**Town of Cape Elizabeth**

**Ordinance Committee Minutes**

December 17, 2020 7:00 p.m. Remote meeting

As a result of the COVID-19 virus, the Ordinance Committee conducted the meeting via remote access as provided by Maine law. The Ordinance Committee used Zoom meeting to conduct the meeting and allowed the public to remotely attend and participate. Zoom allowed all Ordinance Committee members and members of the public to hear all discussion and hear votes, which were taken by roll call, as required by law. A meeting link was provided to access the meeting by video/audio.

Present: Penny Jordan, Chair

Jeremy Gabrielson

Caitlin Jordan

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of the November 19, 2020 meeting were approved 3-0.

Public Comment

Madelyn Cyr, 7 Russet Lane - She has a parks and trails issue with ecigarette pods and accessories litter. She supports signage to inform that this is not allowed. Pods include cobalt and lead which can impact wildlife and water quality.

Ms. Cyr was advised to email Ms. O'Meara, who will forward her comments to the Conservation Committee and the Fort Williams Committee.

Committee Logistics

Chair Jordan reviewed committee operating principles with the new committee. Meetings will be scheduled when items have been referred to the committee and we may meet more than once a month. She likes to engage with the public as much as possible and allow more than 3 minutes to speak. Committee members concurred with the operating principles.

Traffic Ordinance Parking amendments

Tony Owens, 19 Sea View Ave - He read the minutes of the last meeting. The red lined no parking is a good start but you are not addressing the issue of overcrowding. The neighborhood survey highlighted this.

Chair Jordan asked if you support no parking at all on Sea View Ave and Glen Ave? He wants parking restricted to Cape residents.

Christopher Campbell, 598 Shore Rd - He supports Mr. Owens. He understands the process is incremental, but you are not addressing the overcrowding and disruption to the neighborhood, which is beyond the parking amendment.

Tom Meyers was recognized but could not connect to the meeting. Mr. Owens offered to read his comments.

Chair Jordan initiated review of the Traffic Ordinance Amendments, acknowledged receipt of email and noted the new Ordinance Committee members had attended the last meeting.

Mr. Gabrielson supports the proposed watercraft definition as it discourages lingering on the beach when you do not need to park there. Councilor Jordan also concurred.

Chair Jordan is comfortable disconnecting from the state definition of watercraft.

Councilor Gabrielson suggested eliminating the reference to different beach passes in the ordinance in order to avoid potential future conflict with LWCF funding provisions. The town is hoping to receive LWCF funds to construct a boat launch for recreational use at Crescent Beach. The committee agreed.

The committee moved to review of Sea View Ave and Glen Ave parking restrictions and consulted the map showing where parking would not be allowed. Chair Jordan asked if we should add more?

Councilor Gabrielson supports this proposal where we retain some on-street parking and also recognize Chief Fenton's enforcement concerns. It will help but not solve peak overcrowding. There is a huge demand for a small beach.

Councilor Jordan agreed with the parking amendments and that this won't help with overcrowding.

Councilor Gabrielson noted the Conservation Committee took the first steps with Cliff House Beach Park with dog rules, etc. Parking was an issue then which needed ordinance changes. There are only so many tools and questions the next steps.

Tony Owens - Tom Meyers says he agrees with Campbell and Owens. Mr. Owens said the areas shown in red are traditionally no parking, so there will be no impact on overcrowding and will fix only 5% of the problem. The neighborhood put together a survey and you are not addressing it. This is a problem beyond covid. Resident only parking is almost self-enforcing. The Police will only need a few days each summer to enforce this, so it is not a huge enforcement burden.

Chris Campbell - There is a Cape-wide problem of overuse as tourist attractions. This place is dedicated for local residents so why do you object to resident only parking?

Chair Jordan said that there is a bigger Cape-wide issue with people from out-of-state accessing our assets. Do we take a broader look at overuse by non-residents? Chief Fenton's feedback on enforcement is important to listen to.

Councilor Gabrielson is hesitant to impose resident only parking because of the enforcement burden. There is also the "next street over" issue. He prefers an articulated policy on when this is appropriate because other parts of town will ask for it, similar to the 15 mph speed limit decision.

Councilor Jordan also noted Chief Fenton's concerns and does not want to adopt rules that we can't enforce.

Mr. Owens asked if the committee is in favor of removing the no parking signs on Fessenden Rd? Unique places require unique enforcement.

Councilor Jordan noted that no parking on Fessenden is simpler to enforce than no parking for non-residents.

