

Ordinance Committee Minutes

January 11, 2021

Present: Councilor Asherman, Councilor Cahan, and Councilor LaFond
Staff: Nathan Poore, Town Manager, Marguerite Fleming, Administration Analyst, and Ethan Croce, Community Development Director

Chair Cahan began the meeting at 8:00 am.

1. Approve Previous Meeting Minutes.

Councilor Asherman motioned to approve the minutes; Councilor LaFond seconded. The motion carried unanimously.

2. Continuation of Discussion about Establishing an Ordinance/Policy Regarding the Use of “Eminent Domain” When Necessary to Construct and Maintain Town/Public Infrastructure (Roads, Drainage, Wastewater Collection, etc.).

Mr. Poore reviewed the most recent draft “Acquisition of Property for Highway, Stormwater, and Wastewater Collection and Treatment Purposes” purchasing policy. He said the first two sections address permanent property rights and the third section addresses temporary rights. The only change since the prior version of the draft was to the amount of the valuation threshold for requiring the use of an independent appraiser which was set at \$5,000 for all three sections.

Chair Cahan opened the public comment period; there was no public comment.

Those present discussed the valuation amount. Mr. Poore said there were very few cases in which the Town would be taking property that was valued at more than \$5,000.

By consensus, the Committee felt comfortable with the language presented. The Town Council will consider a resolution in support of the policy at a future meeting.

3. Continuation of Discussion about Noise and Dust Ordinances as Related to Construction.

Mr. Croce reviewed the most recent draft of the construction noise ordinance. He described the two new definitions, restricted Sunday hours and major projects. He also discussed outstanding staff concerns related to enforcement of the proposed ordinance.

Chair Cahan opened the public comment period; there was no public comment.

Those present discussed the number of lots necessary for a subdivision to be considered a major project. The Committee did not have consensus on the number of units. Councilors Cahan and LaFond thought it should be fewer units and liked five units. Councilor Asherman was unsure and felt that each project would be different.

There was consensus amongst the Committee to include commercial construction in commercial and mixed-use zones under the abbreviated Sunday work hours.

Those present discussed at what point the proposed ordinance would stop applying to renovations/additions to individual homes within subdivisions regulated under the ordinance. Mr. Poore suggested that the ordinance

could stop applying once certificates of occupancy were issued. Code Enforcement staff would have to alert the Police Department when homes were completed.

There was consensus that the Committee would prefer to be lenient and let individuals living in subdivisions conduct homeowner projects. Staff will brainstorm solutions in advance of the next Committee meeting.

Mr. Croce reviewed a memorandum that he wrote addressing questions/issues regarding dust and sedimentation control at the last meeting.

Chair Cahan opened the public comment period; there was no public comment.

Chair Cahan asked if the MaineDEP manual included speed limits within construction sites. Mr. Croce said no but that speed was addressed in the brochure produced by staff.

Councilor LaFond asked about handling future dust and sedimentation issues with developers. Mr. Croce said he felt confident that staff could work with developers to mitigate issues. Mr. Poore added that staff can be more proactive with larger construction sites and that more enforcement action is required up front with uncooperative developers.

There was consensus amongst the Committee to move the amended erosion and sedimentation control ordinance language, outlined in Mr. Croce's memorandum, forward to the Town Council. The Committee desired to package the dust and noise items together.

4. Staff Update on Short-term Rentals and Review of Town Street Acceptance Policies and Ordinance and Process for Review Applications.

Ms. Fleming provided an update on staff progress on the draft ordinance. Staff would be meeting with Host Compliance on January 14 to discuss enforcement.

Mr. Poore discussed an idea that staff had to possibly hire Host Compliance to provide data on the short-term rental market in Falmouth in lieu of moving forward with an ordinance.

Chair Cahan opened the public comment period; there was no public comment.

Councilor LaFond provided an update that Vrbo and Airbnb provide \$1 million in insurance to protect short-term rental operators and guests.

There was consensus amongst the Committee to move forward with an ordinance.

Mr. Poore provided an update that staff are making progress on the review of the street acceptance ordinance and policies. He said that more of the process is administrative, but the Council needs to determine expectations for connectivity. Mr. Poore said that necessary changes to the process included getting applicants before the Council as soon as possible and having escrow accounts in place for peer review and reimbursement for legal expenses.

Chair Cahan felt that trails are a less compelling connectivity point unless the trail connection is really important. She felt that the Town should be reimbursed for legal expenses before Council decisions on applications are finalized.

Chair Cahan opened the public comment period; there was no public comment.

5. Next Meeting Date.

The next meeting will be held on January 25 at 8:00am. The Committee will continue its discussion of the draft construction noise ordinance, short-term rentals, and the review of the street acceptance ordinance and policies.

6. Adjourn.

The meeting adjourned at 9:59 am.

Minutes prepared by Marguerite Fleming.