

**MINUTES
TOWN OF GORHAM
ORDINANCE COMMITTEE MEETING
Meeting of March 26, 2024 - 10:00a.m.
Gorham Municipal Center, Conference Rm A**

Present: Councilors Seven Siegel – Chair, Phillip Gagnon, Lou Simms.

Also Present: Director of Community Development Thomas Poirier; Town Planner Carolyn Eyerman; Town Manager Ephrem Paraschak; Town Engineer Charles Norton; Assistant Town Clerk Kimberly Getchell

Audience: Ben Brooks of Nouria Energy; Susan Robie, Gorham Resident; Christine Peters CFO of Maine Smoke Shops.

1. Consideration of the minutes of the February 27, 2024 meeting.

A motion was MADE by Councilor Simms, SECONDED by Councilor Siegel, and VOTED to approve an amendment to page 5 of the February minutes which read “Councilor Simms stated he would like to see more parking spaces” to read Councilor Simms stated he would be open to investigating whether a parking garage might be a smart investment”. Unanimous vote.

A motion was MADE by Councilor Siegel, SECONDED by Councilor Simms and VOTED to approve. Unanimous vote.

2. Current Business

- A. Review and provide recommendations on an ordinance that would ban the sale of flavored tobacco and vaping products in the Town of Gorham (referred by the Town Council on December 5, 2023)

Director Poirier began the conversation stating the Town Attorney had drafted an ordinance and it had been sent out for public comment. A written comment had been submitted from Andre Albert from Hops & Vine which said that the ordinance was broad and hurt businesses who are operating legally. He didn’t see how the ordinance would help with teen usage of flavored tobacco and felt customers would continue to purchase these products in another town.

Director Poirier went on to say that it doesn’t feel like this is a fix unless the whole state is on board and there is legislation at the State level. It may appear that Gorham is disenfranchising businesses.

Christine Peters, CFO of Maine Smoke Shops introduced herself and said that Bangor placed a similar ban, and sales went down in Bangor but up in her Brewer store. Customers are just buying in the next town. She stated that teens are still using and buying on-line. No one is allowed in her stores if they are under 21 years of age.

Ben Brooks of Nouria agreed and said that Rockland banned vapes only and customers are going to the next town to buy.

Councilor Simms stated that the Board of Health says usage is trending downward. This is in some part due to banning of flavored products. However, kids who want it will find it. Possibly they should wait until there is some sort of resolution from the State Legislature. Ben Brooks said that is what the Town of Sanford is doing.

Councilor Siegel suggested they table the item, pare down the language and see about a resolution. Councilor Gagnon asked if they had a timeline? To which Councilor Siegel stated 1-2 months.

Councilor Simms agreed and wanted to wait until the state's session ended because he didn't think there was enough time in the current session. The resolution could have more impact at the next session.

Director Poirier added that it could be sent to the State Representative and have additional impact.

A motion was MADE by Councilor Siegel, SECONDED by Councilor Simms, and VOTED to table. Unanimous vote.

- B. Review and update road standards in the Land Use and Development Code and report back to the Town Council with recommendations (referred by the Town Council on September 6, 2023)

Director Poirier thought they should begin talking about Private Ways first then Public Ways. He pointed out that a private way plan was presented with an amendment which was just a minor adjustment. However, because of the standards it would take a much longer process to change it.

Engineer Norton said he looked at the road standards to compare the private and public road standards and they didn't align. He referred to attachment B and said there wasn't any clarity regarding 11-25 lots, this should be added to the 25 lots/dwellings. He also stated he thought that the word "Lots" should be changed to "Dwellings". Lots and dwellings are not the same since one lot could have more than one dwelling, such as a condo. Currently there is a higher standard for the Minimum Center Line Radius for private ways. He recommends reducing the minimum center line radius of 11-25 Lots/dwellings from 200' to 150' to align with public ways. He also said that the minimum tangent between curves should be reduced to 100', to align with the standards for public ways. Lastly, typical section drawings should be standardized to reflect the Private Road Standard table.

Councilor Siegel asked if there was currently a waiver and Engineer Norton said he had not drafted one yet.

