

## **MINUTES**

### **ORDINANCE COMMITTEE MEETING**

**Meeting of February 16, 2021 – 8:00 a.m.**

#### **Zoom Webinar**

Present: Committee Chair, Councilor Shepard; Councilors Hartwell and Wilder Cross.

Also present: Town Manager, Ephrem Paraschak; Public Works Director/Town Engineer, Robert Burns; Fire Chief, Ken Fickett; Director of Community Development, Thomas Poirier; one member of the public, Aaron Hill; Executive Assistant, Jessica Hughes.

1. **Consideration of the minutes of the January 19, 2021 meeting.**

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to accept the minutes of the January 19, 2021 meeting. Unanimous vote.

2. **Current Business**

- A. Review expansion of the village areas as called for by the Comprehensive Plan and provide recommendations to the Town Council (referred by the Town Council on November 10, 2020).

Director of Community Development Tom Poirier referred to attachment A/his memo referencing the expansion of residential zones within the village, which outlines the density, uses and standards for the area as defined in the Comprehensive Plan. The new village expansion area is a zone that fits between the current urban residential and urban residential zones. Staff are recommending that the new proposed zone be called the, “urban expansion zone,” since it is more closely tied to the urban residential district. Staff are proposing that 800 parcels to be part of this new district, and recommend a tiered rollout starting in the Gorham Little Falls area, then move forward with other areas to more effectively manage the public relations process.

A discussion ensued in which Councilor Hartwell asked how long ago could the work to expand the village areas have been started, to which Mr. Poirier said when the Comprehensive Plan was adopted four and half years ago if it was a council priority. Councilor Hartwell asked how many more outstanding items still need to be implemented from the Comprehensive Plan when it adopted in 2016, to which Mr. Poirier said he would need to review that. Mr. Poirier reported that the Office Residential District needs to be expanded, and a number of new districts need to be added to the Gorham Little Falls area, Mosher Corner - which staff are currently working on, South Gorham. Councilor Hartwell noted that the state allows two years to change zoning in alignment with a Comprehensive Plan. The committee and staff further discussed the roll-out of zoning changes, in which Councilor Hartwell said that members of the community should have shared public comment during public hearings for the amendment of the Comprehensive Plan,

and that there should be no hindrance to proceeding with the implementation of zoning changes already voted on and approved.

Councilor Wilder Cross asked if the proposed areas for expansion were mostly for residential or mixed-use, to which Mr. Poirier said mostly residential-use, with very limited commercial-uses. Home-occupation businesses would be allowed if they fell under the allowed uses.

Town Manager Ephrem Paraschak recommended that the Town proceed at a steady pace with implementing changes in the Comprehensive Plan, and also cautioned against moving too fast.

Mr. Poirier recommended focusing the expansion of the northwest corner of Little Falls first, since the process of rezoning the Suburban Residential zone has already begun, and a lot of work has been focused in South Gorham through the Comprehensive Plan amendment process. Depending on how that process goes, the committee can assess and move forward with implementing other items in the Comprehensive Plan. By giving specific directions to the Planning Board to start the rezone process, it will help them moving forward in making a recommendation back to the Council.

Councilor Hartwell commented that once the Town proceeds with implementing the rezoning change in the surrounding village areas, it effectively puts the public on notice of the remaining changes that will be made in alignment with the Comprehensive Plan. Additionally, he recommended including cross references in the Land Use & Development Code to the Comprehensive Plan, and presenting the information in a way to the public that makes sense, such as an infographic or video. Mr. Paraschak agreed and said staff can make that happen.

Mr. Paraschak asked which of the districts would have the most viability to support sustained growth and development if there were to be an economic downturn, to which Mr. Poirier said that the blue area identified as section one, yellow area/section two and green area/section three as noted the map on the fifth page of attachment A have the most potential for growth; a large subdivision is already planned for development that will take up most of the available parcels in the brown area/section four on the map, noted Mr. Poirier.

Councilor Hartwell commented that he felt section four in South Gorham had the most potential for growth in an economic downturn since it is already planned, and is located between the village and eventual turnpike spur.

Mr. Poirier said that the next steps after the Ordinance Committee decides to proceed with the implementation of rezoning an area is that once the Council votes and refers the item to the Planning Board, the public review process would begin. If 400 parcels are being rezoned, a

mailing to 400 people would be sent out. One or two Planning Board meetings may need to be held if a significant number of public comments and questions are received.

Councilor Hartwell asked how staff has handled similar mailing notices in the past, to which Mr. Poirier said that staff normally prepares a post-card mailer in-house.

