

**Town of Cape Elizabeth
Ordinance Committee Minutes**

January 12, 2022

7:00 p.m.

Remote

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Members Present: Penny Jordan, Chair
Caitlin Jordan
Gretchen Noonan

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order at 7:00 p.m.

Minutes

The minutes of the December 8, 2021 meeting were approved 3-0.

Wireless Infrastructure Market Augmentation (Wima)

Chair Jordan welcomed consultant Stephen Webster with Wireless Expertise LLC, who will be doing the study.

Mr. Webster referenced his status report determining existing coverage and apologized for the jargon included in the report.

Chair Jordan stated the report was well laid out and clear. She asked what the town's LTE target coverage should be, -115 dBm? If we meet the indoor coverage, then we are solid on outdoor coverage.

Mr. Webster noted that the vast amount of cell phone use is indoors, however most folks switch to using their wifi when using the phone indoors. If the town chooses the indoor target, you will need a higher level of coverage. He will work with the target chosen by the town.

Chair Jordan noted that this assumes folks have a wire into the house. Mr. Webster concurred, and assuming home internet seemed reasonable for Cape Elizabeth.

Chair Jordan used the example of relying on a phone hotspot. She agreed assuming home internet was reasonable for the study and Mr. Webster will design to -105dBm.

Chair Jordan asked where tech trends are heading? Mr. Webster said the technology is trending toward higher speeds, and those bands have weaker signals, and consequently less coverage. A lot of pole attachments will be occurring to support 4G/5G. He hopes to use that in the study to minimize aesthetic impacts. Chair Jordan wants the goal to be what is needed to meet tomorrow's needs and fill today's holes. Mr. Webster said the direction should be higher cell levels, more antenna densification and antennas attached to poles.

Mr. Webster explained the band widths used when cell service started in the 1990's. As more capacity was needed, licenses in the midband were issued (example Sprint, T-Mobile). It is easier to provide service in the lower bands because the signal lasts a greater distance, but there isn't a lot available in the lower bands. The trend is more and more capacity to be added in the higher bands, and some technological advances with antennas are available in the midband.

Mr. Webster reviewed the existing towers in Cape, as well as Highland Ave in South Portland, and Scarborough, which is too far away to provide any overlap coverage to Cape. He also assumed that a monopole could be installed at the Fire Station in Fort Williams, at a maximum height of 80'. He then reviewed a coverage level map, with the largest poor service area east of Route 77 before the town center.

His next step will be to prepare a plan for improving coverage by proposing installation of antennas on selected utility poles. The town can also look at a significant investment with fiber installation, which could be leased back to the carriers. There are broadband infrastructure funds in the new infrastructure bill and he will check if Cape has a census tract listed as unserved.

Chair Jordan asked if antennas can be installed on the power line poles. Mr. Webster said the antennas need to be 22' off the ground and cannot be installed on high voltage poles, but may be installed on secondary poles. The committee noted the power line that extends north of Wells Rd to the northwest corner of Cape and Mr. Webster will include that in his study.

The committee estimated holding their next meeting 3-4 weeks from now, and Mr. Webster said he could return with the next portion of the study.

Ms. O'Meara asked the committee if installation of another traditional tower in the largest underserved area should be considered? It may not be that effective given tree coverage. The committee agreed that another tower should be on the table for consideration and Mr. Webster agreed to include it in his study evaluation.

Mr. Webster asked if he should include a plan for solving coverage on the Sprague area. Chair Jordan would like to include it so that Sprague will know how to solve the problem.

Councilor Noonan said that frustration with poor coverage is high enough with residents that another tower should be on the table. As a first responder, she wants there to be good outdoor coverage for emergencies, such as calls for help along the water or on trails.

Mr. Webster asked about coverage provided to the Fire Department from Firstnet and if it worked well. Councilor Noonan mentioned the wetteam and her focus on ability to receive calls for help.

Mr. Webster will include a new tower in his analysis, but will not go higher than 80' - 100'.

