



CITY OF DOVER

ORDINANCE COMMITTEE – MINUTES

Meeting Type: **Ordinance Committee Meeting**
Meeting Location: **City Hall, City Council Conference Room**
Meeting Date: **Monday, June 5, 2023**
Meeting Time: **8:30 a.m.**

1. CALL TO ORDER/ATTENDANCE

Deputy Mayor Shanahan called the meeting to order at 8:30 a.m.

2. ATTENDANCE

Present: Deputy Mayor Dennis Shanahan, Councilor Fergus Cullen, Councilor Lindsey Williams, City Attorney Joshua Wyatt, Deputy City Attorney Jennifer Perez, Environmental Projects Manager Gretchen Young, and Patty Moniello, Legal Assistant.

3. PUBLIC FORUM

No citizens or members of the public present for public forum.

4. APPROVAL OF PRIOR MEETING MINUTES –

- March 6, 2023

Williams moved to approve; seconded by Councilor Cullen. Vote unanimous in favor.

5. REVIEW OF PROPOSED OR PENDING ORDINANCES

City Attorney Josh Wyatt stated the only forthcoming proposed ordinance he was aware of concerned changes to the Administrative Code to move inspection services from the Fire and Rescue Department to the Planning and Community Development Department. Deputy Mayor Shanahan said he also spoke with the City Manager regarding this ordinance. Councilor Cullen remarked that he is surprised this issue was not raised during the budget process.

Deputy Mayor Shanahan requested that, for future ordinances, City staff ensure the timing and submission (or timing of the referral of the ordinance to a second reading) allows an opportunity for Ordinance Committee review prior to passage. City Attorney Wyatt acknowledged the request.

6. STORMWATER UTILITY UPDATE

Environmental Projects Manager, Gretchen Young, provided an update on the stormwater utility initiative. She explained that there will be a more substantive joint meeting on July 10, 2023 with the DUC and the Ordinance Committee. She handed out a Stormwater Fact Sheet that had been distributed to the public. Ms. Young discussed the robust outreach campaign that included public informational sessions. The Fact Sheets are also located in the Planning Department. She also created multiple Information/Fact Boards that are located in City Hall and contain information on them for the public.



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Ms. Young also went through a PowerPoint presentation covering status and future steps along the way to a future stormwater utility: (i) access funding needs; (ii) analyze and make recommendations for fund structure; (iii) public outreach and education campaign; (iv) present initial recommendations; and (v) City Council review and approval of proposed ordinance.

Deputy Mayor Shanahan spoke about citizens that were at the May public outreach meeting, and who had the following questions: (1) where was agriculture representation at the ad hoc meeting; (2) concerns about fundamental private property data by satellite imagery; (3) upset at lack of notice for the meeting.

Deputy Mayor Shanahan acknowledged there was no direct agricultural representative on the ad hoc, but committee did have a wide range of viewpoints.

Ms. Young explained that notices of the public informational sessions were posted on Facebook and sent out via Dover Download.

City Attorney Wyatt stated that there were a series of United States Supreme Court cases in the 1980s addressing flyovers, which presented no constitutional concern. He remarked that if airplanes flying over are not an issue, then satellites positioned even further (spatially) would seemingly be lawful.

Both the Deputy Mayor and Ms. Young thought the outreach meeting was a very successful one, seeing an uptick in people who attended compared to the very first meeting that only had two people attending.

Ms. Young mentioned that after the upcoming July 10th meeting (the joint meeting of both the Ordinance Committee and the Dover Utilities Commission), she will begin to break into smaller individual community groups for outreach, and solicited any ideas. She remarked that one group that is interested is the Rotary Club.

Ms. Young discussed that at the May 23 public outreach meeting a presentation was made followed by breakout stations. Initial feedback was (i) how will it work for HOA?; (ii) what if property doesn't drain to a city drainage system?; (iii) what about credits/treatment options?; (iv) can a city use aerial data to assess impervious areas?; and (5) general misunderstanding of existing data by some residents.

There was also discussion about the development of funding needs. Ms. Young explained that the ad hoc committee had looked at past costs to estimate funding, but the current consultant is using future projected operating expenses for 2024-2029. Ms. Young stated the consultant is trying to figure out how actual costs will be paid (due to the issue of bonds covering some of the expenses, so figures on the chart are not actual costs paid out by the



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City). The good news, Ms. Young said, was that the resulting figures from both the past and future methods came to similar estimates for annual operating costs.

Ms. Young also discussed RSA Section 149-1:6 and how to calculate stormwater runoff for properties. She explained impervious area is under consideration for use in the Dover stormwater utility, and showed an example of past software the City has used (Granit 20210 and new software the City is expecting to use for the stormwater utility (Nearmap). Councilor Cullen asked for more clarification on impervious cover data between Granit 2021 and Nearmap 2022 data. Ms. Young explained that Nearmap is more precise in detecting true impervious cover on a lot, as shown by an example on the screen involving a pool area, which was incorrectly indicated as impervious in the earlier program but which Nearmap has correctly excluded from the impervious area.

