

# **Ordinance Committee Minutes**

## **September 17, 2020**

Present: Councilor Asherman, Councilor Cahan, and Councilor LaFond

Staff: Nathan Poore, Town Manager, Marguerite Fleming, Administration Analyst, Ethan Croce, Community Development Director, Justin Brown, Code Enforcement Officer, Justin Early, Town Engineer, and John Kilbride, Police Chief

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. Discussion about noise and dust ordinances as related to construction.**

Ethan reviewed the staff memo. He said that town staff almost exclusively receive complaints related to construction noise. He said the main provision addressing dust is erosion and sedimentation control. He said contractors must submit a plan as part of the Planning Board review process.

Justin Brown said that he had only had one complaint about dust in the 14 years that he has worked for the Town until recently. He said that he occasionally receives noise complaints related to early morning construction. He said it tends to be infrequent and a lot can be mitigated by speaking with contractors as opposed to code enforcement action.

Chief Kilbride said he has received no complaints related to dust. He said noise complaints are usually related to specific construction sites. He said it would be beneficial to his Department to have starting and ending times for construction in place. He said 7:00am seemed like a reasonable start time and 7:00/8:00pm seemed like a reasonable ending time.

Justin Early said he is used to seeing time of operations in line with what Ethan suggested. He said other municipalities have set times but that contractors can seek approval if they want to work outside those hours. He noted that weekends and holidays are a consideration and noted that Maine has a short construction season. He felt 7:00am to 7:00pm would be reasonable. He said that dust issues can arise and need to be addressed in a timely manner. He said he drives by the Homestead Acres project every day and goes into the site 2 or 3 times a week.

Councilor Asherman felt it made sense to establish times around noise.

Councilor Cahan asked about the specifics of the erosion control plan. Justin Early said it is subjective; there is no good way to measure the dust. He said the important thing is if the inspector thinks dust needs to be addressed, the contractor has the means to address it.

Councilor LaFond asked how often contractors self-police/proactively manage dust. Justin Early said it depends on the contractor.

Chair Cahan opened the public comment period.

John Winslow of 253 Gray Road pointed out that Portland's ordinance was not included in the staff memo. He suggested using it as a guideline. He said the two current projects are large with a lot of excavators and that the developers are not maintaining the shape of the land. He also discussed the need for traffic enforcement.

Keith Noyes said that there is noise from the site 12 hours or more a day. He felt that the end time should be 5:00pm. He said that there is no dust control happening. He felt that unless the Town started fining, developers would not comply.

Lee Hanchett of 21 Stone Ridge Road felt that Town staff needed to establish better dialogue with contractors and that contractors need to be good neighbors.

Chair Cahan closed the public comment period.

Nathan said 7:00am-7:00pm made sense to him. He suggested that staff look into tailgate noise. He said he would like to talk with staff about increasing discussions with developers around expectations for dust management.

Chair Cahan said she would be interested in staff looking into measures that could be added to the ordinance regarding dust.

The Committee had consensus around 7:00am-7:00pm, 6 days a week with a day off on Sunday for the construction noise times. Staff will come up with standard operating procedures for dust and will research tailgate noise regulations. Nathan suggested that the Code Enforcement Officer could be responsible for reviewing requests to exceptions to the noise times. The Committee agreed. Staff will meet with the Homestead Acres developer to make sure that the developer is complying with the current erosion plan. They would also ask the developer to comply with the time parameters under consideration.

### **3. Short-term rental update.**

Maggie provided an update on the March 11 short-term rentals public forum findings and the Ordinance Committee and Council's discussions of this topic to date. There was discussion about nuisance issues arising related to non-owner-occupied rentals and that there seems to be an important distinction between Falmouth residents who rent and investment properties.

Chair Cahan opened the public comment period.

John Kirkham said that investment properties are a problem that needs to be addressed.

David Gooch said that he is a short-term rental operator and that it is an important source of income for him. He suggested holding a townwide forum with owners to address best practices.

Maggie will create a list of the top issues identified at the March 11 forum as well as potential enforcement measures to address the issues for the next Committee meeting.

### **4. Next Meeting Date.**

The next meeting is scheduled for September 29 at 8:00am. The Committee will continue to discuss noise and dust ordinances and short-term rentals.

### **5. Adjourn.**

The meeting adjourned at 9:58 am.