

M I N U T E S
TOWN OF GORHAM
ORDINANCE COMMITTEE MEETING
Meeting of August 17, 2021 – 8:00 a.m.
Conference Room A

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

Also present: Town Manager, Ephrem Paraschak; Public Works Director, Robert Burns; Fire Chief Ken Fickett; Director of Community Development, Tom Poirier; Town Planner, Carol Eyerman; Executive Assistant, Jessica Hughes and one member of the public.

1. **Consideration of the minutes of the July 20, 2021 meeting.**

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to accept the minutes of the July 20, 2021 meeting. Unanimous vote.

2. **Current Business**

- A. Prepare an ordinance that would classify certain sidewalks for winter maintenance within the Town of Gorham as the responsibility of the abutting property owner, as well as classify those which would be the responsibility of the Town of Gorham (referred by the Town Council on April 6, 2021).

A brief discussion ensued in which Councilor Wilder Cross said that she wants to be sure the Town clears sidewalks where kids have to walk to school.

Public Works Director Robert Burns said he will set up a meeting with School Transportation Director Norm Justice to get a list of streets with no sidewalks and streets with dead end roads.

Councilor Wilder Cross said that sidewalk cleanup will take longer and the public will need to understand.

Councilor Shepard asked the group how to proceed with drafting an ordinance making landowners responsible (for clearing sidewalks), but with no teeth in it.

Councilor Hartwell asked if the Town could issue a municipal lien if a landowner does not clear and maintain a sidewalk.

Town Manager Ephrem Paraschak said that staff will bring back draft language at the next meeting and will first check with the Town attorney regarding the ordinance referencing three aspects including: language that puts the burden of clearing and maintaining sidewalks on the property owner; the Town having the ability to issue a municipal lien if a property owner does not maintain a sidewalk, and the Town maintaining additional sidewalks via the trackless sidewalk clearing machine.

Councilor Hartwell commented that the (City of) Portland has a fine for clearing sidewalks that is issued to a property owner if not maintained. Additional questions he has for the Town attorney are what mechanism would they recommend for fines and how should the fines be enforced. He noted that the Portland City Manager can delay fine enforcement.

Councilor Shepard said that the ordinance should list which sidewalks the Town will maintain and what is the responsibility of property owners.

Town Planner Carol Eyerman asked if the committee would prefer a sidewalk clearing map versus a list to which Councilor Shepard said that he wants a list and map.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to ask staff to bring back an update on items discussed for further review at the next meeting. Unanimous vote.

- B. Review and prepare an amendment to the Land Use and Development Code requiring annual inspections of gravel pits to be conducted by a third-party inspector and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021).

Director of Community Development Tom Poirier referred to his memo provided – attachment B, which he said came out of a discussion had by the Finance Committee regarding Town fees. He said that the Town can go two ways: requiring a yearly inspection in which the Town specifies what a third-party engineer needs to provide the Town, or the gravel pit goes through an inspection every year to two years.

The committee members said that they received emails with concerns from large gravel pit owners.

Mr. Poirier noted that the state does inspect gravel pits using the same requirements, but has different specifications.

Mr. Paraschak said that the Town (currently) sends its Code Enforcement Officer out once a year and receives complaints about gravel pit operations from adjacent subdivisions. He asked the group how the Town can do a fair inspection through existing fees.

Mr. Poirier commented that voted inspection reports would be less intrusive.

Ms. Eyerman said that the (Town of) Topsham had a yearly recertification process go before their Planning Board. She recommends a recertification process taking place more often than every five years and less frequent than yearly.

Mr. Paraschak commented that a benefit of having an inspection report for a gravel pit is that it will reflect any corrections should complaints be received.

Mr. Poirier said fees aside, a yearly inspection report is helpful to make sure everything is approved and compliance is in check.

Councilor Shepard asked if inspections could be done via drone.

Councilor Hartwell said that drones could provide good imaging and said from his own experience, drone imaging can provide three dimensional depth.

Regarding utilizing drones, Mr. Paraschak said that the recertification process could be more involved. If drones are used, advance notification to pit operators would need to be given. Feedback received from pit operators is that they would rather bear the cost for third-party inspections. If that is done, the Town would get rid of fees imposed for third-party inspections except Code Enforcement Officer fees.

Mr. Poirier said that a gravel pit inspection report would then be stamped by the gravel pit engineer and a copy would be maintained in Town files. He noted the current cost for inspections is \$250 for under five acres and \$500 for over five acres.

Councilor Hartwell wants to see a list of what is not being done by the state, so the Town is not basing inspections on the same criteria.

Mr. Burns asked to clarify what state agency/division the group is referring to, which Mr. Paraschak said the State Department of Environmental Protection (DEP).

Mr. Poirier said that staff can prepare what an inspection report would look like based on a random pit reflecting what the committee wants to see.

Councilor Shepard asked how much tax revenue the Town sees from gravel pits, which staff was unsure of.

Mr. Poirier asked if a large pit owner would prefer a Town engineer to perform the inspection or their own third-party engineer to which Councilor Shepard said that it will be more expensive to hire a Town engineer; the Town is already receiving enough tax revenue.

Mr. Paraschak said that if there any complaints regarding a gravel pit, a yearly inspection could then be done.

Councilor Hartwell recommended performing inspections on no less than every three years or up to every five years. He asked if the group was looking to start regulating small pits on farms to which the consensus was "no."

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED that staff bring back a draft ordinance at the next meeting. Unanimous vote.

- C. Review and prepare an amendment to the Land Use and Development Code to streamline the performance guarantee and site plans process as recommended by staff and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021)

Mr. Poirier referred to attachment C and explained that staff cleaned up the language and omitted (the reference of a) regular meeting recurrence, which now reflects ad hoc meetings/as needed.