Ms. Young said she was meeting with Donna Langley and the Assessing Department this week to figure out a potential fee schedule.

Ms. Young explained that trying to use zoning classifications for developing charges was not workable in Dover.

Ms. Young recounted the discussion at the May public outreach meeting regarding individual homeowner credit and assessment of fee charges regarding stormwater on private property. Councilor Cullen asked how that would impact future transfers of property and contributions to a fee structure, and if fees could be deferred until sale of a property. Ms. Young explained that bills would be issued periodically and need to be paid.

Councilor Cullen suggested measures that might make credits more accessible, such as having a rain barrel available at City Hall, similar to recycling bins. Councilor Cullen emphasized importance of making credits available that could significantly reduce impact of the stormwater utility billing.

In response to concerns over residents on septic who are not really proximate to a water body, Councilor Williams explained, and Ms. Young concurred, that septic systems are part of the problem and that properties contribute to water quality problems even if those properties are not directly connected to the City's stormwater system.

Councilor Cullen observed that the stormwater utility will be a good funding mechanism for stormwater-related improvements, but expressed doubt that there would be a significant or an equivalent reduction in future budgeting from the general fund.

Ms. Young outlined proposed next steps, prior to July 10th joint meeting, consisting of further public outreach, developing a credit manual, and researching administrative and logistical elements. Ms. Young noted several items for which she will seek specific input from the consultant. Ms. Young also stated that the current goal is to present a proposed ordinance to the City Council in December 2023.



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7. NOISE COMPLAINTS RELATED TO CHICKENS

Councilor Cullen explained that a resident homeowner had contacted the Planning Board regarding a dispute with their neighbor over the neighbor's "raucous chickens". Councilor Cullen had discussed the matter with the concerned resident, who seemed reasonable. Councilor Cullen committed to exploring the issue here, and is wondering if anything can be done to address the problem. He explained the homeowner had requested a zoning change from the Planning Board, which was disinclined to take up any zoning change.

City Attorney Wyatt explained that the City has land use regulatory power, and separate statutory authority to regulate noise. He stated that the zoning tables, part of the zoning ordinance, address the quantity of allowed chickens. Deputy Mayor Shanahan observed there are existing provisions for noise in Chapter 105 of the Dover Code. City Attorney Wyatt observed that the police department enforces the ordinance, and expects that if a concern is reported, the police would undertake an investigation and try to discern how loud the situation is, though he is unaware of what if any technology the police department has or uses for such an investigation. City Attorney Wyatt stated that, to regulate the issue of noise more closely, it would be advisable to pick an objective standard, such as decibels at a certain distance from a measured point. He explained there had been litigation in another community concerning motorcycle noise, so we would want to see those Court opinions if were wanted to take up drafting a noise ordinance.

Councilor Cullen queried what options the resident homeowner has at this time. City Attorney Wyatt stated that he cannot give advice to individual residents, which he knows is not what Councilor Cullen is requesting, but in the abstract a person could seek relief under the zoning ordinance if there is a zoning violation, could seek possible police intervention on the basis of the current code, could possibly pursue a private action for nuisance against the neighbor, or could seek a legislative remedy. Councilor Williams remarked against legislating for an individual situation. City Attorney Wyatt agreed, but noted there are at least some other noise concerns in the City, such as "jake breaks" on trucks. Deputy Mayor Shanahan observed motorcycle noise as another concern. City Attorney Wyatt said here it may be a good idea as part of any legislative initiative to get decibel readings from the concerned resident, and explained software applications are now available on smartphones to get decibel readings, though accuracy is an open question.

Committee members ultimately agreed that the issue was not sufficiently widespread in the City to warrant legislative action at this time.

8. GENERAL DISCUSSION

None. Deputy Mayor Shanahan said that he would reach out to Ms. Young and obtain any of the information she will have for the July 10th meeting. Councilor Cullen reminded



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attendees about providing written materials for the joint meeting in advance, especially here given the substantive nature.

9. BUILD AGENDA FOR NEXT MEETING

Deputy Mayor Shanahan stated that July 10th would be next regular Ordinance Committee meeting. Councilor Cullen stated it would be preferable not to have two separate meetings on July 10th (one in the morning and another, joint meeting, in the evening). Deputy Mayor Shanahan agreed it would be better to time the meeting to hook onto the joint meeting (either before or after, to be determined).

10. ADJOURN

Councilor Cullen moved to adjourn - seconded by Councilor Williams. Vote unanimous in favor.

Meeting adjourned at 10:01 a.m.