

REPORT OF THE
GORHAM TOWN COUNCIL
REGULAR MEETING
November 22, 2016

Chairman Robinson opened the meeting with the Pledge of Allegiance to the Flag. There were 30 members of the Public in attendance at the start of the meeting.

Roll Call: Chairman Robinson, Councilors Roullard, Shepard, Phinney, Benner, Hartwell and Stelk. Also present, Town Manager David Cole and Town Clerk Laurie Nordfors.

Moved by Councilor Phinney, seconded by Councilor Benner and VOTED to accept the minutes of the October 4, 2016 Regular Town Council Meeting. 7 years

Open Public Communications

Hans Hansen thanked Matt Robinson for all his years of coaching in Gorham. He also addressed his concerns for people's lack of respect for Political Signs in Gorham. He urged citizens to respect them and leave them alone during Elections.

Phil Gagnon thanked everyone who ran for political offices in Gorham and thanked Matt Robinson for his many years on the Council. He expressed his views against the lowering of the water level in the Fish Way dam in Westbrook.

Councilor Communications

Councilor Hartwell thanked all who voted for him in the Election.

Councilor Shepard expressed his thanks to Matt Robinson and Bruce Roullard for their years on the Town Council.

Councilor Benner reported that she attended the Veteran's Day ceremony and thanked all of the Veterans for their service. She also thanked the Town Clerk and her staff for running a smooth election and thanked Matt Robinson and Bruce Roullard for their service to the Town of Gorham during their time on the Council.

Councilor Stelk also thanked Matt Robinson and Bruce Roullard for their time on the Council. She also reminded people that the Holidays are coming up and to remember to drive slowly and carefully and check on seniors who live alone.

Councilor Phinney thanked everyone who ran for Political office in Gorham and congratulated everyone who won. He thanked Bruce Roullard and Matt Robinson for their time on the Council and also all of the High School Sports teams in Gorham for a successful fall season.

Council Roullard thanked the Town Clerk for all of her hard work managing three polling stations during the election and thanked the current Council and the Citizens of Gorham for the last three years while he served on the Council.

Councilor Robinson thanked the current Council for the last three years and congratulated the winners of this year's election. He thanked the many residents of Gorham for the last 15 years during the time he served on the Council and also the many Town employees he has encountered during that time. He expressed that he was so blessed to meet so many new people and make so many new friends and that it was a great honor to serve the Town of Gorham.

Town Manager Report

David Cole thanked Councilor Robinson and Roullard for their time on the Council and congratulated the new members of the Council. He reported that he issued a 5 year service pin to Christine Hyland of the Finance Department and a 35 year service pin to Larry Fearon of the Police Department.

Election Report

Town Clerk Laurie Nordfors reported that the November 8, 2016 Election had a record turnout for Gorham. There were a total of 9947 ballots cast, which included 3960 Absentee ballots which was over a 70% voter turnout. There were also 1040 new voter registrations between the three polls. She thanked her Clerk's office staff, Election workers, Public Works, Public Safety, Fire Police and VIP Police and the Rec Department for all of their time and effort. She also thanked Shaw Brothers and Shaw Earthworks for their donation of the use of the flood lights at the Little falls Activity Center. She reported that everyone worked together to ensure a smooth and safe election for the Town of Gorham.

Swearing in of the Newly Elected Town Councilors

Town Clerk Laurie Nordfors swore in newly elected Town Councilors Benjamin Hartwell, James Hager and Paul Smith.

Roll Call of the 2016-2017 Town Council: Councilor Phinney, Benner, Stelk, Shepard, Hartwell, Hager and Smith.

Item # 9139	Moved by Councilor Stelk, seconded by Councilor Benner and ORDERED, that the Town Council Elect Mike Phinney as the Chair for the 2016-2017 year. 6 yeas, 0 nays, 1 abstention (Smith)
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Chairman Phinney presented Matt Robinson and Bruce Roullard a plaque honoring their time on the Gorham Town Council.

Item # 9140 Moved by Councilor Hager, seconded by Councilor Hartwell and ORDERED, that the Town Council elect Ron Shepard as Vice Chair for the 2016-2017 year. 7 years

Item # 9141 Moved by Councilor Hager, Seconded by Councilor Shepard and Ordered, that the Town Council appoint the following people to the following Committees:

1. Finance Committee: James Hager, Chair, Paul Smith, Marla Stelk
2. Ordinance Committee: Ben Hartwell, Chair, Ron Shepard, Sherrie Benner
3. Appointments/Personnel Committee: Sherrie Benner, Chair, Marla Stelk, Ben Hartwell
4. Economic Development/Capital Improvements Committee: Ron Shepard, Chair, Paul Smith, James Hager
5. Representative to Greater Portland Council of Governments: Marla Stelk, Alternate: Paul Smith
6. Representative to Ecomaine: Sherrie Benner, Alternate: Paul Smith
7. Representative to Jetport Noise Abatement: James Hager, Alternate: Mike Phinney
8. Representative to PACTS Policy Committee: Bob Burns
9. Representative to METRO Regional Coalition: Mike Phinney, David Cole, Alternate: Paul Smith

Item # 9141 voted: 7 yeas

Item # 9142 Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council adopt the same rules for the 2016-2017 year as for the 2015-2016 year.