Councilor Shepard commented that the proposed amendment will now exclude the Police Chief.

Chief Ken Fickett said that he wants to remain on the Site Plan Review Committee to ensure consistency and that Fire codes are being met.

Mr. Paraschak supports the proposed Site Plan Review Committee change. He added that if things are getting overlooked or brushed aside, those problems can be amended, and that fewer staff trying to control minor issues - the better.

Mr. Poirier commented that the Site Plan Review process has not been amended for at least 12 years.

Ms. Eyerman said that once a site plan application is reviewed and approved, the applicant gives a mini presentation so staff can better understand the project and get immediate feedback. She added that she includes staff feedback in her memos.

Mr. Paraschak said that Site Plan Review Committee meetings are great. He then gave a scenario where a small business owner sits with staff and although staff may try to be helpful, it comes across bureaucratic. He said that staff should try to streamline the process and help convey that the Fire and Public Works Departments will have requirements, and to put applicants in touch with those staff members. He added that additional staff can review a plan and submit comments, and that the process needs to be streamlined to avoid staff disagreements at site plan review meetings.

Ms. Eyerman commented that she has tabled meetings if an applicant's information is unclear.

Councilor Wilder Cross said that meetings should be streamlined, but she doesn't want items to be passed over to which Mr. Paraschak said that it is unacceptable if things are passed over.

Mr. Paraschak asked if staff should be put in a position to vote on an application. He said that it is troubling to reflect a director voting against a plan. Instead, he suggested noting a director's approval versus a vote as a vote puts an undue burden on staff.

Mr. Poirier said that staff can look into approval versus voting.

- D. Review and prepare an amendment to the Fire Suppression Systems Ordinance to allow for an exemption of residential dwellings under 400 square-feet and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021).

Chief Fickett said that there are two types of fire suppression systems for tiny homes and gave a detailed explanation of both. He said if the committee is trying not to allow tiny homes, the fire suppression system ordinance will need to be amended.

A brief discussion ensued regarding the minimum lot size required for tiny homes, which was 60,000 square feet and which zones allowed tiny homes.

Councilor Hartwell said that he read that municipalities must allow tiny homes to be placed on single family dwelling lots, and that property lots with an existing well-based sprinkler system need a holding tank. He asked where a holdings tank would be located on a lot with a tiny home to which Chief Fickett said that they could be located outside and that there would need to be a pump on the well.

Mr. Paraschak said that staff could find out where tiny homes could be placed in the village and if it is an undue burden on tiny houses in the rural setting to be sprinkled.

Councilor Hartwell said if someone is on a rural lot not on public water, he would like to know how much more it would cost to sprinkle versus not sprinkle.

Mr. Paraschak and Chief Fickett said that staff will look at cost for that scenario.

Councilor Hartwell referred to state statute 30-A MRS § 4363, and motor vehicle statute 29-A MRS Section 101 § 80-C and said that those statutes reference that tiny homes “have to meet NFPA standard 1192.”

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

No items were discussed from the list below.

- A. Review expansion of the remaining village areas, other than the village expansion zone 1/Little Falls area, as called for by the Comprehensive Plan and provide recommendations to the Town Council by or before February 2024 (referred by the Town Council on November 10, 2020).
- B. Review and provide recommendations for amendments to applicable Town Ordinances to allow for Medical Marijuana Caregiver Retail Stores in the Town of Gorham pursuant to 22 M.R.S. § 2429-D (referred by Town Council on May 4, 2021).
- C. Review and provide recommendations for amending the ordinances of the Town of Gorham to authorize medical marijuana retail sales as an allowed use (referred by the Town Council on August 3, 2021).4.

4. **Other Business**

No other business items were discussed.

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

The next meeting of the committee is scheduled for Tuesday, September 21, 2021 at 8:00 a.m. in Conference Room A. The following items will be discussed at the next meeting:

- A. Prepare an ordinance that would classify certain sidewalks for winter maintenance within the Town of Gorham as the responsibility of the abutting property owner, as well as classify those which would be the responsibility of the Town of Gorham (referred by the Town Council on April 6, 2021).
- B. Review and prepare an amendment to the Land Use and Development Code requiring annual inspections of gravel pits to be conducted by a third-party inspector and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021).
- C. Review and prepare an amendment to the Land Use and Development Code to streamline the performance guarantee and site plans process as recommended by staff and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021).

- D. Review and prepare an amendment to the Fire Suppression Systems Ordinance to allow for an exemption of residential dwellings under 400 square-feet and refer the recommendation back to the Town Council (referred by the Town Council on July 6, 2021).

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

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

The Town Council at their regular meeting held August 3, 2021 voted and unanimously approved of the amendments to the Firearms Ordinance and map as proposed.

- B. 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).

The Town Council at their regular meeting held August 3, 2021 voted and unanimously approved of the amendments to the Land Use & Development Code as proposed.

- C. Review the feasibility of adding requirements to the Land Use & Development Code that would require phased buildouts of subdivisions and report back to the Town Council with a recommendation (referred by the Town Council on April 6, 2021).

The Town Council at their regular meeting held August 3, 2021 voted and unanimously approved of referring the proposed amendments to the Land Use & Development Code requiring phased buildouts of subdivisions to the Planning Board for their public hearing and recommendation.

7. **Adjournment**

There being no further business, a motion was MADE by Councilor Hartwell and SECONDED by Councilor Wilder Cross and VOTED to adjourn. Time of adjournment: 9:47am.

Respectfully submitted,
Jessica R. Hughes, Executive Assistant