

**Town of Cape Elizabeth
Ordinance Committee Minutes**

November 28, 2022

7:00 p.m.

Town Hall

Members Present: Penny Jordan, Chair
Gretchen Noonan

Staff: Maureen O’Meara, Town Planner

Councilor Penny Jordan called the meeting to order at 7:00 p.m.

The minutes of the October 17, 2022 meeting were approved 2-0.

Public comment

No members of the public wished to speak.

Trundy Parking Report

Chair Jordan opened the meeting to public comment.

Cindy Krum, CELT Executive Director – She referenced a letter dated November 21, 2022 to the committee. New bike racks will be installed at the Trundy Point Preserve by next summer. CELT’s philosophy is public access for all. CELT has completed a Strategic Plan that also includes programming for outside of Cape.

Police Chief Paul Fenton then made a presentation on the Trundy Parking Report he prepared. The shifts and patrols at Trundy Point were a good opportunity for his officers to engage with the public. They logged number of vehicles parked during daylight hours from May 12th to September 4th, for 286 log entries and a total of 1,079 vehicles. The average number of vehicles parked was 3.77, with 19 times that more than 10 cars were parked, and 4 times that more than 20 cars were parked.

He had emergency no parking signs installed on the blind corner. The initial deployment of signs included the whole corner, and that was corrected. The signage did jumpstart the attention of the public and some signs were removed. He is recommending that permanent signage at the corner be installed to address a safety issue.

Officers did not observe a speeding issue. Permanent speed limit signs will be installed on the north end of Reef Road, 2 in each direction. His officers did not observe many people on the beach or overcrowding. Based on a license plate analysis, about half of the visitors are Cape residents and ½ are non-residents. Most of the non-residents are from Portland and South Portland. In talking with visitors, the officers reported that folks began visiting the beach during

covid in search of places where people could be separated, and now they visit because they like the area.

Chair Jordan asked if they observed blocked driveways? Chief Fenton said no, although people can get close to driveways and sometimes limited sight distance can be frustrating.

Chair Jordan asked about bike use. Chief Fenton said that kids are often arriving on bikes during the day. He would encourage providing bike-friendly facilities.

Chair Jordan asked about emergency vehicle access. Chief Fenton said there was not a problem with emergency vehicle access. They brought an emergency vehicle down and there was no problem. People are parking cars ½ off the pavement. She also asked about making Reef Road one-way. Chief Fenton said there would be challenges with making it one way and he had some good conversations about it.

Councilor Noonan asked if there was parking on both sides. Due to shrubs on the inside of the Reef Road loop, people do not park on that side.

Chair Jordan asked if we should sign it parking on one side? Councilor Noonan asked if there would be any issues with that. Chief Fenton noted that there would be a challenge with where to put the no-parking signage. There was some pushback when the no parking signs were installed at Cliff House Beach Park.

Chair Jordan asked about installing a bike rack. Ardath Dixon, CELT Stewardship Coordinator, said that CELT tried to add a bike rack last summer, but had decision and supply issues. They will be installing a bike rack in summer, 2023.

Chair Jordan asked CELT to add information to their website. She wants CELT to emphasize (1) preserving emergency vehicle access, (2) explore another preserve as a first option, and (3) park further away. Ms. Dixon said she will also update the website to emphasize “leashed” dogs.

Chair Jordan asked if CELT had met with nearby homeowners to inform them of CELT management efforts? Ms. Dixon noted that some homeowners were not in the area, and they had spoken on the phone. Ms. Krum noted that people also bring small boats/kayaks to the beach for water access and need a car.

Chief Fenton noted that peak usage during the day are mostly kids, with families in the evening.

Chair Jordan wants to recommend permanent signage. Because the issue of water access and parking may rise with other neighborhoods, she would also like to discuss a philosophy to guide future actions. She suggested the following:

The committee’s overall philosophy is that Cape Elizabeth is blessed with scenic vistas and ocean access. We don’t want to limit public access to only Cape

Elizabeth residents or neighborhood residents because that is too restrictive. Instead, we will consider mitigation strategies as needed to balance the livability of neighborhoods and public access.

Councilor Noonan agreed. She supported the limitations at Cliff House Beach Park, but that road was a horseshoe with other parking available. That limitation did not exclude people from the beach.

