting adjourned at 8:18 p.m.