A discussion began regarding the number of proposals for changes staff gets per year. It was determined 6-10 per year while new proposals exceeded 10 per year.

Councilor Gagnon wanted to know what the odds were of having wavy roads in sub-divisions.

Engineer Norton said that it seems like it would be easy to have straight lines but in building roads contractors are trying to avoid natural barriers such as wetlands, so there will be small tangents and curves that you may not necessarily see. He went on to say that most private roads are set for a 25mph speed limit. The shorter tangent doesn't make a private way more dangerous the speed

limit is too slow. He also said that the lower curve radius gives the builder more flexibility to slow traffic and avoid natural resources.

Councilor Simms asked if there was a process to get a waiver. To which Engineer Norton said no there wasn't.

Director Poirier said that we currently have standards in place and just want to use the same standards for private ways that are being used for public ways. Keeping the language the same.

Sue Robie was introduced and asked if the 1-lot private ways could read 1-2 lot private ways. With the current standard you can't have an ADU (accessory dwelling unit) or a rental apartment. It seems inconsistent. A 1-lot private way is nothing more than a glorified driveway. We have a wood lot in the back would we be able to access it? Why is it so restrictive?

Director Poirier replied that is the conundrum. That is why they want to get away from 1-lot private ways and go to a backlot provision. There would be more flexibility and the owner wouldn't need an engineer etcetera to upgrade the road. Can you access your wood lot from a private way, yes you can. However, you may need to widen the road to add a lot because you are moving away from a back lot provision to a 1-2 lot private way.

Sue Robie stated she wanted consistency.

Planner Eyerman said that in this case we could remove the 1-lot private way all together.

Councilor Gagnon was opposed to narrowing it. Say you install the road as a small path with an easement but want to extend the road later to access your property. The odds of getting your neighbor to sell to you is difficult. You may have 80 acres but only one road to the house because you wanted to live alone at first, but now you want to add lots. How will you do that? We want uniformity for people who want to do this over time.

Director Poirier clarified; are you saying, by allowing a back lot provision are we hurting people from being able to subdivide later. To which the answer was yes.

Director Poirier stated he thought whether it's a 1-lot private way or a backlot provision if you don't do it right in the beginning you could hurt yourself from splitting this lot in the future. You need to know what you might do with the property in the future. You could possibly situate the house, so it doesn't support the extension of the road.

Manager Paraschak stated it is up to the landowner to plan for expansion, and wider easement because they may want to expand in the future.

Councilor Gagnon stated that someone may not plan for that at the beginning. Or not realize their options at the time.

Councilor Siegel added if you only want a 1-lot private way you are holding them at a higher standard, so how is that fair?

Councilor Gagnon said that you have to assume they know what they are doing.

Siegel You would also have to assume the same for 1- lot private ways.

Councilor Seigel and Planner Eyerman stated that this would make it harder for a person wanting just 1-lot or someone who doesn't have the frontage or maybe not even the driveway.

Councilor Gagnon stated we need to create uniformity in the code. Small lots need to reach larger lots.

Councilor Simms commented that It's a really good conversation, but he didn't want to make a decision right now, it's confusing and he would like to talk more about it.

Councilor Siegel noted that we have a minimum pavement width but not a maximum. Should a maximum be added. The narrower the road the slower people would drive.

Councilor Gagnon said he didn't like a maximum, because amenities like bike lanes and bus stops can be affected. He is concerned about limiting other modes of transportation.

Manager Paraschak stated that pavement is expensive and not only what's in it but what is under it. Developers don't want to spend money on any more pavement if they don't have to.

Councilor Siegel asked about lane width. Should it be considered?

Engineer Norton said that private ways usually don't have a lane width because they don't have lanes. Usually, widths are talked about when you have 2-4 lanes. They probably should be talking about road width not lane width. Even low speed public lanes don't always have fog lines etc., they may have a center line they may not.

Councilor Gagnon said he is concerned about bike lanes and other modes of transportation.

Councilor Simms said he agreed, he would like more bike lanes. Some areas in town are a little dangerous on a bike.

Councilor Siegel asked, then how can we be more flexible with minimums?