Councilor Hartwell recommended proceeding with the yellow area/section two (east side of South Street) and brown area/section four (west side of South Street) on the map on page five of attachment A.

Councilor Wilder Cross agreed with Councilor Hartwell's recommendations.

Mr. Paraschak asked if the densities are reduced in the Urban Expansion zone, how would that affect the Transfer Overlay District, to which Mr. Poirier said that it would mean that an applicant will pay less in permit fees to the Town for density. Mr. Paraschak asked if a large project was already slated for the Urban Expansion zone and densities are reduced in the Transfer Overlay District, the developer could accomplish the same work and pay the Town less money in permit fees, to which Mr. Poirier said yes. Mr. Paraschak then recommended to work on implementing the rezoning change to the brown area/section four on the map last as the development project that is slated for the area will contribute more to the Town if done last, versus rezoning that area first and densities being reduced in the Transfer Overlay District.

Councilor Wilder Cross commented that there are fewer people that would need to be notified of the rezoning change in the blue area/section one on the map. If that area is targeted first, the Town would get a better sense of how the implementation will go for the other areas and not be as impacted by the density reduction in the Transfer Overlay District.

Mr. Paraschak said to Councilor Hartwell's point that the Transfer Overlay District is a valuable tool for the Town, and that he wants to be sure that the outcome of rezoning changes does not conflict with other areas, and perhaps in the future the Transfer Overlay District could be modified so that it is not affected by density changes.

Mr. Poirier commented that staff and the Planning Board have done a lot of work to Development Transfer Overlay provisions on a number of fronts, and that the blue area/section one on the map is partially located in the Development Transfer Overlay District, so staff would need to look at how much would be affected.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to recommend that the blue area/section one on the map on the fifth page of attachment A be referred back to the Town Council for their review at their next meeting. Unanimous vote.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to table the recommendation of implementation for the remaining yellow, green and brown sections identified on the map/fifth page of attachment A for a period of no more than three years. Unanimous vote.

- B. Review requirements and restrictions in place for the installation of commercial and residential solar systems and bring back recommendations to the Council for revisions in ordinances to help encourage installation of such systems (referred by the Town Council on December 1, 2020).

Mr. Poirier said that he asked Code staff to research what requirements other municipalities in the state, solar system providers and the Fire department are following with regard to residential solar systems. Staff learned that there is no consensus with requirements and permit fees between municipalities. A solar system installer shared that most municipalities and companies will ask for a letter covering the installation. Currently, Gorham requires an electrical permit for any wiring and a building permit is needed for the construction of the solar panels. Code staff then issue a fee schedule for the cost of installation and the permit fee is \$12 per thousand, which includes labor. Mr. Poirier further shared that Code staff do not typically see any concern with the installation of solar panels on newly constructed houses as they have engineered roof trusses; Code staff may have concerns with the installation of solar panels on a conventional-built roof truss and may require an engineered letter.

A discussion ensued between Councilor Shepard and Mr. Paraschak regarding fire safety concerns and requirements. Fire Chief Ken Fickett said that per National Fire Protection Association (NFPA) fire safety code, the Fire department needs space on top of a roof to respond to a chimney fire, and space to cut into the roof for ventilation of a structure fire. In some residential solar panel installations, the roofs have been completely covered with solar panels and the Fire department would need to put a ladder directly over solar panels to address fires. Councilor Shepard asked if roofs with engineered trusses burn faster, to which Chief Fickett said that they burn up completely in approximately eight minutes. Chief Fickett referenced a call to respond to a fire at a home on Mighty Street; at the time of the call, only the bushes outside were on fire; however, when Gorham Fire arrived, the roof with an engineered truss had caved in. Mr. Paraschak asked if an engineered roof truss is recommended for solar panels to be installed, to which Chief Fickett said yes – per building code.

Councilor Hartwell said that he would like to see more input from interested parties and stakeholders like Revision Energy before this item is referred back to the Town Council. The discussion so far has been helpful, but it does not address all aspects of the requirements that the Town should consider. Mr. Poirier agreed and said that staff will do that.

Councilor Shepard said that the committee should discuss how they want to handle the fees. Mr. Paraschak suggested that once the committee reaches a consensus of what they would like to see with regard to fees, the proposed fees should be referred to the Finance Committee for review and input. Councilor Hartwell said that he would like to send the request to the Finance Committee with the direction of the goal being to cover staff expense and ideally go toward a flat rate fee rather than an evaluation-based fee. Councilor Wilder Cross was in support as long as the fees do not discourage folks from going green.