Food Truck regulations

Chair Jordan opened the meeting to public comment. There were 5 people attending, but no one wanted to speak.

Chair Jordan noted that the committee had input that the committee did not state the objective of preparing food truck amendments. What are we trying to achieve? She suggested that we want to support private property owners who want to have a food truck as part of a private party. Food trucks can be enjoyable at community events.

Councilor Noonan said the food truck option may be advantageous for businesses and promote our commercial areas.

Chair Jordan referenced an email from former councilor Chris Straw, where he suggested that rather than limit days, there be an overall limit on the number of trucks combined with number of days.

Councilor Caitlin Jordan suggested keeping the 5 day limit and limiting the number of trucks. This was discussed already and there is little likelihood there would be large numbers of trucks on a property.

Councilor Noonan noted that even if you have room for 10 trucks on your property, the town still has the Miscellaneous Offenses Ordinance that limits noise and other disruptions to a neighborhood.

The committee agreed to continue with the 5 day limit and no limit on the number of trucks, and agreed to leave the hours to align with the Miscellaneous Offenses Ordinance.

The committee reviewed the Food truck definition and Ms. O'Meara noted that she needs to add that the truck must move each day, as previously noted by the committee.

The committee discussed adding specifics for the Town Council to use when issuing the special use permit. The draft generally bases Town Council approval on "health, safety, and welfare,"

which preserves flexibility for the Town Council. More detail may constrain town council flexibility. The committee wants to retain town council flexibility.

Chair Jordan asked why the school superintendent is listed as receiving all permit applications. Should it be another school department staff person? The superintendent already has authority for food trucks on the school campus.

Ms. O'Meara noted that an earlier committee discussion included the school superintendent because there could be food trucks requested for a site like Gull Crest, where the school programs the athletic fields. Also, she learned from past experience that trying to identify a school contact other than the superintendent did not go well. It should be up to the superintendent to decide how the school will handle the referral review. The committee agreed to leave the amendment as drafted.

Ms. O'Meara suggested some editing to reflect that a permit on public land not owned by the town should be required to obtain landowner permission, such as the state or federal government. The committee agreed.

The committee discussed scenarios and how the proposed ordinance would apply.

- For example, could there be a "food truck alley" on Shore Rd? Any food truck on public roads would need a permit from the town council.

- What about food trucks on private property in the town center? A property owner could host any number of food trucks on private property for a maximum of 5 days as an accessory use to the business. Beyond 5 days, a permit from the town council would be needed. Some commercial properties already have lease/deed restrictions on food service.

- Could a property owner "loan" out their driveway to operate a commercial food truck? Beyond 5 days, it would require a permit from the town council.

- The committee discussed protecting peace and tranquility in residential neighborhoods. Could the regulations prohibit special use permits in residential zones? A prohibition in residential zones would preclude issuing special use permits for events on farms, etc. Ms. O'Meara reviewed that earlier committee discussions considered treating food trucks differently in residential vs. commercial zones. You could establish a minimum lot size in residential zones to apply for the town council permit. The committee would like to add this. Staff will provide a map showing distribution of lot sizes for the next meeting.

Councilor Noonan agreed with written comments submitted by Mike Concannon, owner of CSalt. Chair Jordan agreed that she does not want to shut down opportunities, but also does not want to take away business from existing town businesses. The challenge is examples have both bad and good outcomes.

Chair Jordan asked where in the town center there is the highest likelihood for a town council permit to have an extended impact? The committee discussed scenarios. Ms. O'Meara will ask the Town Attorney for advice on the grounds to issue a permit, and town council ability to deny a second permit that mirror an earlier one issued. Cumulative impacts should be included.

The committee agreed to review the draft again. Ms. O'Meara will also prepare a draft cover memo.

Next meeting

No member of the public wanted to speak. The next meeting will be held on Wednesday, January 26th at 7:00. The committee will start review of the Technical Amendments at that meeting.

The meeting adjourned at 8:20 p.m.