Engineer Norton said by allowing waivers, for instance the Robie development is an example that comes to mind, they asked for it to be 11' it had been 12' there really wasn't any reason for it to be 24' wide.

Councilor Gagnon said per the MTA Meeting people want more options for transportation. This includes bikes, so bike safety needs to be included.

Director Poirier stated this sounds like a complete streets' conversation.

Engineer Norton said that most of these will be dead end private ways. He has never seen a bike lane on one of these streets.

Councilor Siegel posed the question, do roads have to meet standards before they can become public ways?

Manager Paraschak answered yes. The Town Council can approve anything but in reality, it makes sense to follow standards.

Engineer Norton said that if we were to have an urban access road at a minimum of 22' instead of 24' would have to be modified to standards if you have a bike lane on both sides. They can be on one side or both. There is often a constraint on size because you are adding a bike lane to something that already exists which is different than when building new.

Councilor Simms thought they should really be thinking about narrower roadways to slow down traffic.

Councilor Gagnon stated he didn't want to make decisions on narrowing anything without addressing the other items people want. The people have said they want other modes of transportation such as walking paths and bike lanes.

Manager Paraschak asked Engineer Norton to clarify, there is nothing to say these things cannot be added to roads? To which Engineer Norton stated no.

Councilor Simms MADE a motion SECONDED by Councilor Siegel to amend waiver language/process to align with waiver requests for public ways and VOTED to approve. Unanimous vote.

Councilor Simms MADE a motion SECONDED by Councilor Gagnon to send to Town Council then Planning Board. Unanimous vote.

- C. Review the possibility of new school impact fees and report back to the Town Council with a recommendation (referred by the Town Council on November 14, 2023).

Councilor Siegel if everyone had seen the email from legal counsel?

Councilor Simms wanted to know how the fees are collected from the Middle School.

Manager Paraschak stated that the bond just ended but we can go 3 more years. Impact fees really didn't put a dent in the cost of the building.

Director Poirier stated that it was built bigger than was needed and that piece that was above the minimum is what triggers impact fees. The Legislature is asking us to grow but isn't changing the formula for school funding. So, the communities that are growing will continue to have issues with school size.

Councilor Siegel said that one of the data points is who applies for free and reduced lunch? But now everyone gets free lunch, so those points are hard to track.

Councilor Siegel asked can we tie Impact Fees to Capital Projects at the school with regards to repair? Director Poirier responded no it has to be the increased capacity.

Councilor Gagnon thought the impact fees could be used towards debt and applied to the modular debt.

Manager Paraschak said no it has to go toward the increased capacity and needs to be calculated ahead of time. Its future growth.

Councilor Simms wanted to know if it could help with parking garage creation.

Manager Paraschak said that would need to be investigated but more than likely it wouldn't begin to cover the cost of the project.

Director Poirier stated it must be used toward future kids, not existing kids. The overcapacity you can fund is a very small number.

Councilor Gagnon asked if you could apply fees in anticipation of a new school being built and let it accrue because there is a town portion of the state funded school.

Manager Paraschak said you must know what you are building, the number of kids, what capacity, square footage costs. A safer bet would be to approach the School Committee. When they have a project coming up let us know and we can see if we can impact fee them

Councilor Gagnon thought they could impact fee now for the future school.

Director Poirier said most of the new school would be for existing students. You can't impact fee that. It would be the additional students the school was planning for with increased capacity. That would have to be figured out and come up with a number to base the fees on.

Councilor Gagnon said that for instance Great Falls has room for a 3rd wing. We could build that for future use and impact fee that.

Manager Paraschak stated that impact fees over the last several years 04-2019 were about 1.7 million which help build fields at Little Falls things that were outdated. He estimated over a million for the Middle School.

Councilor Siegel suggested staff reach out to the school committee for future increased capacity that we could impact fee.

Manager Paraschak said that sounds good. He thought Heather Perry would be very interested.

Councilor Simms MADE a motion, SECONDED by Councilor Siegel and voted to check with the school on future projects and table until the next meeting. Unanimous vote.

