

**Town of Cape Elizabeth
Ordinance Committee Minutes**

March 25, 2024

4:00 p.m.

Town Hall

Members Present: Stephanie Anderson, Chair
Caitlin Jordan Harriman

Staff: Maureen O'Meara, Town Planner
Jay Reynolds, Public Works Director

Minutes

Chair Anderson made a motion, seconded by Councilor Harriman, to approve the March 6, 2024 meeting minutes, which passed 2-0.

Public Comment

No members of the public wanted to comment on items not on the agenda.

Dyer Pond Road Parking

Chair Anderson summarized the process to date responding to citizen comments about dangerous conditions on Dyer Pond Rd due to parking for greenbelt access. She met with Public Works Director Jay Reynolds onsite and the committee is reviewing a proposed solution to create off-road parking spaces.

Mr. Reynolds shared a conceptual plan he prepared where up to 5, 9' x 18' parallel, off-street parking spaces can be created within the existing 50' wide right-of-way. The spaces would be located on the north side of the road between the west end of the guardrail and the greenbelt trail entrance. He suggested construction with surface treatment such as crushed rock to promote drainage.

Chair Anderson asked if ledge blasting would be needed? Mr. Reynolds identified a limited ledge outcrop that would likely be removed with a hammer drill.

Chair Anderson asked if this work can be done by the Public Works department? Mr. Reynolds summarized a simple construction project with ledge removal and surface drainage surface treatment that could be done in-house for the cost of materials, estimating \$1,500, including the crushed stone.

Chair Anderson made a motion to send this recommendation to the Town Council, which was seconded by Councilor Harriman and the motion passed 2-0. The committee agreed to bifurcate the parking construction and ordinance changes.

Public Comment:

Susan Klopp, 11 Dyer Pond Rd – She lives at the end of the road and is concerned with the blind curve as there is no public turnaround at the end of the road. She spent \$20,000 for a new driveway and it has broken edges and lawn damage from people turning around.

Chair Anderson asked what the alternative is if there is no public access?

Mrs. Klopp said people park under the no parking sign and she directs them to where they can safely park. She supports parking on the straightaway and not on the curve, but there is still the issue of people using private driveways for turning around.

Chair Anderson noted the proposal to provide off-road parking and following the site visit, thought it would be ok.

The committee referenced aerial mapping of Dyer Pond Rd on the town website (Mapgeo).

Mr. Reynolds said there are standards for blind curves and sight distance and Ms. O'Meara said this road, which is relatively new, meets current standards.

Mrs. Klopp is concerned with the 3-point turn on the curve.

Chair Anderson asked if locating parking on the straight portion would require tree removal?
Mrs. Klopp said there are no trees but there is drainage.

Councilor Harriman noted the road has a public turnaround and perhaps turnaround signage may be needed.

Mrs. Klopp stated that parking increased when Fort Williams instituted parking fees.

Councilor Harriman rescinded her motion, and Chair Anderson concurred.

Mr. Reynolds offered to prepare a report that evaluated placing parking on the straightaway and then sign all else no parking. He noted that the Roy driveway intersection includes drainage structures, which will make the project more difficult.

Councilor Harriman noted we may go back to the first option after receiving more information.
Chair Anderson agreed.

Chair Anderson closed this item and there was committee consensus to table further consideration to a future meeting when the straightaway report is ready.

Pesticide Ordinance

Public Comment:

Mary Ann Lynch, 2 Olde Colony Ln – She read out loud a letter she sent to the Town Council and asked for the ordinance to be suspended for a year, which is supported on Cape POD. She voted against the ordinance and is concerned with grub control on her lawn. Her lawncare company, Egbert, has cancelled all Cape service contracts. Her contractor said there is nothing effective for grubs. She does not want to treat her lawn with chicken guano.

Councilor Harriman said that the Ordinance Committee has spent a long time on these amendments. She supports sending this to the Town Council for discussion and a public hearing.

