

MINUTES
TOWN OF GORHAM
ORDINANCE COMMITTEE MEETING
Meeting of October 19, 2021 – 8:00 a.m.
Conference Room A

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

Also present: Town Manager, Ephrem Paraschak; Fire Chief Ken Fickett; Director of Community Development, Tom Poirier; Town Planner, Carol Eyerman; Executive Assistant, Jessica Hughes and two members of the public: Dan Shaw and Mark Curtis.

1. **Consideration of the minutes of the September 17, 2021 meeting.**

Councilor Hartwell reported two corrections to be made on page six under *Other Business*. He said that the statement made by Town Manager Ephrem Paraschak regarding farms being closely woven did not make sense to which Mr. Paraschak asked to revise the notes to say that “Mr. Paraschak asked if an overlay could be created for farms.”

Councilor Hartwell noted a second correction should be made to his statement in the same section in the seventh paragraph/sentence, which says “Councilor Hartwell said that the current *F* application helps farms. Councilor Hartwell said his statement should read “Councilor Hartwell said that the current Schedule F [IRS 1040] Form could help identify farms.”

A motion was MADE by Councilor Hartwell, SECONDED by Councilor Wilder Cross, and VOTED to accept the amended minutes of the September 17, 2021 meeting. Unanimous vote.

2. **Current Business**

- A. 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 said that staff revised the attachment provided per the committee’s requested changes from the previous meeting, and added language and flexibility as per Councilor Hartwell, with gravel inspections being required every three years by a third-party engineer. Mr. Poirier added that language may need to be added stating that inspections are required annually per MS4 requirements unless the pit has no stormwater discharge.

Councilor Hartwell commented that an aerial drone could help in off years.

Mr. Poirier said that the Town would also need to know the size of pits.

Gravel pit owner, Dan Shaw, said that third-party inspections creates a license to steal, as engineers interpret the book and send out kids. He added that the Department of Environmental Protection (DEP) by law has to inspect pits every other year, and they understand

what has to be internally and externally drained. Mr. Shaw noted that this costs pit owners \$3,000 to \$4,000, and that internally drained pits do not cause stormwater [discharge].

Mr. Shaw added that pit owners have to take samples every time it rains, and that the U.S. Environmental Protection Agency (EPA) come out every year to examine, and Maine Safety and Health Administration (MSHA) come out two times per year.

Gorham Sand and Gravel Operations Manager, Mark Curtis, said that pit owners could share all reports with the Town of Gorham, and asked that the proposed ordinance not be put into effect. He added the Town of Lyman performs inspections every three years.

Councilor Shepard asked if we [the Town] would get everything needed from the DEP.

Councilor Hartwell suggested obtaining reports from pit owners from the start.

Mr. Poirier said that the DEP does DEP reports; however, the Town of Gorham and its Planning Board have requirements for permitting.

Mr. Curtis asked led to the suggested ordinance. He agrees with Mr. Shaw, and said that it seems the issue lies with a Code and Planning gap, and the Town needing reliable inspections. He said that with normal pit operations, water drains in the middle. A further discussion ensued in which Mr. Curtis said he was concerned with the requirement to locate crushing and screening operations in the proposed ordinance, and he urged the committee to allow gravel pit owners to make suggestions.

Mr. Shaw said that if there is concern, it should be with externally drained pit operations.

Town Manager Ephrem Paraschak said that the Finance Committee was looking at Town fees, and looked at gravel pit inspections and whether to allow pit owners to select an inspector. He asked what the best process is: to send out Code Enforcement Officers (CEOs) to inspect for renewal permits or have pit owners be responsible for inspection.

Mr. Shaw said that the DEP monitors for when pits get close to property lines.

Councilor Shepard said that pit owners pay enough in taxes to have to take on the additional burden with this ordinance and third-party inspection requirements.

Mr. Shaw said that he had gone to Augusta to ask that they raise fees for compliance.

Councilor Hartwell said that he has used the “drone deploy” program and the Town could use the same program. He added that he would like to see sample DEP reports.

Mr. Poirier asked Mr. Shaw if the DEP maps pits on lots to which Mr. Shaw said - yes.