- D. Review the Towns wastewater ordinance to allow for private clustered wastewater systems (referred on January 2, 2024)

Director Poirier said that this ordinance needs to be gone through, but this is low hanging fruit. Currently the town doesn't allow a septic system to serve more than two (2) homes.

Engineer Norton stated that currently not more than two (2) residences or one (1) commercial building can share a septic system. He suggested they coordinate with a contractor wastewater consultant to find out what our options are and inform the group of the advantages and disadvantages.

Councilor Gagnon stated he wanted to understand how it works, what if it fails who cleans up the mess.

Manager Paraschak said that is a concern if it fails and there isn't enough room for a new system how does it all pan out.

Councilor Siegel stated he is not concerned with a developer's timeline. He wants to do this right and take the time needed.

- E. Review and propose recommendations for a complete streets ordinance to promote better transportation systems and safer streets for pedestrians and bicyclists in the Town of Gorham (referred by the Town Council on November 14, 2023)

Both Councilor Gagnon and Councilor Simms said they really like the idea.

Councilor Gagnon said he is concerned about narrowing streets which doesn't allow for cyclists and pedestrians to move about safely.

Director Poirier said that complete streets is a policy that is implemented town wide. A policy developers and public works will follow. All streets would need a review and analysis to see if it makes sense to have complete streets in a particular area.

Councilor Gagnon wants to make sure that we are creating neighborhoods and have several modes of transportation available.

Manager Paraschak emphasized that this is important because we can get grant money for having complete streets. Roads will be evaluated on a case-by-case basis. Not all roads will have a bike lane but maybe a more comfortable shoulder. Improvements can be made in the Village.

Councilor Simms noted that this is a very good thing for the town. This would help create an area where people want to be, a more desirable area and in turn increase home values.

Gagnon wants work that is done, is done well and suits Gorham. Cardboard cookie cutter days of development are over.

Councilor Simms said it makes sense it may cost more money and be more work but that is ok if it's a good use of funds and has benefits.

Councilor Siegel doesn't want a painted bicycle gutter. Not really a bike lane just paint the side and it goes over gutters/drains. Or lanes that randomly begin and end. Would like a numbered list that prioritizes objectives.

Planner Eyerman stated that the Planning Board is going to make any developer follow any standard you create. What you want the developer to follow needs to be in an ordinance and be very plain/obvious.

Director Poirier said that on any low-speed roads there usually aren't 5^{ft} bike lanes. However, you want those bike lanes on higher speed roads to get them out of traffic. He went on to say that for

35-40mph roads we are getting push back on growth areas. They want less impervious areas, not more (DEP and EPA). They could add some language about bike paths in subdivision review criteria. Engineer Norton added that they require 5ft sidewalks so they could make it 8ft and it becomes a multi- use path.

Councilor Gagnon said that there were talks about using the cross-town trail as a collector for other bike routes. They could do a collector instead of roads. They could use New Portland Rd instead of Route 25. It all comes down to having staff come back with recommendations to accomplish what we are indicating.

A discussion began about policy vs ordinance.

Manager Paraschak stated that the Policy says this is our model for the town, but we can bring back recommendations and either the developer has to include it or the Town has to modify and make it happen

Councilor Siegel said that if we have a policy in place, we can have grant funds then at the next meeting we can set down real rules.

Planner Eyerman stated that the policy tells staff and anyone else that this is what you want, it was voted. It would be helpful when talking to developers. This is what the policy is and what the town wants this what we are doing.

Councilor Gagnon said he was ok with policy but wants it in ordinance.

Planner Eyerman said she agreed. Have it written in black and white. The policy is something we can make the developer consider but if it is in ordinance then the developer must follow it. A policy really helps and makes the developer have to take a look at the wants of the community. It's a start.

A motion was MADE by Councilor Siegel, SECONDED by Councilor Simms, and VOTED to send the policy to the Town Council and have staff come back with recommendations. Unanimous vote.

Councilor Siegel had a final question, what can we do/not do in urban compact?