Mr. Poirier said that staff will reach out to Revision Energy and other solar companies to gain more input on how they are addressing building code and other requirements, so the committee can determine what would be the best practice for Gorham.

Mr. Paraschak cautioned that there are different interests at play – solar companies are in the business to be lucrative, and the Town wants residents to be able to get the most efficient and effective systems, so they can see a return on their investment and reduce emissions.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to table any changes on ordinances until the next meeting, and forward a recommendation to the

Finance Committee to look at a flat fee for solar installations that covers staff time, and perform an analysis and bring back a recommendation to the Town Council. Unanimous vote.

The committee further discussed that they would prefer that staff meet with and review requirements from various solar providers.

- C. Review and recommend amending the Land Use & Development Code with regards to permitting of certain private driveways (referred by the Town Council on January 5, 2021).

Mr. Paraschak reviewed that the item came about when a contractor had reached out to the Town to ask if permitting requirements were needed in certain circumstances. In this provision, Public Works has to inspect private driveways and the Town charges \$25. The contractor's question was should the requirement apply to private roads for condominium projects that will not be accepted by the Town as it is not designed to a Town-standard, and do not have a connection to or will impact a municipal road.

Mr. Poirier referred to attachment C referencing the language of the existing driveway permit application, and explained that anything that needs a driveway (i.e. condominium, subdivision, a home on a private way or a home on a Town road) requires a driveway permit. The \$25 fee covers staff time to physically inspect and ensure that the culvert location is appropriate and drainage is sufficient, regardless of whether the home is on a private way or not. This process has been in place for years. He further said that even if a subdivision road is built to a town road standard, when a driveway permit is issued, it is issued with the road being defined as a private way since the Town does not have ownership of the road.

Mr. Paraschak added that the intent of the fee is to ensure that by staff inspecting the driveway, the driveway is functional and the fee covers staff time.

Councilor Hartwell referenced that he believed the driveway permit fee question was raised when a couple of condominiums were being built with a shared driveway and the Town charged the driveway permit fee twice for each condominium unit. He noted that condominium owners own what is inside condominiums under condominiums laws, and the condominium association owns the exterior or common area. With there being one ownership of a driveway, he does not feel it is appropriate to charge multiple fees for a shared driveway.

Mr. Paraschak said that he wants to be sure that the Town is covering its costs at a minimum. He asked Mr. Poirier and Mr. Burns how often the Town needs to evaluate shared private driveways within condominiums, to which Mr. Burns said that the Deputy Public Works Director performs an inspection for each driveway permit. On a road that may potentially become public, or a private road, the Deputy Director ensures that the driveway culvert is properly sized and located, and that there is proper site distance. There is not much need for the Deputy Director to inspect driveways in a condominium association other than making sure that the approach where the private driveway leading from the condominium association meets a public road is properly constructed. The Deputy Director does not inspect driveways within the condominium association; they are not typically open section construction, meaning they have buried culverts and not ditches, and they have curb, and is already engineered and designed. Mr. Burns further said that installing a culvert in a ditch is a difficult process that needs to be done right, and that one of every three culverts installed under a driveway permit is not done correctly. It is an important and valid process that Public Works performs when it needs to be done. He agrees that

one driveway permit fee to cover the Deputy Director's time for inspection of the approach of the road into the condominium association that ties into a Town road, and also agrees that it is excessive to charge \$25 for every driveway within a condominium association.

Mr. Poirier said that by adding the provision "on a private way or public road" after the language under the driveway permit section H on attachment C that says "prior to the construction of or operation of any driveway," the change will clarify and solve the issue in question.

Councilor Hartwell wants to see that the language clarifies that the permit is required for each condominium association and not tied to individual condominiums since the owners do not have individual ownership of each driveway.

A brief discussion ensued between Councilor Shepard, Mr. Paraschak and Mr. Poirier regarding a scenario with a private way that connects with a Town road. Mr. Poirier said that the Town will still perform a basic inspection and would charge a fee for each driveway off of it. Mr. Burns recommended that Public Works and the Town stay involved with inspecting culverts on private roads.

Councilor Shepard and Mr. Burns asked to clarify if the new added language will translate to only one driveway permit fee being assessed for a condominium association, to which Mr. Poirier said yes. Councilor Wilder Cross agreed with the recommended language change and said that a driveway permit should not be given until it has been inspected.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to send the proposed amended language to the Town Council for review and consideration. Unanimous vote.

