

MINUTES
TOWN OF GORHAM
ORDINANCE COMMITTEE MEETING
Meeting of July 19, 2022 – 8:00 a.m.
Gorham Municipal Center, Conference Room A

Present: Committee Chair, Benjamin Hartwell; Councilor Shepard.

Absent: Councilor Wilder Cross.

Also present: Town Manager, Ephrem Paraschak; Town Planner, Carol Eyerman; Fire Chief Ken Fickett, and Executive Assistant, Jessica Hughes.

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

A motion was MADE by Councilor Shepard, 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).

Councilor Hartwell and Town Planner Carol Eyerman commented that they saw a significant increase in fees referenced on the supporting attachments.

Councilor Hartwell asked where the calculations were in the code language before to which Town Manager Ephrem Paraschak said the document had to be rewritten as it was a separate document that staff could not locate.

Mrs. Eyerman asked if there was an open space plan that the language came out of to which Mr. Paraschak said that he didn't think there was an open space plan - it was probably picked or lobbied by the Recreation department 20 years ago.

Mr. Paraschak commented that proposed fees and recommended changes are not quite ready.

Mrs. Eyerman said that she, Director of Community Development Tom Poirier, and Recreation Director Cindy Hazelton had been meeting to update lists.

Mr. Paraschak said that the only list that is closest to being completed is the Little Falls Recreation plan.

A brief discussion ensued regarding the status of other plans in which Mr. Paraschak mentioned that the Middle School is mostly built out. He further said that the biggest question to the Town Council will be "are we going in the right direction, and does the list look complete."

A discussion ensued regarding the fifth improvement listed on the *Recreational Facilities and Open Space Impact Fee #2* document.

Councilor Hartwell said that there is a lot of money in Recreation and Open space fees. He said that Councilor Phillips wanted to use a portion for trail maintenance from recreation fees.

Mr. Paraschak said that staff will look into how trail easements can be fit into the portion of impact fees. He added that staff may have a final version for the committee to review by the next scheduled meeting. He also said it may be a good idea to have an owl [video conference camera] set up to have Town Attorney Alyssa Tibbetts connect and explain methodologies at the next meeting.

Councilor Hartwell said he is curious how much is in the account under the open space portion of the impact fee, and how much has been used to which Mr. Paraschak said probably less than \$100k.

Regarding both open space and TDR [Transfer of Development Right] funds, Councilor Hartwell asked if we work with land trust conservation easements, could the Town make up the difference with these fees. He said there are some tax implications, but many more apply to when you donate. He also asked are they paying 70 percent, because that is their policy – why not whole value.

Councilor Hartwell said that the Farm Land Trust opened a Portland office, because this area has the highest risk to development.

Mr. Paraschak said - often, the focus is on land trusts when talking about land, because of their limited resources; public and private partnerships may be more valuable and should be explored.

Mr. Paraschak said that staff will try to have the updated draft with answers to the committee's questions at the next meeting, and will ask if Attorney Tibbetts can attend.

A motion was MADE by Councilor Shepard, SECONDED by Councilor Hartwell, and VOTED to table the item for further discussion 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. Paraschak referred to exemptions under section six on the supporting attachment referencing the draft language for a growth permit ordinance and said the language defines the statute regarding family gift lots.

A discussion ensued between Mr. Paraschak and Councilor Hartwell regarding family gift lots.

Councilor Hartwell said that he asked last month about North Yarmouth's ordinance. He asked if staff can get the exemption language from that ordinance. He also noted that he didn't see any language about illnesses or injuries in the draft ordinance, and that there should be language allowing the ability to be appealed with the Board of Appeals. He also asked if we really still have the maximum of 25 in the rural zone. He is also looking for clarification in the draft ordinance if we are still bound to 105 percent or can we go lower than that. He noted the statute allows to have a different number of permits in different zones – he doesn't know if that changes the number you can have.

Regarding section 6-g, Mr. Paraschak recommends rephrasing and having black and white language, so it is not at the discretion of the Code Enforcement Officer.

Mrs. Eyerman asked if we know how many lots could be created outside of the subdivision. She said 30 per year is allowed possibly under the current language.

Regarding section 7 e. 3 and Council exemptions, Mr. Paraschak said he worries when there's an economic downturn that it will swing the other way. He said the Council can do whatever they want, but the language seems like an easy out.

Mrs. Eyerman recommends altering the language to associate it with affordability.

Mr. Paraschak said it would be ideal for multifamily in village areas.

Councilor Hartwell recommends omitting section 7 e. 1 and mirroring North Yarmouth's language.

Councilor Shepard said it seems like too much if we are just trying to focus growth in designated areas. He asked if we have to do 25.

Councilor Hartwell asked how you make sure that one developer does not get all permits.

Under section 4 g. regarding family gift lots, Councilor Shepard asked what the question is about to which Councilor Hartwell said that the applicable statute just needs to be cited.