Moved by Councilor Stelk, seconded by Councilor Hager to amend the order to reflect the change in meeting time from 7:00pm to 6:30pm in section 1.2. 7 yeas

Moved by Councilor Stelk, seconded by Councilor Benner to amend the order to change section 2.12.2 to read: Persons wishing to address the Council on an item not appearing on the agenda shall do so only on invitation from the Council during the open communications portion of the agenda or after disposition of all items appearing on the agenda. Open communications shall be used for the purpose of addressing urgent Town issues and their actions pertaining to Town business items that do not appear on the current Agenda. It is not to be used for political endorsements of Candidates or for the promotion of business products or services. The Council Chair shall be responsible for the immediate cessation of any such misuse of the open communication portion of the Agenda. 1yea, 6 nays (Hartwell, Shepard, Benner, Phinney, Smith, Hager)

Item # 9142 was voted as amended 7 yeas

Moved by Councilor Hartwell, seconded by Councilor Benner and VOTED to waive Council rules and take item #9153 out of order. 7 yeas

Item # 9153 Moved by Councilor Benner, Seconded by Councilor Hager and ORDERED, that the Town Council schedule a Public Hearing for December 6, 2016 on a proposal to amend the Town's Street and Sidewalks Ordinance by allowing traffic to enter Pine Street from Route 25, for the initial 160 feet, for the purpose of accessing parking lots that support the businesses near the entrance.

Dr. Robert Lavoie, 88 State Street, spoke and requested that the Council vote to remove the Do Not Enter sign from Pine Street.

Numerous residents of Green Street voiced their opinion on this item. They presented a petition to the Council requesting that such an ordinance amendment be made allowing an exception to the Do Not Enter Sign only to serve traffic entering the parking lots of 88 and 76 State Street, and the Do Not Enter Sign remain in its current location at northern terminus of Pine Street.

Item # 9153 was voted 7 yeas.

Chairman Phinney opened Public Hearing #1. There were no comments from the Public and the hearing was closed.

Moved by Councilor Stelk, seconded by Councilor Benner and VOTED to waive the reading of the order. 7 yeas

Item # 9143 Moved by Councilor Shepard, seconded by Councilor Hager and ORDERED, Whereas, the Town Council believes that small business operations that qualify as Home Occupation are important to the local economy, and Whereas, the Town Council believes that allowing a limited expansion of Home Occupation activity, while maintaining adequate protection for neighborhoods, is in the best interest of the communities, Now Therefore Be It Ordered, that the Town Council approve the following amendment:

Home Occupation

An occupation or profession which is: accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- 1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- 2) Not more than two people outside the family shall be employed in the home occupation. ~~There shall be no stock in trade.~~
- 3) There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

- 4) No nuisance, offensive noise, vibration, smoke, dust, odors, heat, or glare, ~~or electrical disturbance~~ shall be generated.
- 5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
- 6) In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.
- 7) The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit with the exception of home day care facilities which may utilize up to 50% of the dwelling unit in addition to the use of the exterior of the property for State required play areas.

A home occupation shall include, but not be limited to, the following:

art studio
 bed and breakfast
 day care home
~~dressmaking shop~~
farm stands / roadside stands
 hairdressing shop
 teaching or tutoring facilities
 office of a physician, dentist, optometrist, lawyer, engineer,
 architect or accountant
 office of a real estate broker or agent
 office of an insurance agent or broker
office of small builders, plumbers and electricians with the
following conditions:

- a) limited to two pick-up trucks, vans or box trucks and two trailers parked / stored outside.
- b) no outside storage of materials.
- c) material storage buildings / space limited to 20% of the size of the total area of dwelling unit.
uses similar and compatible with the above as determined by the Town's Code Enforcement Officer. The
Town's Code Enforcement Officer is authorized to limit the proposed use or require on-site improvements
to minimize potential negative impacts to the neighborhood or roadways.

A home occupation shall not be interpreted to include the following:

facilities for the repair of motor vehicles
 day care center

Moved by Councilor Shepard, seconded by Councilor Stelk and VOTED to amend the order to incorporate into the order the recommendations made by the Planning Board. 7 yeas

Item # 9143 voted as amended 7 yeas

Chairman Phinney opened Public Hearing # 2

Phil Gagnon, Gordon Farms Road, spoke against supporting Marijuana use in the Town of Gorham and urged the Council to make prohibitions to limit use around schools and Public Buildings.

There were no further Public comment and the Hearing was closed.

Moved by Councilor Hager, seconded by Councilor Shepard and VOTED to waive the reading of the order. 7 yeas.

Item # 9144 Moved by Councilor Hager, seconded by Councilor Benner and ORDERED,

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.

