

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
February 7, 2017
6:30pm
Burleigh H Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the January 3, 2017 Regular Town Council Meeting and the January 31, 2017 Special Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

The Police Department will have a brief Ceremony to swear in Deputy Police Chief Chris Sanborn, Lieutenant Michael Nault, Sargent Ted Hatch and Officers Paul Dubay, Todd Meslin and Alisha Smith.

The Town Council will discuss the benefits or concerns of encouraging more advertisement on the Town's Athletic Facilities.

Shawn Moody will make a presentation regarding plans for the development of the old "Racetrack" located on Rte. 202 (Narragansett Street)

Old Business

Item # 9144 Action to consider a proposed moratorium of retail marijuana establishments and Retail Marijuana Social Clubs. (Admin. Spon.)

Proposed

Order # 9144 WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the "Marijuana Legalization Act," to be codified in the Maine Revised Statutes in Title 7, chapter 417 was voted on by a State-wide referendum election on November 8, 2016; and
WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation

facilities, retail marijuana products manufacturing products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§2421-2430-B) to qualifying patients, primary Caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications;

WHEREAS, the Town's ordinance do not include any regulations related to retail Marijuana establishments or retail marijuana social clubs allowed under the new Act; and,

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Gorham raises legitimate and substantial questions about the impact of such establishments and social clubs on the community, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for the non-medical purposes and the potential increased burden on the Town's Police Department and Fire Rescue Department; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the Town has potentially serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town needs time to review the Act and to review its own Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town Council, the Administration and the Planning Board, with the professional advice and assistance of the Town Staff, shall study the Town's Ordinances to determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result as the result of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law, if passed, was voted on November 8, 2016 referendum election, being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW THEREFORE, be it ordered by the Town Council of the Town of Gorham, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

This Moratorium Ordinance shall take effect, once enacted by the Town Council, in accordance with the provisions of the City charter, but shall be applicable as of November 8, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the "Marijuana Legalization Act;" the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the Town.

BE IT FURTHER ORDERED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the "Marijuana Legalization Act" to be codified, if passed, at 7 M.R.S.A. §§2442 (36),(38),(39),(40) (41), that may be proposed to be located within the Town on or after November 8, 2016 applicability date of the Ordinance; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to November 8, 2016, the applicability date of this Ordinance: and

BE IT FURTHER ORDERED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the Town on or after November 8, 2016 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDERED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana social club; and

BE IT FURTHER ORDERED, that those provisions of the Town's Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDERED, that if retail marijuana establishments or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDERED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

New Business

Public Hearing # 1

On Item # 9181

Public Hearing on a proposal to issue a renewal liquor license to The Blue Pig LLC. (Admin. Spon.)

Proposed

Order # 9181

Ordered, that the Town Council approve a renewal liquor license for The Blue Pig, LLC, 29A School Street.

Public Hearing # 2
On Item # 9182

Public Hearing to consider whether an old section of Route 25 located near 64 Ossipee Trail has been abandon pursuant to Title 23 MRSA Section 3028.
(Admin. Spon.)

Proposed
Order # 9182

Ordered, that pursuant to Title 23 MRSA Section 3028, the Town Council determined that:

1. Records of the Maine Department of Transportation show that an old Country road was laid out in 1818 and later designated as a State Highway.
2. In 1932, the State relocated a portion of the road in or near 64 Ossipee Trail (Rte. 25).
3. The Maine Department of Transportation has advised the Town that they have not had jurisdiction over this old section of road for many years and does not claim any rights to it.
4. After researching Town records and through discussion with Town Staff, the Town has concluded this old section of Route 25 has not been recognized as a Town Road or Public road and never maintained as such,

Now Therefore the Town Council determined that this old section of Route 25 has been abandoned pursuant to Title 23 MRSA Section 3028 and,
Be it Further determined that there is no Public easement.

Item # 9183

Action to consider a request from Paul Smith, a member of the Town Council, to use his driveway located near the end of Phinney Street, as a turn-around for the Town's snow plow truck. (Councilor Phinney Spon.)

