

Ordinance Committee Minutes

November 9, 2020

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

Chair Cahan began the meeting at 8:02 am.

1. Approve Previous Meeting Minutes.

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

2. Discussion about Review of Town Street Acceptance Policies and Ordinance and Process for Reviewing Applications.

There was consensus amongst the Committee to move forward with developing a registration process, requiring a local contact, and gathering data. Staff will draft an ordinance for review at the December meeting. Nathan Poore, Town Manager, reviewed the street acceptance application process. Councilor Asherman asked if the process was unique to Maine. Mr. Poore said most communities go through a process.

Councilor Lafond asked if streets could be accepted at the front end if built to standard. Mr. Poore said they could be accepted shortly after development, but it is not automatic. Councilor LaFond asked if the ability for a road to apply for street acceptance was a selling point. Mr. Poore said it could go either way.

Mr. Poore said that the subdivision standard could be discussed in terms of mandates that should be in place that cannot be waived. He said that the Council's expectations regarding connectivity should be discussed. He also said that the application review process needs to be amended as it takes too long and requires applicants to spend a lot of money.

Councilor Asherman asked if all municipalities require that roads be built to a certain standard. Mr. Poore said most towns do. Councilor Asherman asked how a developer could build a road that did not meet specifications. Mr. Poore said that the Paddock, Kilarney Way, and Cavendish Road culverts were very close to the design plans and there is not usually a lot of deviation, but it is important to see the as built plans. He said that review of the as built plans is not required until the street acceptance application. Mr. Poore suggested mandating submittal of drainage easements. Councilor Cahan asked if the Town could require that all streets be built to the highest standard. Mr. Poore said yes. The Committee expressed interest in increasing the standards at the Planning Board level.

Councilor Cahan asked if notification could be included with home sales that the street is private and may never be accepted as a public street. Nathan suggested including a memo with each property record file that the development has indicated the road will not be public. Ethan Croce, Community Development Director, said Falmouth only has one street standard based on the number of dwellings. It does not matter whether the street is public or private. The Committee asked that at the Planning Board level, the Town require the plans to state "roads never to become public" if that is the statement of the applicant.

Mr. Poore described the 2010 Connectivity Policy and the section of the ordinance addressing connectivity. He described examples of approved connectivity. He said there is currently a wide threshold.

Justin Early, Town Engineer, said there are currently 43 miles of private roads and 93 miles of public roads.

Councilor Asherman expressed concern about trail access being used to meet connectivity. Mr. Croce provided additional background information on the connectivity policy.

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

Mr. Early said when the Town accepts a street it will not be maintained the same way the homeowner's association was maintaining it.

The Committee asked staff to reach out to other communities to get copies of their street acceptance policies and ordinances.

The Committee asked staff to create a measurement for trail connectivity and for Mr. Croce to provide copies of the trail standards in the Planning Board review process.

Mr. Poore said he had asked a resident to weigh in on the procedural aspects and would ask Lisa Magnacca, Town Attorney, to provide input on clarifying the legal fee requirements.

3. 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 draft "Acquisition of Property for Highway, Stormwater, and Wastewater Collection and Treatment Purposes" policy language. He said it was based off the State Statute and could be added as a new section of the Town purchasing policy. He said whether there is a public benefit is important.

Councilor LaFond said it was important to make sure that the policy language did not restrict the Town's inherent rights to eminent domain. Mr. Poore noted a clause in the draft, "if the Town is unable to purchase it at what the municipal officers deem reasonable valuation" as well as language in the policy that allows the standard to be waived. Mr. Poore said this is about fairness.

Mr. Poore will seek legal review of the draft language in advance of the next Committee meeting.

4. Next Meeting Date.

The next meeting will be held on December 14 at 8:00am. The Committee will continue its discussion of the policy regarding the use of eminent domain, noise and dust as related to construction projects, and short-term rentals.

The Committee scheduled its January and February meetings for January 11, January 25, February 8, and February 22. The Committee will continue its discussion of the street acceptance policies and ordinance at the January 11 meeting.

5. Adjourn.

The meeting adjourned at 9:29 am.

Draft minutes prepared by Marguerite Fleming.