Town Planner Carol Eyerman received emails from a gravel pit abutter, and was able to review the DEP report on file for the pit that referenced the size of the total quarry, side of pit areas and a lot more information. She’s unsure if the data has reclamation information to which Mr. Curtis said – yes, DEP reports have reclamation data.

Mr. Shaw said that the DEP takes money from an escrow account if pits are reclaiming.

Councilor Shepard said why bother with the ordinance. Instead, he recommends leaving the requirements as they are and get a copy of DEP reports. He added that the onus is on the Town to make sure pits are doing what they should.

Mr. Paraschak said the committee could motion that no action be taken at this time.

Mrs. Eyerman asked if the Town would do a check of DEP standards versus the ordinance and trim back where needed.

Mr. Shaw said that the DEP report looks at dust and where crushers are located, and also that the DEP comes in unannounced.

Mr. Curtis said that Gorham Sand and Gravel uses a silica monitor and employees use hearing devices. He further said that the committee could look at fees, and ask for a meeting in the middle of February to review plan; there are checks and balances, including air emissions licenses that have to get filed on a yearly basis. He is in support of [Town] fees increasing to cover the Town's costs.

Councilor Wilder Cross said she is not in support of the ordinance as it puts an additional burden on pit owners.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to recommend to the Town Council to take no action. Unanimous vote.

- B. 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).

Mr. Paraschak said that attachment B reflects the exemption.

A brief discussion ensued between Councilor Hartwell and Fire Chief Ken Fickett. Chief Fickett noted that with the proposed language, any new tiny home under 400 square feet as a single structure will be exempt from the fire suppression system ordinance requirement and not need to be sprinkled.

The committee discussed and agreed to move the proposed exemption language under Article 7, Section 1 – B.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to refer the recommended amendment to the Fire Suppression System Ordinance to the Town Council for their public hearing and consideration. Unanimous vote.

- C. Review and provide a recommendation for amendments to the Land Use and Development Code to allow for a refund of Zoning Board of Appeals application fees when a determination of a Code Enforcement Officer is overturned by the ZBA (referred by the Town Council on September 7, 2021).

Mr. Poirier shared details from his conversation with the Town Attorney. Councilor Hartwell said he was okay with a 30-day wait.

Mr. Parascak said that Mr. Poirier and Town Attorney Mark Bower will craft the language and bring it back for review at the next meeting.

- D. Examine performance standards for multi-family housing to promote effective multi-family development in the Town of Gorham and recommend amendments to the Land Use and Development Code (referred by the Town Council on September 7, 2021).

A discussion ensued regarding sections six through 11 on the attachment D provided, which referenced proposed amendments to the multi-housing performance standards in the Land Use and Development Code promoting effective multi-family development. The committee discussed keeping some elements of each, removing the sixth section, and adding village character standards.

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

- 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).

Mr. Poirier said that this item was in the Planning Board's public hearing stage, and it will go back to the Town Council once that process is done.

- B. 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).

Mr. Parascak said that he will ask Public Works to bring a list of sidewalks to the next Town Council meeting.

- C. Review and provide a recommendation for amendments to the Land Use and Development Code to adopt the South Gorham Crossroads District as identified by the Town's Comprehensive Plan (referred by the Town Council on September 7, 2021).

Mr. Poirier said that staff will work with Ben Smith of Northstar Planning to draft language.

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, November 16, 2021 at 8:00 a.m. in Conference Room A. The following items will be discussed at the next meeting:

- A. Review and provide a recommendation for amendments to the Land Use and Development Code to allow for a refund of Zoning Board of Appeals application fees when a determination of a Code Enforcement Officer is overturned by the ZBA (referred by the Town Council on September 7, 2021).

- B. Examine performance standards for multi-family housing to promote effective multi-family development in the Town of Gorham and recommend amendments to the Land Use and Development Code (referred by the Town Council on September 7, 2021).
- C. Review and provide a recommendation for amendments to the Land Use and Development Code to adopt the South Gorham Crossroads District as identified by the Town's Comprehensive Plan (referred by the Town Council on September 7, 2021).

6. **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: 9:43am.

Respectfully submitted,
Jessica Hughes, Executive Assistant and Carol Eyerman, Town Planner