Mr. Paraschak said he will ask the Director of Community Development Tom Poirier to prepare bullet points to address the following questions:

- Can we get below 25?
- How do we control the issuance of permits?
- How do we limit pressure that the Town Council will endure when the market swings the other way?

Mrs. Eyerman asked if the committee has discussed the impact the ordinance may have on the cost of land. She recommends asking other towns in Maine. She said that when you affect growth, values are impacted. She said it would be helpful to talk to North Yarmouth.

Mr. Paraschak said the ordinance could add a layer affecting affordable housing.

A brief discussion ensued regarding development in the rural district.

Mr. Paraschak said there is a cap of five for the rural district, which could eat up one fifth of permits.

Councilor Hartwell cited the recommended statute to use within the ordinance under section 4 g, which is 30-A MRS Section 4401, § 4, paragraph D-4, as it provides the definition of a person related to a donor.

Mrs. Eyerman recommended maybe having a date when this would be effective. She said there are other items going through the Planning Board with similar questions.

Councilor Hartwell asked how far we want to go back to which Mr. Paraschak said we should run the map.

Councilor Hartwell shared a consideration that if someone applies for permits, and the ordinance is not effective for 45 to 60 days until after they get their permits, their rights officially become vested.

A motion was MADE by Councilor Shepard, SECONDED by Councilor Hartwell, and VOTED to table the item for further discussion at the next meeting. Unanimous vote.

- D. Review the Fire Suppression Systems Ordinance to evaluate increasing the length of time between required third-party inspections for residential systems and to provide recommendations back to the Town Council (referred by the Town Council on April 5, 2022).

The committee took up this item out of the agenda order so the item could be discussed with the Fire Chief Ken Fickett, who was in attendance.

Mr. Paraschak said the intent of this item was to have a waiver for homeowners that perform their own inspections.

Chief Fickett said the real risk is with antifreeze loops, which are the source of the biggest findings of deficiencies with some inspections. He added that the code says inspections should be done once per year, and that the Fire department has seen big issues with inspections done by third parties.

Mr. Paraschak asked how the Town's commercial component compares to other towns to which Chief Fickett said that Windham is more restrictive with buildings being required to be sprinkled

at 100k square feet, and Buxton at 10k square feet. He added that International Building Code is invoked if you have a strip mall with a common, non-divided attic. He said Westbrook is 7,500 square feet, and Scarborough goes by NFPA – they require a tank or to sprinkle for subdivisions.

Chief Fickett said he does not recommend tanks. He said they're not as restrictive on square feet, and more restrictive on cubic feet.

Mr. Paraschak asked what the average commercial building height is to which Chief Fickett said they are usually approximately 18 feet (100 x 18).

Mr. Paraschak asked if cubic feet is triggering more businesses to be sprinkled than it should, and does the committee see that as more restrictive than necessary.

Chief Fickett said that all 10k square foot buildings have to be sprinkled.

Mr. Paraschak said it is a juggling act as the Town wants to be as business-friendly as possible, but not skimp on safety.

Mr. Paraschak said that staff will make the adjustment to reflect the waiver language and send the proposed amendment to the ordinance to the Town Council for review at their August meeting.

Mrs. Eyerman asked if the ordinance can be gender neutral to which Mr. Paraschak said that this and all ordinances will be reviewed during the process of conversion for online codification.

A motion was MADE by Councilor Shepard, SECONDED by Councilor Hartwell, and VOTED to forward the proposed amendment to the ordinance to the Town Council for review and consideration 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. Paraschak said that as expected, the LD-2003 legislation will impact the Town in a lot of ways; there may be a lot of modifications to the Land Use and Development Code (LUDC) in the long run. He said the legislation will allow people to plop units in their backyard if they want.

Mrs. Eyerman said we need to figure out how the existing ordinance is going to work with the Transfer of Development Rights program. She added that she is working with Jensen Baird Land Use Attorney Natalie Burns.

Mr. Paraschak said the good thing is that we have time.

Councilor Shepard asked how the ordinance will help affordable housing.

Councilor Hartwell said legislation takes effective next month, but density won't be affected until next July.

Mrs. Eyerman said that their office is receiving a lot of calls from small-scale developers.

Mr. Paraschak said his prediction is that the legislation will help some housing problems, but not affordability.

Mr. Paraschak asked if the committee wants staff to get ahead of short-term rentals.

Councilor Shepard asked if he hypothetically had a septic system for a three-bedroom house, what would prevent him from putting in a three-bedroom small rental unit.

Mr. Paraschak said the biggest threat is people wanting to get into the school district.

Mr. Paraschak said he will ask Mr. Poirier to start working on specific amendments to the LUDC.

A motion was MADE by Councilor Shepard, SECONDED by Councilor Hartwell, and VOTED to table the item for further discussion at the next meeting. Unanimous vote.

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

4. **Other Business**

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

The next meeting of the committee is scheduled for Tuesday, August 16, 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. 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).

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: 9:29am.

Respectfully submitted,
Jessica Hughes, Executive Assistant