Chair Jordan supports the permanent speed limit signage and corner no-parking signage. Chief Fenton noted that his officers are now in the habit of visiting the area and will notice violations.

The committee discussed making it parking on one side only, that would result in installing signage every 75' -100'. There was also some question of marking parking spaces, but because cars are parking ½ off the pavement because an adjacent grassy area makes that possible, it would be difficult to mark spaces.

The committee noted that designating one side of the road no-parking would require amendments to the Traffic Ordinance. Permanently signing the “corner” falls within the current ordinance. The committee decided not to propose ordinance amendments at this time.

The committee votes 2-0 to provide a report to the Town Council and not recommend any further action.

Stormwater Amendments

Public Works Director Jay Reynolds provided an introduction into the amendments, noting their origin in the Clean Water Act and the town’s obligation under the MS4 stormwater permit program.

Kristie Rabasca, Integrated Environmental Engineering, and the Town’s stormwater consultant, further explained that the Town is one of 30 communities that are required to manage stormwater discharges under a 5-year permit. The new permit cycle started July 1, 2022 and there has been a collaborative effort with the Maine Department of Environmental Protection (DEP) to meet the new obligations, including testing stormwater discharges and adoption of Erosion and Sedimentation Control regulations by June 30, 2023.

Chair Jordan asked where the testing is done? Mr. Reynolds said the Public Works Department has set up a lab in-house to test for PH, etc. Bacterial testing must be sent to a lab. Stormwater outfalls must be inspected in dry weather, and if they are running, must be tested.

Ms. Rabasca said the town is also required to adopt Low Impact Development (LID) regulations by June 30, 2024. The draft amendments originally included the necessary LID amendments, highlighted in yellow. The model language has since been challenged by the Friends of Casco Bay, so those amendments are on hold and have been deleted from this draft.

The committee reviewed the “Road map” that shows how the current Stormwater Ordinance, articles I and II, are amended into 4 articles. Chair Jordan asked about the town’s responsibility for stormwater maintenance? Stormwater facilities in private developments, like Maxwell Woods, are the responsibility of the private owner to maintain. Ms. Rabasca has been doing good proactive work with condominium boards to help them understand their impact on the environment and their annual inspection responsibilities.

The draft amendments have been prepared to meet the minimum requirements with a few exceptions. The amendments are required to apply to the urbanized area of Cape, however the town has applied ordinance requirements town-wide.

The committee reviewed the urbanized area map. Chair Jordan confirmed that if only the urbanized area is used, then construction outside that does not have to meet the standards. The committee agreed that the amendments should apply to the entire town.

The committee reviewed the draft amendments page by page. Definitions have been consolidated into Article 1.

Chair Jordan asked about the reference to easements on page 7, Stormwater Maintenance Agreement definition. Staff explained that the town obtains easements on private property for public stormwater and there may also be easements that private properties obtain to maintain their stormwater infrastructure.

In Article III, most of the language is existing and moved from Article 1. Ms. Rabasca noted the new language that a deadline of 60 days has been created to correct illicit discharges, although the emphasis will continue to be to work with parties to correct a discharge rather than impose fines for violations. The amendments exceed minimum requirements by requiring that the actual third party inspections report be provided to the town, rather than just the certification. Ms. Rabasca noted that voluntary compliance is common.

In Article IV, Chair Jordan asked that the reference to one acre also include 43,560 sq. ft, comparable to Article I.

Ms. Rabasca noted that the amendments do not include a minimum area of 2,000 sq. ft as recommended in the climate report, but rather would apply to 10,000 sq. ft. as the town currently regulates. Ms. O’Meara noted that the town regulates erosion control as a standard now, and the amendments add more substance. Mr. Reynolds concurred that we are highlighting state standards.

The committee discussed making a recommendation on the amendments. Revisions to the current draft would be adding in the 43,560 sq. ft. reference, deleting the LID yellow highlighted portions, replacing urban compact references with the town, and updating the site plan stormwater table with the Article I name. The recommendation from the committee to the

Town Council would include both a red-line version of the amendments and a “saved changes” version for readability.

Councilor Noonan made a motion, seconded by Chair Jordan, to recommend the Stormwater amendments to the Town Council and the motion passed 2-0.

Public Comment

No one wanted to make a comment.

The meeting adjourned at 9:15 p.m.