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Memorandum

Date: November 6, 2014
To: Town Council
From: Nathan Poore, Town Manager
Re: Commercial Truck Traffic on Local Roads

I am writing this memo in response to a second request to the Town Council by a resident of Brook Road. The resident believes that an existing ordinance prohibiting commercial truck traffic on Brook Road is not being enforced, and without enforcement of the ordinance, commercial truck traffic makes the road less safe. Specifically, the resident has asked that “No Through Trucks” signs, which at one time were placed alongside the road but were later removed, be restored to the roadside.

Resident concerns about Brook Road first came to my attention in 2009. These inquiries often occur annually and I have provided updates to previous Town Councils. In early 2014, the same Brook Road resident approached me and again requested the Town enforce the Code of Ordinances by placing a “No Through Trucks” sign on Brook Road. I informed him that there was nothing further I could do as the Town Manager because in my opinion, the ordinance was unenforceable. I forwarded his request to Council leadership but a decision to place it on an agenda was delayed. In September, the resident spoke at a Council meeting (public forum) about this issue.

Town Ordinance

The applicable section of the Town’s Code of Ordinances states:

Section 17-9. - Certain vehicles prohibited from certain streets.

No truck or bus other than an emergency vehicle or a local passenger bus picking up and discharging passengers along designated routes at specified stops shall travel over the following streets or parts of streets except when necessary to render service to or to deliver supplies to persons residing adjacent thereto where other means of access to such residences are not reasonably convenient: Brook Road between Blackstrap Road and Mountain Road.

This section of the ordinance is very specific and says that commercial through trucks are prohibited from Blackstrap to Mountain Road. My concern about enforceability is further explained in this memorandum.

State of Maine Department of Transportation Rules

The State of Maine Department of Transportation (MDOT) maintains some jurisdiction on Brook Road, including the portion between Blackstrap Road and Leighton Road. It is MDOT policy not to limit or prohibit commercial truck traffic on major collector roads, which is the designation for this part of Brook Road. The specific rule is available at this link <http://www.maine.gov/mdot/csd/mlrc/technical/ti/truckrestrictions.htm> and it states, in part:

No restrictions can be put on State or State Aid Highways whether these roads are in rural areas or “urban compact” areas, unless specifically restricted by the MaineDOT Commissioner.

This is affirmed in State Rule 17-229- 104: “It is the goal of the State of Maine, Department of Transportation that Maine’s public highways be safe and efficient and contribute to the economic growth of the State and the well-being of its people. MaineDOT will make good faith efforts to have Maine’s public highway network meet the social, economic, and environmental needs of the public. In addition, public highways are intended for the overall general use of the traveling public and for business, recreation, and overall access to areas across the State. Therefore, MaineDOT recognizes that there is an affirmative right for all individuals and entities, public and private, domestic or commercial, to travel on all State or State Aid highways in Maine. This right shall exist until the Commissioner of MDOT suspends or otherwise restricts any such traffic on any highway under MaineDOT jurisdiction.”

There are some exceptions to the State rules where municipalities can submit requests for truck limits on state controlled roads after completing the following process:

- *The municipality must make a written request to the Department. Requests from an individual or groups of individuals will be referred back to the municipality.*
- *The request must be made following substantial public process and buy-in by all affected parties. Municipalities shall be encouraged to conduct neighborhood/stakeholder meetings before submitting a request.*
- *The request must not significantly affect traffic in municipalities other than the municipality which made the request.*
- *There is a reasonable alternate route for all traffic affected by the posting, as documented in part by the buy-in of affected commercial interests.*
- *The alternate routes do not create severe safety or congestion concerns.*
- *The municipality has passed a municipal traffic ordinance as described in Title 30A § 3009.*

According to MDOT representatives, they have never approved any applications for these exceptions.

Legal Considerations

Please see an opinion provided by the town attorney, attached as a separate document in the November 10, 2014, Town Council online agenda package.

Town of Falmouth Authority and Policy Considerations

The map below shows the location of Brook Road and the two sections (between Blackstrap Road and Leighton Road and the other section between Leighton Road and Mountain Road).