Proposed
Order # 9183

Ordered, that the Town Council approve a request form Paul Smith, a member of the Town Council, to use his driveway located near the end of Phinney Street, as a turn-around for the Town's snow plow truck.

Item # 9184

Action to consider approving a subordination agreement on behalf of JCS3, LLC.(Admin. Spon.)

Proposed
Order # 9184

Ordered, that the Town Council approve a Subordination Agreement on behalf of JCS3, LLC, to allow JCS3, LLC to refinance their project at 10 North Gorham Road, known as Perennial Place, to subordinate the first refusal rights to Kennebunk Savings Bank, but retaining first refusal rights in all other respects.

Item # 9185

Action to consider appropriating funds from the Contingency Account to purchase America Flags for the Lions Club to annually install in Gorham.
(Councilor Phinney Spon.)

Proposed
Order # 9185

Ordered, that the Town Council appropriate up to \$800 from the Contingency Account to pay for American Flags and for the Lions Club to annually install them in Gorham.

Item # 9186

Action to consider conducting an environmental assessment necessary to transfer property restrictions that resulted from several federal grants. (Admin. Spon.)

Proposed
Order # 9186

Ordered, that the Town Council accept a proposal from Normandeau Associates to conduct an Environmental assessment on three properties as part of the federal requirements for transferring property restrictions that resulted when the Town obtained several Land & Water Conservation Fund grants from the National Park Services back in the 1970s and,
Be it Further Ordered, that the Town Council appropriate \$30,000 from the Land Acquisition Reserve Fund for the Environmental assessment.

Item # 9187

Action to consider approving an Administrative Consent Agreement with the Maine Department of Environmental Protection to resolve issues because the Town wasn't fully implementing and enforcing its Storm water Ordinance.(Admin. Spon.)

Proposed
Order # 9187

Ordered, that the Town Council approve an Administrative Consent Agreement with the State of Maine Department of Environmental Protection to resolve issues because the Town wasn't fully implanting and enforcing the requirements of its Permit for the discharge of storm water under the Maine Pollutant Discharge Elimination System Program and,
Be It Further Ordered, that the Town Council endorse the Supplemental Environmental Project proposed by the Presumpscot Regional Land Trust to be funded as part of this agreement and further endorse the funding of other supplemental environmental projects to the fullest extent allowed, and
Be It Further Ordered, that the Town Council appropriate \$15,000 from the Waste Water Holding Tank project and appropriate \$10,500 from Little Falls Wood Clearing Account for the civil monetary penalty.

Item # 9188

Action to consider a design for the sign at the Public Safety Complex. (Admin. Spon.)

Proposed
Order # 9188

Ordered, that the Town Council approve a design for the sign for the Public Safety Complex, as approved by the Town Council on November 22, 2016.

Item # 9189 Action to consider amending Chapter 1, Section 14, Office Residential District, of the Land Use and Development Code, by allowing Retail Sales having a gross floor area of less than 4,000 sf and a traditional New England Village design, consistent with the recent updated Comprehensive Plan. (Councilor Phinney spon.)

Proposed
Order # 9189 Ordered, that the Town Council refer a proposal to amend Chapter 1, Section 14, Office Residential District (B) Permitted Uses of the Land Use and Development Code, by adding a new paragraph 5. **Retail Sales having a gross floor area of less than 4,000 sf** and amending paragraph (F) Performance Standards by adding a new paragraph 13 **All Principal building and structures for non-residential purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing Gorham Village architecture.** to the Planning Board for their Public hearing and recommendation.

Item # 9190 Action to consider endorsing an application to PACTS to link traffic signals on Main Street and redesign the intersection at Main Street and New Portland Road. (Admin. Spon.)

Proposed
Order # 9190 Ordered, that the Town Council endorse an application to PACTS to link traffic signals on Main Street and redesign the intersection at Main Street and New Portland Road.

Adjourn