

# **Ordinance Committee Minutes**

## **September 11, 2019**

Present: Councilor Cahan, Councilor Asherman, and Councilor Hemphill

Staff: Nathan Poore, Kimberly Darling, and Marguerite Fleming

Conservation Commission: Nancy Lightbody, Chair

Others in Attendance: Councilor Kuhn

### **1. Elect a committee chair**

Councilor Asherman motioned to elect Councilor Cahan as chair; Councilor Hemphill seconded.

Motion carried 3-0.

### **2. Approve previous meeting minutes**

a. April 10, 2019

b. May 22, 2019

Councilor Hemphill motioned to move the minutes; Councilor Cahan seconded. Motion carried 3-0.

### **3. Update on status of Conservation Commission's proposal to regulate pesticides (applicant registration system, education, and awareness campaign and proposed budget).**

Councilor Kuhn reported that the Council has been working for years to try to regulate the use of pesticides in Falmouth. The Committee began with a ban but eventually moved to a commercial applicator registry so that the Council could gather data to inform consideration of a ban. Part of the data gathering process would include education. Data would be gathered over two or three years with an annual review each year. Reasonable and effective enforcement procedures still need to be put in place. The Committee also needs to develop an evaluation strategy. She discussed different proposed initiatives such as healthy lawn certification and a designated pesticide information page on the Town website. Several towns in Southern Maine have worked on healthy lawn programs.

Nancy Lightbody added that South Portland has offered to share their information. A second part of the education piece includes working with a marketing consultant to develop a logo for the program. Andrea Ferrante had previously spoken with Macey Kaplan about offering her services possibly pro bono. Ms. Lightbody will follow up with Ms. Kaplan. It was suggested that Erin Cadigan, Communication and Engagement Coordinator also attend. Kimberly Darling added that she has sign printing company contacts. Ms. Lightbody said that South Portland had several public meetings before passing a pesticide ordinance. The City later worked on fertilizer restrictions and did not face much opposition because it had been through the pesticide ordinance process. She suggested that Falmouth flip the process to work on fertilizer first. Councilors Cahan and Kuhn added that fertilizer use was intended to be included with the healthy lawn certification program. Ms. Lightbody recently attended a presentation by Jesse O'Brien that she thought Falmouth could replicate.

Councilor Asherman asked for clarification on the data that the Commission hopes to gather through the registry. Ms. Lightbody said that the amount of pesticide used by commercial applicators in Falmouth

annually. Commercial applicators are already submitting statewide data so the Town would be asking them to scale the existing data down to the Falmouth level. Ms. Lightbody said that the Commission would like to see the pesticide usage numbers decrease. She said that the Commission would also like to gather data on the amount of pesticides going into Casco Bay. Ms. Darling added that she has been in contact with Forest Bell and DEP about how the Town can use the chemical applicator data for water testing. Councilor Cahan asked whether Ms. Darling had talked with the representatives about obtaining back data? Ms. Darling said that she would investigate it.

Councilor Kuhn said that the previous Committee members had been sensitive to putting too much of a burden on the small commercial applicators when the Town does not know the scope of the problem. Nathan Poore added that the applicators said that the problem may not be with them because they are held to such high standards and have profit margins, so they are going to follow the manufacturer's recommendations. It could be the homeowners who are overusing. He suggested asking about the applicators' total numbers of customers in the registry. Councilor Asherman added that the Town currently does not have a range to base the gathered data on. The Town also does not know how many applicators are working in Falmouth. The Committee would send a mailer about the registry to all the applicators registered with the state. Committee members discussed how to enforce requiring the professional applicators to complete the registry. Committee members felt that increased education amongst residents (clients) would help and that applicators are interested in reducing their use.

Committee members also discussed a desire to find out what areas of town the applicators are working in. Chair Kuhn added that the golf courses seemed amenable to the certification process. The Portland Country Club is Audubon Cooperative Sanctuary Program certified. Committee members also discussed a desire to continue the cooperative nature of the public engagement surrounding the certification program. The Commission has had four meetings with professional applicators, golf courses, schools, and residents. Councilor Cahan suggested adding the list of registered applicators to the Town website.

Mr. Poore said that the education portion of the program could be done through resolution. The registration part of the program would require an ordinance which could include a sunset provision. Councilor Asherman asked how such an ordinance would be enforced. Mr. Poore said it would be difficult to enforce unless a resident complained. The Committee members discussed that the Town is aware of most of the applicators and that applicators would be sent mailers telling them to either register or pay the fine. Councilor Kuhn said the prior Committee decided to make registration free.

Councilor Asherman added it would be a bigger burden for applicators to report their fertilizer use since the State does not require it. Other Committee members added that they keep track of their inventory. Councilor Hemphill felt that if the Committee makes the regulations reasonable, it is worth doing. The Committee will quickly find out if it is worth doing. Ms. Lightbody has spoken with some applicators who said they could track fertilizer use. She added that South Portland is already tracking fertilizer use so the larger companies working in multiple towns will already be tracking it. Committee members discussed the amounts for the fine for not registering and fee for not reporting. Committee members also discussed who should be the enforcement officer. The Committee decided to charge up to \$500 (sliding scale) and that the Code Enforcement Officer would be the enforcement officer.

Committee members discussed next steps:

- Staff will present a draft of the resolution and ordinance at the next Ordinance Committee meeting. The Conservation Commission will have an opportunity to review the ordinance.
- The Committee set a target of getting the ordinance and resolution on one of the November Council agendas and discussed potentially having the Conservation Commission deliver a presentation.

#### **4. Discussion about how to complete committee assignments from the Town Council**

The Ordinance Committee's four work plan item assignments were:

- Pesticide/Fertilizer Regulations,
- Short-term Rental Regulations,
- Private Property Outdoor Lighting Regulations, and
- Blasting Regulations

The Committee decided to focus on short-term rental regulations after completing pesticide/fertilizer regulations. Committee members discussed the software platform, Host Compliance, which monitors websites to check for unregistered short-term rentals. The Committee desired to invite a Host Compliance representative to the November meeting. Staff will present initial research at the October meeting. Councilor Trickett will be invited to the meeting as he is interested in the topic.

## **5. Schedule next meeting**

The October meeting was scheduled for Friday, October 18 at 8 am. Location-TBD, possibly at Mason Motz.

The November 13 Council meeting was tentatively set as the introduction for the pesticide/fertilizer ordinance and resolution.

The November meeting was scheduled for Thursday, November 14 at 10:30 am.

The December meeting was scheduled for Wednesday, December 11 at 1 pm.

## **6. Adjourn**

Councilor Hemphill motioned to adjourn; Councilor Cahan seconded. Motion carried 3-0.

The meeting adjourned at 5:00 pm.

Minutes prepared by Marguerite Fleming