

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
May 2, 2017
Burleigh H Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the April 4, 2017 Regular Town Council Meeting and the April 13, 2017 Special Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

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 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.

Public
Hearing # 1

Public Hearing on the referendum to authorize the Town to borrow and expend up to \$500,000 for the Town's share of a road project on South Street to include pavement overlay, replace traffic signal loop detectors and widen shoulder where needed with an estimated project cost of \$1,628,148. (Admin. Spon.)

Item # 9213

Action to consider a request from Tim Devine for a contract zone at 135 Dingley Springs Road to utilize both buildings for a body shop. (Admin. Spon.)

Proposed
Order # 9213

Ordered, that the Town Council, pursuant to a request from Tim Devine, ask Staff to draft a contract zone for 135 Dingley Springs Road, to allow both buildings to be used as a body shop, and
Be It Further Ordered, that the proposal be forwarded to the Planning Board for Public Hearing and their recommendations.

Item # 9214 Action to consider amending Section 2 of the Streets and Sidewalks Ordinance to require a permit for large events that may result in congested parking and traffic flow on Public Roads. (Councilor Benner Spon.)

Proposed
Order # 9214 Ordered, that the Town Council ask Staff to draft an amendment of Section 2 of the Streets and Sidewalks Ordinance, that would require a permit for large Events that may result in congested parking and congested traffic on Public roads in Gorham, and
Be It Further Ordered, that the said permit requires appropriate traffic control ensures to minimize congested parking and traffic and to include no-parking on one side of the road to allow room for Emergency Vehicles.

Item # 9215 Action to consider an expanded reciprocal borrowing agreement for Baxter Memorial Library. (Admin. Spon.)

Proposed
Order # 9215 Ordered, that the Town Council approve a memorandum of understanding for a reciprocal borrowing agreement between Baxter Memorial Library, Scarborough Public Library Corporation, South Portland Public Library, Thomas Memorial Library in Cape Elizabeth and Walker Memorial Library in Westbrook.

Item # 9216 Action regarding the June 13, 2017 School Budget Validation/ Referendum / Portland Water District Trustee Election. (Adm. Spon.)

Proposed
Order #9216 Ordered that the Town Council authorize the Town Clerk to issue the warrant for the June 13, 2017 School Budget Validation/Referendum/Portland Water District Election; and,
Be It Further Ordered, that the polls be open from 7:00 am until 8:00 pm; and,
Be it Further Ordered, that the Town Council appoint the following persons for the designated voting districts and if any of the following should fail to serve the Town Council hereby authorizes the Town Clerk to appoint substitutes:

District 1-1- Susan Emerson, Warden and Laurel Smith, Ward Clerk
District 1-2 – Katherine Corbett, Warden and Marie Plummer, Ward Clerk
District 2 – Martha Towle, Warden and Nancy Kenty Ward Clerk
Central –Paula Nystrom, Warden and Teresa Sanborn, Ward Clerk

Be It Further Ordered, that the Registrar of Voters be in session during the hours of 8:00 am to 4:00 pm on Tuesday June 6, 2017 and Wednesday June 7, 2017; between the hours of 8:00 and 7:00 pm on Thursday June 8, 2017, between the hours of 8:00 am and 1:00 pm on Friday June 9, 2017 and between the hours of 8:00 am and 4:00 pm on Monday June 12, 2017, and

Be It Further Ordered, that the Town Clerk be authorized to process absentee ballots on Tuesday, June 13, 2017 at 12:00 pm, 5:00pm and 8:00pm.

Item # 9217 Action to consider accepting a deed and easement for a parcel of land located in the Glenwater Village Subdivision for open space and trail use. (Admin. Spon.)

Proposed
Order # 9217 Ordered, that the Town Council accept a deed for a parcel of land located in Glenwater Village Subdivision for open space and trail use, and
Be It Further Ordered, that the Town Council accept an easement access lot 21 for access to the open space lot.

Item # 9218 Action to consider going into executive session pursuant to Title 1 MRSA Section 405 (6) (D) to discuss labor negotiations. (Admin. Spon.)

Proposed
Order # 9218 Ordered, that the Town Council go into Executive Session pursuant to Title 1 MRSA Section 405 (6) (D) to discuss labor negotiations.

Adjourn