Moved by Councilor Shepard, seconded by Councilor Benner and VOTED to table Item # 9144 until the February 7, 2017 Town Council Meeting. 7 yeas

Chairman Phinney opened Public Hearing # 3. There were no comments from the Public and the hearing was closed.

Item # 9145 Moved by Councilor Shepard, seconded by Councilor Stelk and ORDERED, that the Town Council approve a renewal Liquor License for Lucky Thai Restaurant, 593 Main Street. 7 years.

Chairman Phinney opened Public Hearing # 4. There were no comments from the Public and the hearing was closed.

Item # 9146 Moved by Councilor Shepard, seconded by Councilor Stelk and ORDERED, that the Town Council approve a renewal Liquor License for Sebago Brewing Company, 29 Elm Street. 7 years.

Chairman Phinney opened Public Hearing #5. There were no comments from the Public and the hearing was closed.

Item # 9147 Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council approve a renewal liquor license for Gorham House of Pizza, 2 State Street. 7 years.

Item # 9148 Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council approve a request from the Presumpscott Regional Land Trust, to use the balance of funds from the McLellan/Sampson House account towards the costs associated with transferring 12 conservation lands, previously held by Gorham Trails, Inc., to the Presumpscott Regional Land Trust, and Be It Further Ordered, after first using funds towards the transfer of properties held by Gorham Trails, Inc., should any funds remain, the Presumpscott Regional Land Trust is authorize to use the residual funds for the general purpose of the Presumpscott Regional Land Trust. 7 years

Item #9149 Moved by Councilor Stelk, seconded by Councilor Benner and ORDERED, that the Town Council accept a drainage easement as part of the Village Crossing Subdivision. 7 years

Item # 9150 Moved by Councilor Benner, seconded by Councilor Shepard and ORDERED, that the Town Council accept a bid from Nortrax, for a Front-end loader, with plow and wing, for \$171,500, with trade-in. 5 years, 7 nays (Hartwell, Smith)

Item # 9151 Moved by Councilor Shepard, seconded by Councilor Benner and ORDERED, that the Town Council refer a proposal to amend Chapter II, Section III, Signs, of the Land Use and Development Code, to allow rotating barber poles, to the Planning Board for their Public Hearing and recommendation. 7 years

Item # 9152 Moved by Councilor Stelk, seconded by Councilor Benner and ORDERED, that the Town Council ask Staff to develop a Wetland Conservation Ordinance and present it to the Ordinance Committee, and Be It Further Ordered, that the Ordinance Committee review the drafted ordinance and make any reasonable modifications and subsequently present the draft ordinance to the Town Council for their consideration. 3 years, 4 nays (Phinney, Shepard, Hartwell, Smith) Item Fails.

- Item # 9154 Moved by Councilor Shepard, seconded by Councilor Smith and ORDERED, that the Town Council write off the remaining taxes on a mobile home (Tax Map 2, Lot 1.71) because the taxes are uncollectable and the asset has limited value. 7 yeas
- Item # 9155 Moved by Councilor Shepard, seconded by Councilor Hager and ORDERED, that the Town Council schedule a discussion at their January 3, 2017 meeting to discuss the need to have more engagement between Gorham High School and USM, facilitate student internships, coop programs and job shadowing programs with business participation and develop programs to educate teachers and other educational staff about business and invite the Superintendent of Schools and School Board to participate in the discussion. 6 yeas, 1 nay (Stelk)
- Item # 9156 Moved by Councilor Hager, Seconded by Councilor Shepard and ORDERED, that the Town Council appropriate the remaining funds in the Public Safety Fiber Network Account (\$9022.97), Public Safety Building Account (\$4844.66), McLellan/Sampson House Repair Account (\$15,769) and \$1200 from the Contingency account to purchase a double-sided electronic sign for the Public Safety Complex. 7 yeas
- Item # 9157 Moved by Councilor Benner, seconded by Councilor Shepard and ORDERED, that the Town Council ask Gorham's Legislative Delegation to sponsor and strongly support legislation that would allow the Maine Turnpike Authority to construct a new sustainable controlled access highway between the terminus of the Bernard P Rines Highway and the Maine Turnpike at or near Exit 45 as stipulated in the Town of Gorham's recently approved Comprehensive Plan and consistent with the recommendations of the Gorham East-West Corridor Feasibility Study. 7 yeas.
- Item # 9158 Moved by Councilor Shepard, seconded by Councilor Stelk and ORDERED, that the Town Council accept a bid from Nortrax for a Loader Backhoe for \$103,500, with trade-in. 7 yeas
- Item # 9159 Moved by Councilor Stelk, seconded by Councilor Benner and ORDERED, that the Town Council recognizes that the intersection of Libby Avenue and Main Street is a high accident location, approves of the Main Department of Transportation intention to install traffic lights at this intersection as soon as sufficient funding becomes available. 7 yeas

Moved by Councilor Shepard, seconded by Councilor Benner and VOTED to adjourn. 7 yeas
Time of adjournment 10:00pm

A True Record of Meeting

ATTEST _____
Laurie Nordfors, Town Clerk