### 3. **Items Referred by Town Council to Committee for Future Meetings/Action**

- A. Review and recommend adding agricultural event centers and agricultural tourism uses to the Land Use & Development Code (referred by the Town Council on January 5, 2021).
- B. Review and recommend adding additional allowed uses to home occupations in the Land Use & Development Code (referred by the Town Council on January 5, 2021).

Mr. Paraschak said that the intent of the committee's review of this item is to expand the home occupation uses to many more uses and not one specific use, which will be beneficial to the Town. He further recommends that the committee have an additional discussion after hearing from the member of the public present, Mr. Aaron Hill, so the committee can propose any additional uses and staff can draft the proposed changes.

Councilor Hartwell said that he supports what Mr. Hill is proposing and wants to see more broadly written uses and that committee review the potential impact to the neighborhood.

Mr. Hill shared his background, and explained what his zone and the home occupation ordinance allows and doesn't allow, and that his use permit was denied due to allowances under the ordinance.

Councilor Shepard asked if Mr. Hill's home occupation will be one unit or two units, and if repairs of all bikes and not just repairs for bikes designed for cycling without age, to which Mr. Hill said that his business plan does include plans for bike repairs for the general public.

Councilor Hartwell wants to see a broad provision written that still protects against a negative impact to the neighborhood.

Mr. Paraschak recommends that the committee table the item the next meeting so that staff can work on the legal component and language that takes into account the impact to neighborhoods.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to table the item for further discussion until the next Ordinance Committee meeting. Unanimous vote.

- C. Perform a full overview of the Firearms Ordinance and provide recommendations to the Town Council (referred by the Town Council on February 2, 2021).

Mr. Paraschak said that staff will meet to discuss the existing Firearms Ordinance, and Public Works will bring back an updated Firearms map at the next meeting.

4. **Other Business**

No items were discussed.

5. **Schedule next meeting and discuss agenda items for next meeting.**

The next meeting of the committee is scheduled for Tuesday, March 16, 2021 at 8:00 a.m. The following items will be discussed at the next meeting:

- A. Review and recommend adding additional allowed uses to home occupations in the Land Use & Development Code (referred by the Town Council on January 5, 2021).
- B. Perform a full overview of the Firearms Ordinance and provide recommendations to the Town Council (referred by the Town Council on February 2, 2021).
- C. Review and recommend adding agricultural event centers and agricultural tourism uses to the Land Use & Development Code (referred by the Town Council on January 5, 2021).

6. **Recent Items Sent to Town Council with Committee Recommendations**

- A. Public hearing to hear comment on the proposed amendments to the Land Use and Development Code, Chapter 2, Section 2-4, Clustered Residential Development Standards. (Ordinance Com. Spon.)

There were no public comments and the hearing was closed. VOTED 7 yeas.

- B. Public hearing to hear comment on the proposed amendments to the Town's Comprehensive Plan, South Gorham Crossroads Area and South Gorham Commercial Area sections and the future Land use map of the 2016 Comprehensive Plan. (Ordinance Com. Spon.)

There were no public comments and the hearing was closed. VOTED 7 yeas.

- C. Action to consider amending the Land Use & Development Code with regard to expansion of the village expansion districts. (Ordinance Committee Spon.)

Moved by Councilor Shepard, seconded by Councilor Phillips and Ordered, that the Town Council forward to the Planning Board, for public hearing and recommendation, amending the Land Use & Development Code to implement changes to the village expansion zone one (1), the Little Falls area as proposed in the Town of Gorham Comprehensive Plan. VOTED 7 yeas.

- D. Action to consider amending the Land Use & Development Code with regard to permitting of certain private driveways. (Ordinance Committee Spon.)

Moved by Councilor Shepard, seconded by Councilor Wilder Cross and Ordered, that the Town Council forward to the Planning Board, for public hearing and recommendation, amendments to the Land Use & Development Code as proposed. VOTED 7 yeas.

- E. Action to consider accepting the recommendation of the Ordinance Committee to have the Finance Committee review fee structures for commercial and residential solar installations. (Ordinance Committee Spon.)

Moved by Councilor Wilder Cross, seconded by Councilor Shepard and Ordered, that the Town Council forward to the Finance Committee, for their recommendation, amending fee structures for residential and/or commercial solar installations. VOTED 6 yeas, 1 nay (Hager).

7. **Adjournment**

There being no further business, a motion was MADE by Councilor Wilder Cross and SECONDED by Councilor Hartwell and VOTED to adjourn. Time of adjournment: 9:55am.

Respectfully submitted,

Jessica R. Hughes, Executive Assistant