Ms. Lynch asked why the ordinance has major exemptions for farms and playing fields? People did not know what they were voting for when the ordinance was adopted by referendum. People are likely to go to Home Depot and buy what is prohibited by ordinance, but she won't do that.

Councilor Harriman said the Ordinance Committee tried to keep the amendments within the parameters of the ordinance passed by the voters.

John Griffith, 3 Blueberry Rd –There was ample information on the town website and letters in the Courier. The ordinance focus on residential properties is in response to the ridiculous overuse of pesticides to create a golf course-like lawn. Pesticides are toxic poisons. If the town wants to expand to farms, they can do that. The ordinance is a common sense effort and most toxic use is on private lawns. The schools are not soaking their fields with pesticides. This is about the health and safety of families, kids and pets.

Richard Bryant, 55 Spurwink Ave – Chair Anderson asked why his draft ordinance excluded farms and town properties? Mr. Bryant said the use of chemicals for cosmetic lawn care is the primary source of contamination. We did not feel we had the expertise to write regulations for town properties and farms, where some pesticide use may be needed for public safety and food production. An earlier Pesticide Ordinance was proposed, and sent to the Ordinance Committee, and it died there. The current ordinance is modeled after ordinances in other towns and there were lots of Ordinance Committee meetings on these amendments. The Town had a policy, not articulated, to avoid pesticides. Regarding grubs, there is a small grub cycle window when pesticides are effective. Once you see grub activity, it is too late. He noted there is a State Right to Farm law which restricts municipal authority, which is another reason to exempt agriculture. The ordinance was adopted by a 21% point margin in November, 2023. Suspending the ordinance is “backwards policy making.” The amendments should be sent to the Town Council.

Deb Peck, 21 Cottage Farms Rd – She is concerned that after a year of work, an eleventh hour appeal is made because a treatment is cancelled. She decided 40 years ago to not use

pesticides, not expose her kids, and had previously used Egbert for several years. She stopped service and it took 3 years for her lawn to get its natural balance. Grubs come when you try for a perfect lawn. She has had no problems for 30 years. We have attended long hard meetings for a year and the ordinance is not a hysterical response.

Councilor Harriman made a motion to send the Pesticide Amendments to the Town Council and Chair Anderson seconded the motion.

Chair Anderson shared that she read all the Ordinance Committee minutes prior to her membership and was impressed with the work of the committee, including speakers who were brought in. She agrees we should hear from a broader perspective of people at a Town Council public hearing.

Councilor Harriman noted that we currently have a Pesticide Ordinance and these are amendments. A movement to repeal the ordinance would need to be on a parallel and separate track. The amendments help what is already in place.

The committee briefly reviewed the comments made by Town Attorney Gray Louis and agreed to a slight rewording in the purpose statement.

The motion passed 2-0.

Mr. Griffith said there is a wonderful 2-page pdf on grub control on the town website.

ADU (Accessory Dwelling Unit) Amendments

Ms. O'Meara explained that the draft amendments had included a prohibition on operating a Short Term Rental (STR) in an ADU, which had then been removed. Does the committee want the STR prohibition included?

Chair Anderson noted that using ADUs as a STR was controversial at the Housing Committee.

Councilor Harriman said it is counterintuitive to housing goals, although it allows for revenue. The town had trouble monitoring ADUs. We should put it out there for people to comment on.

The committee agreed by consensus to include an STR prohibition in the amendments.

Public Comment:

Deb Peck, 21 Cottage Farms Rd – The reason for creating an ADU is housing, and it is scary that it can now be a business.

Councilor Harriman pointed out that an ADU can be used for revenue to stay in a home.

Mrs. Peck asked if the ADU has to follow the same STR rules? Councilor Harriman said we would need to look at that.

Chair Anderson said she wants this amendment package adopted because there are issues with converting an existing accessory structure to an ADU which doesn't make sense.

Councilor Harriman made a motion to move the amendments with the STR prohibition. Chair Anderson seconded and the motion passed 2-0.

Next meeting

The committee agreed to schedule the next meeting for Monday, April 29th, beginning at 4:00 p.m. The meeting adjourned at 5:00 p.m.