

**MINUTES**  
**TOWN OF GORHAM**  
**ORDINANCE COMMITTEE MEETING**  
**Meeting of August 16, 2022 – 8:00 a.m.**  
**Gorham Municipal Center, Conference Room A**

Present: Council Chair, Lee Pratt; Committee Chair, Benjamin Hartwell, and Councilor Wilder Cross.

Absent: Councilor Shepard.

Also present: Town Attorney, Alyssa Tibbetts (via remote Zoom connection); Town Manager, Ephrem Paraschak; Town Planner, Carol Eyerman, and Executive Assistant, Jessica Hughes.

1. **Consideration of the minutes of the June 21, 2022 meeting.**

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to accept the minutes of the June 21, 2022 meeting. Unanimous vote.

2. **Current Business**

- A. Review Recreation Impact Fees and provide recommendations to the Town Council on expansion of eligible projects (referred by the Town Council on February 1, 2022).

Director of Community Development Tom Poirier referred to the memo he provided and the revised draft of the Recreational Facilities and Open Space Impact Fee improvements [attachment A], which was revised to include nine proposed descriptions and additional items. He noted that the Recreation Director Cindy Hazelton and Town Attorney Alyssa Tibbetts also reviewed the proposed language and provided their comments.

Councilor Wilder Cross said it seemed like hunting could be dangerous to which Councilor Hartwell said that was a good concern, and in theory - dangerous, but statistically not dangerous as hunter safety courses were required and shooting is only allowed in designated areas.

Town Manager Ephrem Paraschak said this component allows the Town more flexibility to later restrict through the firearms ordinance.

Councilor Hartwell asked what changes the committee was looking for to which Mr. Poirier said items one through nine shown in blue were the changes discussed at the last meeting.

A brief discussion ensued regarding the fifth improvement in which Councilor Hartwell said the intent of the item was to not have funding come out of the open space pool, and instead come out of the Recreational Impact pool.

Attorney Tibbetts said the language in the fifth improvement could be more specific. She advised that the Town will want to be sure to use funds for acquisition of land, and that language could be added to the fifth improvement, or add an additional, separate improvement for acquisition of land.

Town Planner Carol Eyerman asked if the committee wants to do an overall open space plan to which Councilor Hartwell said he wonders if the TDR [Transfer of Development Rights] covers that. He asked if the committee needs to identify a specific property to which Mr. Paraschak said that he's not sure that we need to identify a specific property as much as regional land.

Councilor Hartwell commented that it is more appropriate to have language in place.

Mrs. Eyerman suggested having linkages to allow for open corridors to create larger spaces.

Councilor Hartwell said this is probably ultimately another direction for the Council to send as a separate item to this committee.

Mr. Poirier said there isn't an open space ranking system in the Land Use & Development Code (LUDC), only a stand-alone policy. He said that additional language to the effect of "refer to attachment" could be added under the fifth improvement, and that if the language is not added, any purchase for a recreation conservation easement would have to come out of a smaller portion of funding.

Mr. Paraschak asked if the language could be written in such a way that the impact fee funds could be used to put a hold or retention on property so the Town is given first right of refusal to which Attorney Tibbetts said that the Town could say "by purpose of the ordinance..."

Councilor Hartwell said he is curious about options, and asked if there would be any reason that the Town couldn't take a trail easement by eminent domain to which Attorney Tibbetts said that private easements generally don't have the same standards as a public easement, and that scenario would need to be evaluated if circumstances came up.

Mr. Paraschak said the Town Council gave the committee a general direction. He said in the interest of shaving three to four months off, if the committee wanted to add additional language, he recommends doing it now.

Mr. Poirier said staff will add an additional item to undertake open space plan in Gorham with language to the effect of "to identify land for acquisition for future use."

A discussion ensued in which Mr. Paraschak asked if section B should be updated to which the committee said that the language could be more general and PDT Architects could be struck out. The committee members agreed to review the changes discussed at the next meeting, then vote

to refer the item back to the Town Council to then send to the Planning Board for their public hearing and comments.

Mrs. Eyerman asked to clarify what the effective date would be to which Councilor Hartwell said it is when the Town Council adopts.

Attorney Tibbetts said that the proposed amendments could be made retroactive, and that the language needs to be very clear in the ordinance as to how to make it effective.

Mr. Poirier said that the effective date for related ordinances have always been dependent on building permits.

Councilor Hartwell said that Title 1 of M.R.S. §302 does not default that a person has retro rights.

Attorney Tibbetts asked if this will apply to a project site plan or building permits. She said that the question is what constitutes substantive rights or vested rights, or retroactive applicability – the committee will need to determine where this will apply.

Mr. Poirier said that staff will make the language more clear.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to send back to staff to make changes discussed and review at the next meeting. Unanimous vote.

- B. Review and propose amendments to the Land Use and Development Code that would provide for dwelling unit growth caps in the Town of Gorham while promoting development toward growth areas and away from the rural zones (referred by the Town Council on May 3, 2022).

Mr. Poirier referred to the revised memo and Growth Permit Ordinance [attachment B], and said changes were made based on the committee's review last month.

A discussion ensued between Council Chairman Pratt and Mr. Poirier regarding building permits for a duplex in which Mr. Poirier said that staff can identify a time parameter for building permits. He recommended a provision that would prevent all growth permits from being bought up by one developer. He added that he was originally thinking this would be a stand-alone ordinance.

Mr. Poirier further said that he included North Yarmouth's exceptions and the Town Attorney's review and comments.

Councilor Hartwell said he is concerned with a hypothetical scenario in there is a good builder and they're nine months out, and can't get permits in 90 days when they're ready to start.