Mr. Owens said the transfer station sticker is not a burden.

Chair Jordan asked how you will accommodate commercial vehicle parking?

Mr. Owens said the burden of the vehicle should be on the resident. For college students or party guests, the resident can go to the Police Station to get additional stickers. The police will not be burdened by this.

Mr. Campbell said that it will be easy for residents to remove their car from their driveway so the electrician or plumber can park in the driveway. The neighborhood survey shows support for parking changes.

The committee augmented the proposal for no parking on the red line areas by also restricting parking to residents only on Sea View Ave and Glen Ave from May 1 to October 1.

Councilor Gabrielson asked how this is handled at Higgins Beach? Ms. O'Meara referred to the survey of shoreline parking restrictions showing that no towns restricted parking to residents only, but provided a parking lot and gave reduced pricing to residents for permits.

Councilor Jordan and Chair Jordan can support the resident only parking restriction, but do not want to establish a pass system to park on the street otherwise. Councilor Gabrielson agreed but noted that we will hear from Fenway Rd next. Sec. b was amended to add a resident only parking restriction from May 1- October 1.

The committee voted 3-0 to recommend the Traffic Ordinance amendments to the Town Council.

Day care regulation

Lisa Burleson, 1043 Sawyer Rd - The research shows flexibility and she wants that in Cape.

Chair Jordan observed the research showed some differences from the way Cape regulates day care and leans toward 8 as the cap on day care homes. What should be considered when you expand the number of children at a day care? In rural v. neighborhood locations, it can be less impactful.

Councilor Jordan commented that the research showed some towns do not allow as many kids and also regulate by zoning district. Most are twice what we allow.

In response to a question, Ms. O'Meara referenced the 1997 Daycare status report, where most of the day cares were located in the RC district. Day care is important to have available and regulation changes might actually suppress what is available. People who operate a day care in the home are often living on smaller lots than folks who can afford a larger lot.

Councilor Gabrielson noted the nuance in the intermediate size of 6-12. He likes the sound of kids playing, but not everyone does. If we just adjust lot size, we may unravel the current structure and he doesn't want to create new barriers.

Chair Jordan supports site plan review. It serves a purpose and she has done it. It requires you to think through infrastructure needs to operate a business. The issue is with the daycare definition, not site plan requirements. In a rural area, you can still have a neighborhood built around your business. The ordinance does not encumber day care operation now.

Councilor Jordan noted the process includes a conditional use permit. Ms. O'Meara explained that when site plan review is required, the Planning Board does a concurrent review for the conditional use permit to streamline the process.

Chair Jordan and Councilor Jordan noted that when they went through site plan review, town staff provided guidance. Chair Jordan might only be willing to make a change in the RA District. Councilor Jordan encouraged upgrading to a day care facility using the current process. There are waivers available as part of site plan review and a checklist to help with the requirements.

Councilor Gabrielson also supports preserving site plan review, but would be willing to increase the number from 6 to 8.

Chair Jordan asked about state staffing ratios.

Ms. Burleson reviewed state requirements of 1 staff for 10 kids of mixed ages, 1 staff for 12 kids age 5 and over, with decreasing numbers to 1 staff for 4 children 6 weeks to 2 years, which Ms. Burleson would not operate. She noted that Scarborough has 2 other day care categories.

Ms. O'Meara noted that Scarborough also has minimum lot sizes, and a change like that could suppress the day care supply in Cape. When the current rules were adopted, there was pressure not to allow day care in neighborhoods so reopening the regulations might result in more restrictions.

Chair Jordan can support an increase from 6 to 8 for a day care home.

Councilor Jordan needs more info such as the number of day cares in Cape, their location, lot size, and the number of kids before considering changes.

Ms. Burleson said she is one of 3 day care homes in town. The change will not impact many neighborhoods and existing day cares can be grandfathered.

Councilor Gabrielson supports keeping the ordinance as is. There is an avenue for expansion and there may be unforeseen consequences.

The committee voted 3-0 to take no action.

Bottle Shed Amendment

Councilor Jordan declared she had no conflict that would preclude her participation on this item.

Chair Jordan reviewed that the Town Council prefers to add Bottle Shed responsibilities to the Recycling Committee rather than create a new committee. She referenced the history of the bottle shed memo prepared by Town Clerk Deb Lane. The Recycling Committee can then develop specific policies. Committee members concurred.

The committee voted 3-0 to recommend the amendment to the Town Council.

Adjourn

The meeting adjourned at 8:45 p.m.