In addition to the exception process through MDOT described above, placing limits on truck traffic should consider all legal tests. Limitations are permitted when the structure of the road cannot accommodate certain weights or when the geometry of the road creates an unusual risk to road users. One example of a road structure that cannot accommodate heavy vehicles includes deteriorating bridges with weight limits. A second example is when roads begin to thaw after a long winter. The supporting gravel and soils below pavement can become saturated with water during the thaw, creating an unstable structure. In this scenario, heavy vehicles can cause severe damage to the roads and force towns to annually restrict heavy vehicles in the spring.

An example for geometric challenges that create an unacceptable safety concern is more difficult. The standard for “geometrically unsafe” can be broad, which is why the Town decided to conduct a town-wide study in 2011 after receiving complaints about not replacing the “No Through Trucks” sign on Brook Road and requests to consider no trucks in other neighborhoods. The study looked at many roadway characteristics including turning radii at intersections, road curvature, sight distances, grades, other physical data, crash data, truck counts, speed, etc. It was determined that Brook Road was no more unsafe than many other local roads in Falmouth. The study and an update published in April 2014 are attached as a separate document in the November 10, 2014, Town Council online agenda package. This study

led me to conclude that it would be difficult for the Town to limit or restrict commercial trucks where the road geometrics and other attributes indicate that the road could accommodate commercial trucks. Furthermore, if restrictions are acceptable on one road, then other roads with similar conditions could also be eligible for restrictions. Eventually, commercial truck routes could shift to other neighborhoods which presents additional challenges. I was also concerned about legal authority explained in the letter from the Town Attorney attached as a separate document in the November 10, 2014, Town Council online agenda package.

I have located minutes from Town Council meetings in June and August 1979 when the Council adopted the truck restrictions ordinance. These minutes are attached as a separate document in the November 10, 2014, Town Council online agenda package. Residents from other neighborhoods have expressed similar concerns about truck traffic on the roads where they live, including Route One, Route 88, Pleasant Hill Road, Ledgewood Avenue, Andrews Avenue, Depot Road and Leighton Road. The town, through staff, responded to each request, citing the same reasons explained in this memorandum as to why restrictions would not likely be possible on these other roads.

Possible next steps

- A. Enforce the current ordinance - If the Town Council decides to enforce the current ordinance, we will order appropriate signs and install them immediately.
- B. Repeal the ordinance and consider planning efforts to review other options to address safety concerns.

If the Town Council decides to repeal this section of the Code of Ordinances, I recommend we encourage the residents of Brook Road to be informed about two studies being developed in the next year - the future and vision of the Route 100 corridor and the update of the bicycle and pedestrian plan. These studies have components that could include recommendations for improving the function and safety of roads in this area for all users of the roadway, including cyclists and pedestrians. There could be other options for this road that can accommodate safety improvements that are within the Town's authority. We have also recommended to residents of other neighborhoods to participate in the development of a new bicycle and pedestrian plan.

The current 2003 Bicycle and Pedestrian Plan (link to plan - http://www.falmouthme.org/sites/falmouthme/files/file/file/bicycle_pedestrian_master_plan.pdf) identifies part of Brook Road as a location for a bike lane but much of it is not specifically recommended for a sidewalk or bike lane. The plan does recognize the higher residential density and proximity to the West Falmouth commercial area. The 2013 Comprehensive Plan describes the Brook Road area as a "growth area" and is abutting a "commercial growth area". The Comprehensive Plan also states that investments in infrastructure should be considered in growth areas. The message in the Comprehensive Plan, combined with the two planning studies, will be developed soon

and are reasons to conclude that the Brook Road area will be part of future planning discussions.

The pavement condition on Brook Road, south of Leighton Road, is in good condition. The pavement condition on Brook Road, north of Leighton Road, is in fair condition and may need pavement maintenance and other construction in the next five years. While there is reason to believe that there will be thoughtful consideration for vehicular, bicycle and pedestrian improvements in this area based on approved plans and future planning, there is no guarantee that significant improvements will occur. However, input from residents will be an important part of the planning process.