- F. Work with staff to review and propose public utility impact fee (s) for the purposes of expanding water and sewer availability in the Town of Gorham where extensions are possible (referred by the Town Council on October 3, 2023)

Director Poirier said this is talking about South Gorham, which needs sewer and water to support growth. How do we move forward with an impact fee? This is a very large thing to tackle. We have money earmarked for the analysis of sewer capacity on Saco Street. We should go down that road to assess what's available, so we are informed. We have already done South St. but that only serves about ½ of South Gorham crossroads, you could get to the overlay. That would be lots of infrastructure and 2 pump stations, 15 years ago the estimate was 35 million. The estimate was from PWD bid if they did the whole design.

Councilor Gagnon thought we would want to piggyback off Saco St. via the Turnpike Spur. That only serves that ½ the other half with be pump station.

Manager Paraschak said that most extensions would be through a public, private partnership. It's not economically feasible to spend money otherwise.

Councilor Gagnon thought they should ask Peter Mills if that is part of the construction. If MDOT is coming in, what can they do to support us.

Manager Paraschak said they were in talks behind the scenes but wasn't sure how this would all pan out.

Director Poirier said that he highly doubted toll booths would pay for the infrastructure. We have had conversations with the developer of the public golf course, but we have told them it needs a public sewer for that size/density. The Developer could ask, if he puts in infrastructure would Gorham be able to pay him back for those who tap in after construction. Tom wasn't sure if impact fees can be used to pay a developer with those fees.

Councilor Simms asked if impact fees would fund a future extension of this.

Director Poirier stated they could have impact fees ready but isn't sure they can refund the developer.

Councilor Gagnon would like the money to expand it further. Ask Peter Mills what it would take to get that added in. MTA is creating a bridge and blasting Bracket Road already.

Manager Paraschak stated what he thought would be the fairer question. Is there an overlap to benefit both parties? This may be an easier approach. Utilities that are under quasi govt entities such as a control access highway may not be the best thing under the length of the highway. Because of access blow outs, this could be an engineering nightmare. This project is several years away. How if any can an impact fee recoup or advance the resources there?

Councilor Gagnon said the turnpike passes utilities all the time so they could design it so access is available. He would like a discussion with MTA (Maine Turnpike Authority) for a pump station.

Director Poirier said we could ask them if they would be willing to help with expansion of public utilities to a growth area to support a turnpike spur. They will most likely give us money but not the design or plan.

Engineer Norton said that Brackett and Saco St are two different roads and planes, and he didn't think they would show it in that design schematic.

Councilor Siegel noted that it could be a cost savings if this is being done at the same time.

Engineer Norton stated that Tom's method is most feasible since we don't have a plan or design layout. Getting money would be huge.

Councilor Gagnon wanted staff reach out to Portland Water and Peter Mills to get the ball rolling and see what the feasibility is.

Director Poirier said that we must do an analysis of Saco St. first. We are waiting for the RFP to go out to have the study. We don't have the federal funds, it's a \$250,000 study. The question is, is the capacity in Saco enough to support South Gorham. Without doing the analysis we can't be sure where the best location is for the pump station.

Manager Paraschak said this won't be a quick process. Conversations are happening with MTA behind the scenes. Regarding this and other projects.

Director Poirier said we have a developer looking to put in the sewer himself. Can we do an impact fee to support that? He would have to prove Saco Street has it, he would need to do the analysis. Put it on the developer. Pump station in Saco or put all the way back to Libby Avenue. This may incentivize the developer to move this along faster if we can impact fee and we pay them.

As discussion began regarding who should do the study. Would it be more feasible to have the developer pay for it or the town. It may not be less expensive, but it could be faster. Would the study be the same either way? Yes, since it would have to follow the standards of the Portland Water District. It may be refused because Westbrook owns the water lines. They could defer to the Town Attorney for advice on how to structure it. Could the money be used for another study? Yes, that may be possible.

4. **Other business**

5. **Schedule next meeting and discuss agenda items for next meeting**

6. **Adjournment**

A motion was MADE by Councilor Gagnon, SECONDED by Councilor Simms and VOTED to adjourn the meeting. Unanimous vote.

Respectfully submitted,
Kimberly Getchell, Assistant Town Clerk