Councilor Wilder Cross commented that 18 months is too long and 90 days is too fast.

Councilor Hartwell said Maine Modular Homes in Hollis is looking at spring/summer 2023 for contracts now.

Mr. Poirier said staff could add language for one to two permits per builder.

Councilor Hartwell said there would be two categories: builders/vendors and landowners that contract to build a home.

Mr. Poirier said staff could identify growth permits in either category.

Mr. Paraschak said it would be wise to carve out a percentage of a number of permits not associated with subdivisions.

Mr. Poirier said the proposed language exempted family lot splits. He agreed that there should be two categories: subdivisions and landowners.

Council Chairman Pratt recommended 25 total growth permits of which five permits would be for stand-alone landowners – outside of subdivisions.

Mr. Poirier suggested maybe 10 permits for outside of subdivisions, and 15 for subdivisions, which should cover bases.

Councilor Wilder Cross asked how many accessory homes can be put on a lot to which Mr. Poirier said right now – one, but we have to allow two.

Mr. Poirier asked what the committee's input was regarding tying growth permits to building permits.

Mr. Paraschak said this could get complicated quickly.

Mr. Poirier said that builders will adjust their plans once the ordinance is laid out.

Councilor Hartwell asked if the Town could do a lottery if there are more requests than permits.

Mr. Poirier said he would talk to the Town Attorney about the lottery. He would also amend the draft ordinance to reflect that there would be 10 growth permits for non-subdivisions, and 15 permits for subdivisions with the ability to shift available permits.

Mr. Paraschak said another question for the attorney would be if we hit the cap on available growth permits, could we do an impact-based lottery or impact-based fee for subdivisions to buy up additional growth permits if needed.

A brief discussion ensued in which Councilor Wilder Cross emphasized the need for more affordable homes to which Mr. Poirier said an exemption was added under section E.

Mr. Paraschak said the intent of this item was to control growth. He asked if the committee wanted to slow growth in certain areas.

Mr. Paraschak asked if the committee wanted to include growth areas, and if a lot is capped, can we allocate certain permits for specific uses. He further asked if an exemption could be included for mixed-use permits in urban areas.

Mr. Poirier said that staff could strike out e., add an exemption for mixed-use dwellings in the growth area, and add two sections: one for outside of subdivisions in the rural areas, and the other subdivisions.

Mr. Paraschak asked if we issue permits for mixed-use, what prevents them from converting to residential down the road to which Mrs. Eyerman said – there would be no mechanism.

Mr. Poirier asked if the committee wanted to limit permits in growth areas to which Councilor Hartwell said that he didn't initially, but now – yes.

Mrs. Eyerman shared a comment regarding a wish list – she said that the proposed ordinance would tell people that the Town wants mixed-use development.

Mr. Paraschak said that when the group is talking about growth areas, they are referring to anything not rural.

Mr. Paraschak asked what a reasonable cap would be to which Mr. Poirier said 100 permits in the growth area, with 75 in subdivisions, and 25 outside in the rural area.

Mr. Paraschak said staff would make mixed-use exempt, and a definition for mixed-use may need to be added.

Mr. Poirier said staff will add permit exemptions and send them to the committee in advance of the next meeting for their review and input.

Councilor Hartwell said he would like to see a contract and proof of payment to a contractor because of the lag time.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED for staff to make the adjustments discussed and forward to the Town Council for their review at their next meeting. Unanimous vote.

- C. Re-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 June 7, 2022).

Mr. Poirier said that staff have tweaked the definition of accessory apartments to be in compliance with LD 2003. He noted that staff struck through the parking standard and made adjustments to meet state law. He added that each dwelling unit has to have its own septic system under the waste water ordinance.

Councilor Wilder Cross asked how many dwelling units a property that meets the minimum lot size could have to which Mr. Poirier said up to three units if it meets all requirements.

A discussion ensued regarding associations in which Mr. Paraschak said that staff will need to ask the Town Attorney for more guidance.

Mr. Poirier said that the committee could forward the ordinance to the Town Council to start the process.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell, and VOTED to send the item to Town Council as-is. Unanimous vote.

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

- A. Review revising standards for curb cuts on arterials and designated collectors, the creation of a White Rock Mixed-District, exploring a vernal pool transfer program, and developing a long-term plan for pedestrian improvements consistent with the Town's Comprehensive Plan (referred by the Town Council on August 2, 2022).

Mr. Poirier said that staff could take on the pedestrian improvements item and White Rock Mixed-District item and provide materials at the committee's next meeting.

4. **Other Business**

No items were discussed under this section.

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

The next meeting of the committee is scheduled for Tuesday, September 20, 2022 at 8:00 a.m. in Conference Room A. The following items will be discussed at the next meeting:

- A. Review Recreation Impact Fees and provide recommendations to the Town Council on expansion of eligible projects (referred by the Town Council on February 1, 2022).
- B. Review and propose amendments to the Land Use and Development Code that would provide for dwelling unit growth caps in the Town of Gorham while promoting development toward growth areas and away from the rural zones (referred by the Town Council on May 3, 2022).

- C. Create a White Rock Mixed-District consistent with the Town's Comprehensive Plan (referred by the Town Council on August 2, 2022).
- D. Develop a long-term plan for pedestrian improvements consistent with the Town's Comprehensive Plan (referred by the Town Council on August 2, 2022).

6. **Adjournment**

There being no further business, a motion was MADE by Councilor Shepard and SECONDED by Councilor Hartwell and VOTED to adjourn. Time of adjournment: 9:36am.

Respectfully submitted,  
Jessica Hughes, Executive Assistant